



TOWN COUNCIL
Public Hearing & Special Meeting
Cape Charles Fire Hall
August 23, 2012
6:00 PM

At 6:05 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Public Hearing and Special Meeting of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also present were Town Manager Heather Arcos and Town Clerk Libby Hume. There were about 120 members of the public in attendance as well as several Department Heads.

Mayor Sullivan announced the business for the evening would be to hear public comments regarding i) the proposed rezoning from Open Space to R-1 of the Old School Area as described in the public notice and on the agenda; and ii) the Conditional Use Permit application submitted by Echelon Resources, Inc. to rehabilitate and use the Old School Area for an adaptive reuse including the historic rehabilitation of the Old School Area for use as 17 residential apartments in accordance with applicable guidelines.

PUBLIC HEARING COMMENTS

Emily Cullen, 129 Churchill Downs

Ms. Cullen addressed the Council stating that she and her husband bought their property in Cape Charles in 2004 and had lived here full time since 2009. They loved Cape Charles and called the Town their home. Ms. Cullen stated that they were proud of the Town Council's fiscal responsible support and the development of places for people of young and old, residents of the Town and County and visitors to gather to enjoy the Town, the Harbor with the breakwaters, the fishing pier, the Town beach, and the Central Park. The ongoing support of these services was supported with their tax dollars. Ms. Cullen went on to state that they supported the Town Council's decision to rezone the high school property and surrounding grounds and to grant the special use permit to allow Echelon to restore the historic building and repurpose it into apartments. Ms. Cullen continued to state that they supported the Town Council in their decision to purchase the Bank of America building for the library and to repurpose the existing library building into a community center, staffed with volunteers, for seniors and children. This would be an affordable way to provide indoor community activities above and beyond what was already provided by the library. Ms. Cullen added that she applauded the Town Council for being stewards of the Town's fiscal health while providing safe and healthy options for entertainment for all the residents. Ms. Cullen concluded by stating that with the citizens' support, the Town Council would continue to improve the Town for all its residents.

Jim Mahaffy, 415 Tazewell Avenue

Mr. Mahaffy stated the he and his wife, Kathy, had been residents and property owners in Cape Charles for 13 years and added that he was in favor of the sale of the school property to Echelon Resources. Mr. Mahaffy stated that he would like to defer the remainder of his allotted time to Mr. Malcolm Hayward.

Kathy Fraas, 613 Jefferson Avenue

Ms. Fraas stated that she and her husband had owned property in Cape Charles for nine years and that she would like to defer the remainder of her allotted time to Ms. Susan Bauer.

Susan Bauer, 615 Jefferson Avenue

Ms. Bauer thanked the Mayor, Town Council and Town officials for the opportunity to support both the rezoning of the school property and the conditional use permit for the property. Ms. Bauer

stated that she did not support a multi-million dollar community center because the Town could not afford it nor did the Town need it. Ms. Bauer continued to state that when she looked at the school building in the middle of Town she saw it as a liability not an asset. She had heard much discussion and complaint that the Town gave away something of value but it was something that would cost a lot of money to tear down and haul away. Ms. Bauer stated that she thought it was appropriate and a good decision to allow Echelon to develop the building into an apartment building. Ms. Bauer went on to state that she heard from many people wanting to turn the school building into a community center but had yet to hear a single concrete argument on how the Town could possibly afford a multi-million dollar community center or sustain it with the cost of air conditioning, heating, security, landscaping, maintenance, staffing – all things that would cost the Town a lot of money to maintain an 18K square foot building. The Town had sufficient places for gatherings – the museum, the Palace Theatre, and outdoor forums. Ms. Bauer added that the museum and the Palace Theatre seemed to be hanging on by a thread and were constantly fund raising. To create a community center which would compete with the museum and the Palace Theatre made no sense. Ms. Bauer continued to state that she read something which stated that the community center could be used for bingo. Ms. Bauer went on to state that of all the places to go and things to do in Cape Charles such as the beach, jogging, bicycling, the park, she had not heard anyone say that there was not enough places to play bingo and added that she was not in favor of a million dollar bingo parlor. Ms. Bauer also stated that she had not heard any advocacy on behalf of the building stating that it had a unique architecture or some historic significance other than the fact that it was old. Old did not equal significance. Ms. Bauer stated that she did not think that most of the Town’s taxpayers wanted to spend millions of dollars to support the fond memories that people had of the high school. The school building may have fond memories attached to it but it did not have a particularly illustrious past. It started as a segregated school which was later integrated. There had been no discussion about the colored school across the hump which did have historic significance. This building was once the cultural, educational and social center of the African-American community and there was no discussion about saving that building. Ms. Bauer stated that she came from her home in Maryland to attend this evening’s meeting because she felt that most of the people in Town supported the development but were not jumping into the fight. Ms. Bauer went on to state that she was here because of the lack of civility that she had seen in this Town adding that the first amendment provided broad protections of free speech. The reprehensible conduct and disrespect that was shown to the duly elected Council and Mayor was shocking. Ms. Bauer stated that she hoped people could engage in robust political dissent without resorting to name calling, insults and particularly comments about public servants who were making the best decisions that they could and which were supported by the majority of the citizens. Ms. Bauer concluded by thanking the Mayor and Council for their appropriate action.

Patricia Buckley, 4 Perny Court

Ms. Buckley addressed Council stating that she had been a resident for 10 years and had also had the honor of serving as treasurer of the Town for three and a half years during which she wrote many checks to pay expenses for maintenance of the school building including a \$75K check for a new roof. The Town was very fortunate to have someone who could restore the building, preserve it and put it to productive use because, as a community, the Town did not have the need for that kind of space. The Town did have the need for better social and recreation programs and Ms. Buckley applauded the Mayor and Council for buying the bank building to expand the library. The current library location could be turned into a center to serve some of the unmet needs. Ms. Buckley went on to state that she supported the rezoning and conditional use permit to put the old school building to good use and added that the Town needed to be able to move on in finding the best possible fiscal answers to its needs.

Malcolm Hayward, 121 Strawberry Street

Mr. Hayward addressed the Mayor and Council stating that he was in favor of the Echelon development and explained his reasons stating that it had to do with the performance of Council over the past 10-12 years.

[Inserted upon request of Councilwoman Natali] Mr. George Southern took a photograph of Mr. Hayward at the podium. Mr. Hayward informed Mr. Southern that he preferred not to have any more photographs taken of him and continued his address to the Council. Mr. Southern proceeded to take several more photographs of Mr. Hayward who again requested that no more photographs be taken.

Mr. Hayward continued to address the Council stating that 10 to 12 years ago, Cape Charles was a disaster with hundreds of homes in a terrible state of disrepair which should have been condemned. About half of the homes in Town needed significant improvements and trash was everywhere. Mr. Hayward described specific houses in Town and added that the contractors back then were not licensed and the Town did not have any code enforcement or inspections. Crime was high and the Harbor was dirty. Mr. Hayward went on to state that now the contractors were required to be licensed, the trash had been cleaned up, the number of homes in terrible disrepair were down to about 10-20, the Code Enforcement Department was proactive, and crime was virtually nonexistent. The Town's achievements also included a great beach with annual sand replenishment, breakwaters to protect the beach and Harbor with more breakwaters planned, the Harbor was world class, Central Park was beautiful, new trails coming soon, a brand new wastewater treatment plant, our roads were in good shape and the sidewalks were being replaced. Mr. Hayward stated that this meant that this Council and the previous Council had achieved a balanced budget and moved the Town forward in a tremendous way. Mr. Hayward went on to list some of the previous Council members such as Messrs. John Burdiss, Charles Brown, Gerald Elliott, Bruce Evans and Steve Bennett and the managers such as Heather Arcos, Joe Vaccaro, Cela Burge and Bob Panek who have played a role in the Town. Mr. Hayward stated that the Echelon development would be a continuation of this success. Echelon was a professional group that was going to restore the school building to its original glory and the Town would see increased revenue from taxes and utilities – both hookups and usage and added that the signs throughout Town were misleading and someone was feeding the residents bad information. The Council's responsibility was to manage the budget and the gigantic cost of maintaining the school building as a community center would ruin the chances of a balanced budget. It would also hurt the Arts Enter, the museum and the library. Mr. Hayward asked the real motivation of the "Community Center Yes" people and wondered whether it was for the Town to regress back to where it used to be. Mr. Hayward concluded by reiterating his support of the Echelon development and the rezoning to make it happen.

Joy Pelletier, 1 North Park Row

Ms. Pelletier stated that she was unprepared to speak and deferred her allotted time to the next speaker.

Deborah Bender, 300 Fulcher Street

Ms. Bender stated that she lived in the historic district of Cape Charles and had lived in the area for 18 years with the past five years in Town. Ms. Bender added that her husband, Don, was raised just outside of Town on Kings Creek and when he was 12, his family built the house where she and her husband currently lived. Ms. Bender continued to state that her husband's father and family had been in the area for over 150 years and all went to Cape Charles School and added that they all had a vested interest in seeing the 100-year old historic school remain a public asset. Ms. Bender stated that Old School Cape Charles LLC (OSCC) had shown on many occasions over the past few months reasons why it was wrong to hand over the historic 100-year old school, basketball court and Park Row to a developer adding that it was against the Comprehensive Plan. Ms. Bender stated that the Historic District Review Board voted unanimously not to allow apartments in the building but the Council had not listened to the Town's attorney who suggested a \$2M performance bond and buyback option. Ms. Bender went on to state that OSCC offered \$10K for the building and would have paid all fees to fix the building but the Town opted to sell to Mr. Edwin Gaskin. Ms. Bender asked Council whether they worked for and represented the Town's citizens or Mr. Gaskin. Ms. Bender continued to state that OSCC collected over 300 signatures on a petition to save the school, which was more than the number of votes in the last election, and

Council still ignored them. Ms. Bender stated that she felt that only the people living in the Historic District should have a say in what happened to the school building adding that the “Bay Creek people” were speaking against a community center thinking that the taxes would be increased 20-30% which were all lies and propaganda being spread by the Town. Ms. Bender raised her voice and approached Mayor Sullivan who asked that Ms. Bender be escorted from the meeting.

George Proto, 607 Pine Street

Mr. Proto addressed Council stating that he and his wife had purchased property in Cape Charles 10 years ago and had now built a house, retired, and moved here full time and were committed to the Town. Mr. Proto stated that he was speaking in support of the Town Council’s decision to sell the school building to Echelon and also in support of the rezoning from Open Space to Residential and the conditional use permit. Mr. Proto went on to state that the school itself was a liability for the Town and the decision to sell the school would get the liability off the books and would be a benefit to the Town. Mr. Proto stated that he understood the emotion that some people had relative to a building that had been around for such a long period of time and added that at this point, it was time to let it go to do something to improve the Town, not continue to burden the Town. Mr. Proto concluded by repeating that he supported the rezoning and conditional use permit for the school property.

Cela Burge, 117 Mason Avenue

Ms. Burge stated that she wanted to speak about the support that she had seen and the supporting documents which were reviewed by the Planning Commission for the request for rezoning and the conditional use permit. The Planning Commission’s recommendation would be before the Council later this evening and Ms. Burge stated that she was speaking to endorse both and asked that the Council seriously review the Commission’s findings, debate them vigorously, hear everyone’s opinions here tonight, and to vote favorably on both items.

Lenora Mitchell, 309 Tazewell Avenue

Ms. Mitchell stated that she was opposed to amending the zoning map to accommodate the development of the Cape Charles School into 17 housing units as well as the approval of the conditional use permit. Ms. Mitchell continued to state that she knew this was just part of the process that Council must follow to make their action legal. Ms. Mitchell stated that the Council had already held their meetings and convinced each other that this was being done for the greater good of the people being served and Council had the best interests of the community at heart and added that the members of Council would all vote “yes” with the exception of one person. Ms. Mitchell went on to state that sooner or later, everyone would have to stand alone to face their demons, having flashbacks of offenses they had committed, unkind words that had been uttered, and lies that were told. Council would smile at each other at this meeting, shake each other’s hands, pat each other on the back and celebrate their victory over a few drinks. Ms. Mitchell stated that the citizens were here this evening to let Council know that it was not over until it was over and the final word was not that of the Council. Council had some power but did not have all the power and would be held accountable for their actions. There would be no more business as usual. The citizens did not trust or have any confidence in Council. Ms. Mitchell stated that instead of working with the community, Council had chosen to make the citizens their adversary. Ms. Mitchell concluded by stating that the citizens would stand up for their rights and not give up the fight.

Trudy Hickman, 23438 Seaside Road

Ms. Hickman deferred her allotted time to Wayne Creed.

Shannon Hickman, 23438 Seaside Road

Ms. Hickman deferred her allotted time to Wayne Creed.

John Hickman, 23438 Seaside Road

Mr. Hickman deferred his allotted time to Wayne Creed.

Becky Creed, 548 Monroe Avenue

Ms. Creed deferred her allotted time to Wayne Creed.

Wayne Creed, 548 Monroe Avenue

Mr. Creed began by reading excerpts from the May 25, 2012 email from Mr. Edwin Gaskin to Bob Panek. Mr. Creed then stated that the Planning Commission met and voted in favor of the rezoning and the conditional use permit and added that it seemed odd watching the Commissioners deliberate even though the citizens brought up that the procedures were illegal. Mr. Creed stated that afterwards he had a conversation with a citizen of Cape Charles regarding the Planning Commission's vote. Mr. Creed stated that he asked the individual to write down the information in their conversation and proceeded to read the comments given to him which included some racial slurs.

The comments read by Mr. Creed caused an outburst from the other attendees and Mayor Sullivan asked that Mr. Creed be escorted from the meeting.

John Burdiss, 117 Mason Avenue

Mr. Burdiss began by stating that he was feeling ill from the behavior this evening and expressed his disappointment in how people were acting. Mr. Burdiss stated that he hoped everyone would level the playing field, act like adults and agree with what was good for the Town. Mr. Burdiss continued to state that he encouraged the Council to pass the rezoning and approve the special use permit and asked the people who were contrary to that to behave themselves and not personalize things. There were a lot of people who found these actions very offensive.

Veann Duvall, 110 Tazewell Avenue

Ms. Duvall deferred her allotted time to Kevin Martingayle.

Don Riley, 538 Monroe Avenue

Mr. Riley deferred his allotted time to Kevin Martingayle.

Kevin Martingayle, 3704 Pacific Avenue, Suite 200, Virginia Beach, attorney representing Old School Cape Charles

Mr. Martingayle began by stating that it was unfortunate to see a town go through this but added that democracy and free speech were messy. Mr. Martingayle stated that he knew Ms. Cela Burge and disagreed with the outcome she advocated and added that he respected her personally and professionally. Mr. Martingayle continued to state that Ms. Burge said something critical in that she hoped that Council listened to what the citizens had to say, debate the issue vigorously and really think about the decision. This evening was not about the sale but about the rezoning of the property with a different Town Council from the one that voted for the sale of the school. Mr. Martingayle stated that zoning criteria was different and the first thing to do was to look at the Comprehensive Plan which stated that a priority was preserving open space, building a new municipal or community center, developing recreation centers, supporting partnerships with organizations, increasing and improving cultural and art programs, and maintaining the character of surrounding residential areas. Mr. Martingayle added that the proposed rezoning did none of those things and was contrary to the items noted in the Comprehensive Plan. Mr. Martingayle also stated that R-1 did not accommodate multi-family units as proposed with 17 units on seven lots and asked whether this was something the Town actually needed. Mr. Martingayle referred to page two of the Town Manager's report which stated that the Town's growth rate was below the target of 3% and asked if the growth was below the targeted rate and there was already an excess in housing, why were 17 more units needed. Why would a park or open space be converted into a very dense apartment building? Mr. Martingayle asked Council to use the condition of the building as the basis for what was done next because the Town, as the owner, had an obligation to maintain the building. Mr. Martingayle stated that the increase in density was a major change from Open Space to something more dense than any normal home. Mr. Martingayle reiterated Ms. Burge's request for Council to listen to the citizens' comments with an open mind. Mr. Martingayle noted that the

documentation included in the agenda packet were prepared with the intention that the two items would be approved. Mr. Martingayle added that the public hearing and meeting to vote on the issue were not supposed to be held back to back but it had become the unfortunate practice. There was not sufficient time to deliberate and research the comments before moving forward with the vote on the issue. Mr. Martingayle asked Council to give meaning to the words in the Comprehensive Plan and Zoning Ordinance, respect Open Space in Cape Charles and acknowledge that 17 apartment units were not needed and concluded by asking Council to do their jobs very carefully and not be influenced by the personal insults interjecting that, as public officials, they needed to have thick skin. Mr. Martingayle stated that the decisions needed to be made on the merits which conclude that the issues should not be approved.

Brock Stiles, 525 Madison Avenue

Mr. Stiles deferred his allotted time to Frank Wendell.

Rachel Creed, 548 Monroe Avenue

Ms. Creed deferred her allotted time to Frank Wendell.

Frank Wendell, 515 Monroe Avenue

Councilman Wendell began by stating that the Town adopted an ethics policy in 2009 and read items #1 and 2. Councilman Wendell stated that on August 11, 2011, the Town received an unsolicited proposal for the purchase of the Cape Charles School with the request that the proposal remain confidential pursuant to the Freedom of Information Act and asked who benefitted from the confidentiality of the proposal for the 100-year old asset. Councilman Wendell stated that it was only a request for confidentiality that the Town did not have to grant. The Town kept the proposal quiet until February 9, 2012 holding a number of executive sessions during that time. Councilman Wendell referred to the Comprehensive Plan and read an excerpt from the Vision Statement adding that a community center would give the citizens an opportunity to interact in the building. Councilman Wendell went on to state that three (3) offers were submitted by Old School Cape Charles but the Council did not negotiate with the group. Councilman Wendell stated that since he was elected he started receiving the *Virginia Town & City Magazine* and proceeded to read excerpts from a June article. Councilman Wendell asked what would be lost if the building were no longer public and went on to list the following: i) the Cape Charles Christian School would lose the opportunity to use the gymnasium for volleyball, basketball and exercise; ii) the building would have been the Town's largest meeting space for all meetings; iii) all the festivals could be held on the first floor of the building in the case of rain; and iv) the building would have been open to all people. Councilman Wendell stated that he thought Mr. Creed was trying to point out the fear that if the community center were open to all people, there would be people using the building that the Town was not comfortable with. Councilman Wendell stated that it was a shame that the Town did not want a community center because of the fear of county residents or too many undesirable people or too many people of color using the building. Instead, the Town failed to maintain the building and failed to apply for grants to repair the building, but applied for grants for other facilities and uses in Town. Councilman Wendell stated that the 100-year old building was the Town's responsibility and an asset to the Town and the Town was using the building's condition as an excuse to give it away for \$10.

Don Bender, 300 Fulcher Street

Mr. Bender was previously escorted from the meeting along with Ms. Bender.

Tim Krawczel, 409 Nectarine Street

Mr. Krawczel noted that he would be using Mr. Bender's allotted time in addition to his own and stated that he was opposed to the rezoning but was not going to comment on that issue assuming that Council would be approving the rezoning anyway. Mr. Krawczel stated that he was the zoning administrator in Loudon County for five years and knew about zoning and he was the planning director for Franklin County for seven years and wrote their Comprehensive Plan and won two Virginia Planning Association awards for the plan. Mr. Krawczel stated that a comment was made at the Planning Commission meeting that conditions could not be imposed on the special use

permit because it would be discriminatory. Mr. Krawczel stated that in the R-1 zone, there could be single-family dwellings, churches, parks, playgrounds and accessory uses. Other uses were permitted by special use permit to which reasonable conditions could be imposed. Mr. Krawczel stated that he looked at the old school building, the neighborhood and had talked to the neighbors and the people in the community and their concerns were i) the loss of parking for the park; ii) the loss of the basketball courts; and iii) the loss of parking for the children's playground. Mr. Krawczel reiterated his assumption that the rezoning would be approved and asked Council to impose reasonable conditions as follows: i) the existing parking lot in front of the school facing the park remain for the park; ii) the open space on the side of the building and the basketball court remain since the Town paid \$10K to construct it; and iii) the Women's Club built and maintained the playground and it should be protected and remain in place. Mr. Krawczel stated that the park was surrounded by a six foot fence and proposed another condition that a six foot gated aluminum fence, ten feet from the rear and side of the building, be installed which would provide the apartment residents a feeling of privacy and also provide access to the children's playground, parking lot and basketball court. Echelon could buy the lots across the street to provide parking for the apartment residents. Mr. Krawczel continued to state that there was a lot of sentiment that there was no use talking tonight because Council had already made up their minds and that was the basis of much of anger tonight. Mr. Krawczel stated that at the last public hearing, a Council member talked about compromise and that was what he was offering tonight and added that the citizens would remember in November.

Marita Patterson, 15 Carissa Court

Ms. Patterson stated that she supported the rezoning and the conditional use permit.

Dennis McCoy, 6 Perny Court

Mr. McCoy stated that he supported the Echelon proposal, the rezoning and the conditional use permit. Mr. McCoy added that there was also a need for a community center and everyone's energy needed to be focused on a solution for that issue rather than continuing to rehash this whole topic.

John Schulz, 616 Tazewell Avenue

Mr. Schulz stated that he and his wife bought property here 22 years ago and had been living here for the past four years. Mr. Schulz continued to state he was sorry that the members of Council had been under severe attack and underlying all these meetings was the concept of what constituted representative democracy adding that too often this was not understood by some people. The opposition had expressed an instability and unfounded attacks and accusations aimed at this and previous members of the Town Council with complete distorted versions of facts and events. Mr. Schultz stated that Council should be applauded and not be attacked. Mr. Schulz referenced British parliamentarian Edmund Burke, "one of the great political philosophers and guides to the thinking of our founding fathers of open government and representative democracy as a concept" and read excerpts of some of his writings stating that the Council clearly understood Mr. Burke's concept. Mr. Schulz concluded by expressing his support for the approval of the proposed rezoning and conditional use permit so Echelon could begin work on the rehabilitation of the old school building and added that his observations of the basketball court over the past 20 years was that the big guys, who were not from this Town, drove off the little kids playing basketball on the court. Moving the basketball court and dropping the basket from 10' to 8' would allow the little kids to come back to use the court which was the original purpose.

Linda Schulz, 616 Tazewell Avenue

Ms. Schulz expressed her support of the Town Council approving the rezoning and the conditional use permit and added, for the attendees who were not on the Northampton County Chamber of Commerce mailing list, that the Northampton County Schools sent an email desperately asking for assistance in finding rental housing for the 25 new teachers most of which did not yet have housing. Ms. Schulz stated that affordable rental housing was desperately needed and continued to state that the apartments proposed by Echelon would fit the bill for the type of housing needed.

James Davis, 533 Mason Avenue

Reverend Davis stated that he had heard the word confidential and asked how much was kept confidential and went on to mention the open space that included the basketball court, tennis court and Cape Kids which was built by the Women's Club at a cost of approximately \$35K adding that he had not heard what effect 17 apartments would have on the play area. Reverend Davis stated that in the past, he had seen men, 35-40 years old, playing basketball, the gym was used by children, teenagers and young adults and continued to express his concern about what would happen to the play area. Reverend Davis stated that he wondered how much more was confidentially kept aside regarding the negotiation and went on to state that Cape Charles Town Council had done whatever they wanted to do over the last ten years and concluded by asking what would happen to the playground, basketball court, Cape Kids, tennis court and the rest of the privileges that Cape Charles used to be able to enjoy.

Steve Bennett, 100 Creekside Lane

Mr. Bennett began by thanking Echelon Resources for the opportunity to have a historic restoration and adaptive reuse of the former school building which was likely the largest eyesore and liability to the Town and went on to state that the Echelon proposal was completely in line with the Comprehensive Plan and, contrary to the ludicrous information distributed around Town and published in many locations, would not raise anyone's water bill. Mr. Bennett also thanked the Town Council for moving this proposal forward stating that Council had listened to a lot of input and it was time to move on. There were many other things that needed to be worked on and hoped that the Town would get to do that. Mr. Bennett stated that it was his sincere recommendation to pass both the rezoning and conditional use permit which would be before Council later this evening.

Laurie Klingel, 2449 Old Cape Charles Road

Ms. Klingel stated that she did not support the rezoning or the conditional use permit. Ms. Klingel added that she was not on board with the hurtful comments and rhetoric that she had heard tonight but wanted to just state her opinion which was of confusion and some misunderstanding. Ms. Klingel stated that she was a simple citizen with simple needs but she knew how to read the Comprehensive Plan and knew what it said and she did not agree with changing the values in the community. Ms. Klingel went on to state that a friend of hers visited Cape Charles this summer and asked her about all the signs throughout Town and when she explained the situation her friend asked "Why did the Town have such low self esteem?" Ms. Klingel asked why the Town would accept \$10 for the school building which meant so much to people. Ms. Klingel stated that she had a family and wanted to raise her children here and keep the open space as is and added that it showed an extreme lack of creativity and a lack of vision for the leaders to decide to give away the building. Ms. Klingel stated that she did not know if the Town needed a community center or not and that the building could have housed five units instead of 17 units but we would never know what it could have been. Ms. Klingel continued stating that typically when you give something away, you get something in return but the Town was not getting anything in return – no landscaping, fencing, parking, basketball or anything. Ms. Klingel concluded by stating that she did not understand and that it would not have cost anything to have waited six months for a possible better deal.

William Denny, Sr., Northampton County resident

Mr. Denny stated that he was a citizen of Northampton County and came here in 1967, was a retired merchant seaman and had travelled all over the world. Mr. Denny addressed the audience stating that he had never seen anything more disgusting than this meeting tonight and added that the townspeople needed to learn how to get along with one another. Mr. Denny stated that he heard people get up and make all kinds of excuses for what they wanted adding that we were all people in this small Town on the Eastern Shore that could not find a way to live together and stated that it was disgusting. Mr. Denny went on to state that he was in attendance this evening as a representative from the NAACP and he was a veteran from Kentucky, his father was a veteran of World War I and this was his country and it disgusted him to see everyone acting this way.

Town Clerk Libby Hume read 25 letters and emails submitted prior to the public hearing into record. (Please see attached.)

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to close the Public Hearing portion of the meeting. The motion was approved by unanimous vote.

Mayor Sullivan called for a 15-20 minute break.

At approximately 8:00 p.m., Mayor Sullivan called the Special Meeting to order and stated that the order of business for the special meeting was as follows: i) discussion and vote regarding enactment of an ordinance rezoning the Old School Area from Open Space to R-1; and ii) if the ordinance rezoning the Old School Area was enacted, discussion and vote regarding the granting of the conditional use permit for adaptive reuse of the former school property.

A. Rezoning of the Old School Area from Open Space to R-1

Heather Arcos stated that on June 14, 2012, the Town Council, by Ordinance 20120614, approved the sale of certain property owned by the Town, collectively called the Old School Area to Echelon Resources, Inc. who intended, by adaptive reuse, to rehabilitate the Old School Area and convert it to 17 residential apartment units and surrounding grounds (“Old School Rehabilitation”). On June 28, 2012, the Town Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment to the zoning map for public necessity, convenience, general welfare, and good zoning practice and for consideration of the rezoning of the Old School Area from Open Space to Residential R-1. The current zoning of the Old School Area as Open Space did not allow for the Old School Rehabilitation as an adaptive reuse since the Open Space zoning district did not allow for adaptive reuse. The Open Space Zone was intended for open air types of activities. The R-1 zone required a Conditional Use Permit (CUP) for adaptive reuse of existing structures within the zone. On July 26, 2012, the Planning Commission held a public hearing followed by a special meeting and recommended by unanimous vote for the Town Council to rezone the Old School Area from Open Space to R-1. The Town Council reviewed the Planning Commission’s recommendation at a special meeting on July 31, 2012. Town Council held a public hearing immediately prior to the special meeting this evening and heard comments regarding the proposed rezoning from Open Space to R-1.

The Town Council reviewed the public comments and deliberated on whether to enact Ordinance 20120823 to rezone the Old School Area from Open Space to R-1.

Councilman Wendell stated that it was not appropriate to rezone the 100-year old building and added that it would be a violation of page 44 of the Comprehensive Plan.

Councilwoman Natali stated that the Zoning Ordinance was the law and the Comprehensive Plan set the directional and future points. The Town was required, by law, to review the Comprehensive Plan every five years and would be starting the process next year. The Zoning Ordinance stated that Open Space be used for recreation, green lands, parking, etc., and buildings were not allowed in Open Space. If this property was not rezoned, there was no other choice except to let the building rot since it could not be used for anything in Open Space zone.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to enact Ordinance 20120823 to rezone the Old School Area from Open Space to R-1.

Councilman Wendell suggested that the language regarding the Open Space zone could be changed.

Vice Mayor Bannon stated that several years ago after a shooting at the basketball court, he remembered Councilman Wendell saying that the basketball court should not be there. Vice

Mayor Bannon went on to state that he listened to the people who spoke at the public hearing earlier and the majority of people were in favor of rezoning the school property. Vice Mayor Bannon added that the newspaper editorials, emails and accusations were turning the Town's people against each other and the racial comments were unnecessary and race was not part of this issue. Vice Mayor Bannon continued to state that the attorney for Old School Cape Charles (OSCC) stated that there was no need for apartments here, but ask any of the new teachers in Northampton County and they would tell you that they could not find apartments to rent. There was a need for affordable apartments in Town.

Motion made by Councilman Veber, seconded by Vice Mayor Bannon, to limit debate to another five minutes. Mayor Sullivan stated that there was already a motion and second on the table that was being discussed and she wanted each Council member to have the time to voice their opinions.

Mayor Sullivan asked Councilman Godwin if he would like to speak.

Councilman Godwin stated that he listened to all the information and he listened to the people and added that he did not have opportunities to go around and talk to everyone in the Town but that he would be voting on his own this evening to do what he felt was right for the Town. Councilman Godwin added that his questions had been answered and he came here tonight ready to vote.

Councilman Wendell reiterated that this process was "totally unnecessary and unwise in giving away an asset."

Mayor Sullivan called for a roll call vote.

The motion to enact Ordinance 20120823 was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.

B. Granting of the Conditional Use Permit for Adaptive Reuse

Heather Arcos stated that on June 28, 2012, the Town Council adopted Resolution 20120628 to refer to the Planning Commission the consideration, in the event the rezoning was approved by the Town Council, which had been approved, of whether a CUP should be granted for the Old School Rehabilitation as an adaptive reuse and recommendation to be made therewith. On July 17, 2012, the Historic District Review Board met and discussed the historic rehabilitation of the building and the proposed use as apartments. The Board agreed with a historic rehabilitation in accordance with the Secretary of the Interior's Guidelines but they did not agree with the proposed use. In its advisory capacity, the Board did not recommend the use of the old school building as apartments. On July 26, 2012, the Planning Commission held a public hearing followed by a special meeting and the Commissioners, by majority vote, approved to recommend to the Town Council, if the rezoning of the Old School Area was approved by Council, approval of the CUP application submitted by Echelon Resources, Inc.

Heather Arcos added that Messrs. Edwin Gaskin and Dave McCormick of Echelon Resources were in attendance this evening to answer any questions.

Councilman Wendell made several comments regarding the CUP application specifically items 6 and 7 which referred to the disclosure statement verifying ownership and the list of names and addresses of adjacent property owners. Councilman Wendell went on to ask Council why they were not following the attorney's advice regarding a performance bond and repurchase clause. Councilman Wendell continued to ask why the CUP did not have any conditions and stated that Echelon should be required to purchase property across the street from the school property for parking so the existing parking area could remain for use by guests in the park and playground. Councilman Wendell went on to state that the basketball court would be lost just like the baseball field but that was closed several years ago.

Vice Mayor Bannon interjected that the lease for the baseball field was not renewed for the Town. Mayor Sullivan added that the basketball court would be relocated. Councilman Wendell asked who would pay to relocate the basketball court.

Councilman Veber stated that the last class to graduate from the Cape Charles High School was 1987 and asked Councilman Wendell where he had been for the last 25 years while the school building was deteriorating.

There was much debate between Councilman Wendell and Council regarding conditions for the CUP regarding parking, the basketball court, etc.

Mayor Sullivan asked Mr. Edwin Gaskin if he had any comments.

Mr. Gaskin stated that he was the president of Echelon Resources and added that he realized that not everyone had seen their proposal for the historic rehabilitation of the building. Mr. Gaskin explained that Echelon Resources had a good track record in redeveloping historic buildings especially historic schools and were interested in the old school building and contributing to the Town of Cape Charles. Mr. Gaskin went on to state that Echelon was looking forward to the project to rehabilitate the school building to give it future relevance.

Mayor Sullivan asked if there were any other comments.

Councilwoman Natali stated that Council had not discussed the CUP application and the zoning ordinance requirements that the permitted uses would not: i) adversely affect the health, safety or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect the other land uses within the particular surrounding neighborhood. The residential adaptive reuse would restore the building in accordance with the guidelines of the Secretary of the Interior for Rehabilitation. The neighborhood surrounding the park was zoned R-1 including the houses and apartments on North Park Row; ii) be detrimental to the public welfare or injurious to property or improvements in the neighborhood. The historic restoration and adaptive reuse would be an investment of over \$2M in the neighborhood. The restoration would improve the neighborhood values with a newly rehabilitated building in accordance with the Secretary of Interior's Guidelines. The density of the site would be no more than the western Park Row site or the underlying zoning of R-1. This property covered the equivalent of seven town lots or the equivalent space for seven single family residences. The four two-bedroom apartments at 11 Park Row were on a single lot right on the other side of the tennis courts. The residential use would require only about 17 spaces of off-street parking which would be provided in the area that was currently off-street parking on the west side of the building. The historic renovation for either use, apartments or a community center, would be an asset to the improvements in the adjacent park; and iii) be in conflict with the purpose of the Comprehensive Plan. The current Comprehensive Plan stressed the preservation of contributing historic structures and the Virginia Department of Historic Resources in partnership with the U.S. Secretary of Interior had promulgated rules and tax credits especially for the adaptive reuse of these contributing structures. Page 44 of the Comprehensive Plan specifically set, as Councilman Wendell mentioned earlier, multiple goals, one of which was to a) provide for the adaptive reuse of the school building; b) other items referring to community center and library were separated in the Comprehensive Plan as past studies showed that they could not be accomplished in the same building (Schriver & Holland Study); and c) The requirements were also based on growth expected at about 3%. Cape Charles had not met this growth rate as shown in the last census.

Councilwoman Natali stated that the zoning ordinance was designed to give reasonable consideration to ten items, two of which were: i) to encourage economic development activities that provide desirable employment and enlarge the tax base; and ii) to promote affordable housing. Councilwoman Natali went on to state that these items were in the Town's Zoning Ordinance and she felt these items were important and needed to be noted.

Councilman Wendell stated that unfortunately the issue would be settled in court adding that he looked forward to the outcome.

Councilwoman Natali continued to state that the Planning Commission considered the following additional points: i) the use was compatible with the permitted uses in the R-1; ii) the plan would meet the table of parking standards; iii) new utility services would be placed underground; iv) the structure was a contributing structure to the National Historic District; v) the Historic District Review Board agreed with a historic restoration but not with the use as apartments; and vi) the Historic District Review Board would have final review and approved of plans going forward, if passed, subject to normal procedures for review, recommendation and appeals prior to any rehabilitation of any such structure.

Councilman Wendell stated that after an average rainfall, there was approximately two to three feet of water standing in the road by the school property and was not sure if the current land owners had disclosed that information. There was some discussion regarding the flooding issue in that area of Town.

Motion made by Councilman Wendell to include the following conditions as part of the CUP: i) require a performance bond and repurchase rights as recommended by the Town attorney; ii) require Echelon to pay for the cost of relocating the basketball court; and iii) require Echelon to purchase property for their parking lot so the existing parking lot would remain for use by the citizens for the park and playground. Councilman Godwin seconded the motion to get the item on the table for discussion.

There was no further discussion. Mayor Sullivan called for a vote with a show of hands.

The motion failed by majority vote with Councilman Wendell voting in favor and Vice Mayor Bannon and Councilmen Godwin, Sullivan and Veber and Councilwoman Natali opposed.

Motion made by Vice Mayor Bannon, seconded by Councilman Godwin, to grant the Conditional Use Permit for Adaptive Reuse to Echelon Resources, Inc. by adoption of Ordinance 20120823A.

Mayor Sullivan called for a roll call vote.

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

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

Mayor Sullivan

Town Clerk

**Town Council Public Hearing
August 23, 2012
Comments Submitted in Writing**

Jimmy & Etta K. Pruitt, 3 Tazewell Avenue

We think the points set forth by John Burdiss in the June 5, 2012 issue of the Eastern Shore News are irrefutable. After hearing discussion at town council meetings, attending the informational meeting offered by Echelon and reviewing information offered by the Eastern Shore News, Eastern Shore Post and the Cape Charles Wave, we continue to believe the sale of the school building to Echelon is the only realistic way to preserve it and the memories that so many of us hold dear.

Paul Strong, 7 Carissa Court

I am sorry that I cannot attend this evening's meeting, but I want the council to know that I strongly favor the rezoning of the Old School Area from Open Space to Residential so that the old high school can be saved and historically rehabilitated. I also favor the Conditional Use Permit submitted by Echelon Resources so that the Old School can be used for an Adaptive Reuse, in particular as apartments. Please allow this project to proceed; I am convinced that it will be beneficial to the historic district and to the town.

Rob Smithwick, 11 Kings Bay Drive

I encourage the Town Council to vote in favor of the proposed rezoning of the property from Open Space (O-S) to Residential (R-1), as well as the granting of a Conditional Use Permit applied for by Echelon Resources Inc. to rehabilitate and use the property for an Adaptive Reuse that includes the historic rehabilitation of the property for use as 17 residential apartments.

Elizabeth Luettinger, 5 Tazewell Avenue

Dear Madam Mayor and Council:

I hereby express my support of the sale of the former Cape Charles High School Building to Echelon.

Echelon has the technical skill to do this restoration well. It has a proven record of successful projects throughout Virginia and is prepared to begin this project immediately upon purchasing the building.

Why not consider some other location for a community center? The Rosenwald School Building and grounds, which includes 2.5 acres, would be a much more suitable site for small town Cape Charles, population 1,009.

Sincerely,
Elizabeth F. Luettinger

John Burdiss, 117 Mason Avenue

As I stated in my letter to the Eastern Shore News in early June 2012 – no one is opposed to the concept of a community center, including me. However, I strongly believe the old high school is not the proper venue for any such center. Importantly, after many months, the supporters of using the old school have not shown: how they can pay for it to be renovated, how they would pay to operate it, or even what kind of “need” there is for a community center. In addition to having Arts Enter and the privately owned/operated Impact Fitness, now the Town will have the old Bank of America building to better accommodate the many community activities already being conducted by the Town’s Library/Recreation staff along with many volunteers.

Council has made the best decision regarding the school and we need to support that and get on board with the achievable and very soon to be available bank building and old library as valuable and readily usable community assets. Also lost among many regarding the bank purchase were the benefits of: acquiring 2 lots behind for parking or other town uses; clearing up the alley problem for public safety

issues; freeing up the current library for new "community" uses; and assuring that a main commercial building (the old bank) would be actively used and well-maintained, when so many others, e.g. – Meatland, Bay Shore Market, Wilson Building, and several smaller store fronts on Mason Ave. have no commercial activities, or reasonable upkeep and most have not had for many years.

So, I urge everyone, especially the old school group, to tone down the inflammatory comments and speak with facts, not emotions; let's change the tone to a positive one. Please support the Town Council in the high school project and also get behind the new library location and all its attendant benefits. If there's a real need for a separate community center, let's all use our energy and creativity to flesh that out (rationally and responsibly) and then try to plug in those needs to the bank building (the soon to be "new" library) and/or find ways to make use of the current library once it becomes vacant.

John W. Burdiss, Esq.

Nancy Proto, 607 Pine Street

This is to urge the Town Council to approve the two resolutions before them this evening. Specifically:

- 1. to rezone the school property adjoining Central Park from Open Space to R-1 residential.
- 2. to permit a Conditional Use of property for a 17-unit apartment building.

There are multiple in-town options for community events and gatherings: the library, churches, the Arts Enter, the firehouse.

The loss of the basketball court has been resolved; it's being relocated.

Please vote in favor of these resolutions.

Nancy Proto

Regina Aleksiewicz, 112 Blue Heaven Road

I am FOR changing the zoning, granting the waiver, and selling the school to Echelon.

Neil Frock, 511 Harbor Avenue (formerly 209 Jefferson Avenue)

Dear Mayor and Council,

I would like to voice my opposition to a community center at the old school. I am not opposed to the concept, but I believe a better place can be found. A community center there would be extremely costly to homeowners and Echelon is willing to step in and turn it into apartments that will generate tax income for the town.

As president of my homeowners association in Rehoboth Beach, I know the importance of budgeting for an item like this. The idea of a community center is admirable, but not at this time or place or cost. And I am disappointed that this issue has mustered so many unwarranted inflammatory criticisms.

I commend the council for keeping my "second home" a nice place to live.

Nan Bennett, 100 Creekside Lane

To the Clerk of the Town of Cape Charles:

As a tax paying citizen and registered voter in Cape Charles, I am FOR changing the zoning, granting the conditional use permit and selling the school to Echelon.

Nan Bennett

Linda Buskey, 100 Arnies Loop

I am FOR changing the zoning, granting the waiver, and selling the school to Echelon.
Linda Buskey

Ken & Terry Gottlieb, 121 Blue Heaven Road

A "Buy now and Figure out how to pay for it later" approach is not financially tenable. The old high school should be sold to Echelon.

Chris Michel, 10 Peach Street

23 August 2012

Last night at midnight I spotted Frank Wendell putting out his signs in Cape Charles. Not sure why he chooses this time of night to do this perhaps he is ashamed as well he should be.

I cannot for the life of me figure out why, as a business owner in town himself, he would choose to do this.

It certainly does not show our out-of-town visitors the kind of Town we want to portray. I live in Cape Charles as well and it makes me sad to see these signs everywhere. I too own a business in town as well as have summer/winter rentals.

"Discrimination" is already an ugly word. Why do we need to see it spread around our homes.

Once again, Frank, we all would love to see a Community Center for all of us to enjoy. However, you need to pick a structure that we can afford. The High School is too expensive to renovate and run. We cannot afford it on our Town Budget. When will this sink in!!!!
Chris

Brent Carpenter, 522 Tazewell Ave

As a resident of Cape Charles I feel that I must put forth my opinion about the Cape Charles High School and the proposed apartments verses a community center.

I am firmly in the opinion that the City Council has done its job and are continuing to do the best job they can in this case. I have several reasons why I believe this is true.

1. The reuse of the school as a community center, though desirable, is, I feel, ambitious. The faction that is trying to halt the sale has not shown me a financial plan to help create said Community Center.

And as much fun as I have at them, I am not sure you can pay for a project of this magnitude with an oyster roast or two. Things such as:

- A) Asbestos Removal
- B) Cost of Building Itself
- C) Continuing upkeep of the building
- D) Heat, Cooling, Electricity, and Water costs
- E) Personnel and staffing
- F) Insurance

Without a viable financial plan from OSCC, I can easily see the "community center" becoming a drain on already stretched tax dollars from me and my fellow Cape Charles residents.

2. The issue of the Onancock Community Center is a moot point. CCVA is not Onancock and from what I can tell from their website they do not really have any "community" activities going on. They lease space out to artists... we have plenty of spots on Mason avenue to do this without the town having to become a landlord to artists and such.

3. Whoever fixes the building deserves the money that was given for repairing the damage from the earthquake. They are paying for the work... they deserve the money.

4. Why is it OSCC will ONLY focus on the school as an option for the Community Center? Meatland??? The empty building on the south side of Mason Ave not good enough? Why no energy to propose a community center, WHEREVER it may be.

5. If a company wants to come in and reuse a building, and has made the financial promises that Echelon has, how can you, our town council, say "no"? No one else has stepped up in close to 20 years to take the responsibility for the school and its reuse. And... if someone wants to try to vilify the council for its supposed breach of public space (not keeping the building up), they better go back for the last 20 or so odd years and include all council members.

6. I am opposed to the vitriol that has come from the OSCC. Having the opinion that you do not want apartments is absolutely fine, but when you start calling council members racists or schmarmy, you have lost any credibility with me. And to imply the council is doing this for any reason other than they think it is what should be done for the town is not only insulting but slander.

Thank you for your time and service.
Brent Carpenter

Libby Gray, 522 Tazewell Ave

Greetings to the Town Council, Mayor, and my Cape Charles neighbors;

I am a full-time resident of Cape Charles. My husband and I are come-heres who arrived a few years ago and bought our first house together here. We plan to die here. We have never owned a second home. We both work full-time. We do not drive fancy cars. It is in the context of being a middle-class household that I speak in favor of the financial sense of selling the Old School to be preserved by a non-governmental entity.

I am in favor of the re-purposing of historic buildings in Cape Charles to preserve them, especially if the town doesn't have to spend tax money to do it. People often say they want less government and a business-friendly environment. Here's a perfect place to let the free market work and town government stay -mostly- out of it. I am fine with private investment money being used to refit the building rather than tax money, if the town provides oversight of the preservation and restoration.

There are legitimate issues to be addressed. For example, losing some of our well-used basketball courts is an unacceptable long term situation, but surely the town can find a solution. Why not acquire one of the many empty lots next to the skateboard park, directly across from the existing courts, to make new, replacement courts? Basketball courts are less expensive to build new, than old buildings are to repair & keep up forever.

I am definitely in favor of a community center, but definitely NOT in a building so unnecessarily huge as the Old School.

The old school will be expensive to repair, heat, cool and maintain, in addition to -as a community center- presumably generating no tax revenue at all. At least 'tax-breaks' given to developers tend to generate some tax revenue, *sometime*, even if only in the form of local personal taxes future residents would have to pay, like on their vehicles. Future residents would also pay sales taxes, eat at our restaurants, get their prescriptions at Rayfield's, and so on, infusing money into our town and our neighbors' businesses.

If however, the Old School is turned into a ridiculously over-sized community center, eventually I am sure my tax money would end up being used for this enormous building in one way or another. Grants and State aid cannot be relied upon indefinitely: just ask the Coalition Against Domestic Violence, the animal shelter, or the Palace Theater, all of whom are struggling to keep or have lost funding this year. There are several smaller, empty buildings in town which are more appropriately sized to our population and would be more cost-effective to maintain, and I would support efforts to acquire and refit one of them for a community center. I find the acrimony over this issue divisive and counterproductive.

Finally, in these economic times where I, like many, am having to carefully assess my own budget priorities, I think the town should remain focused on other priorities, namely:

- ongoing beach and dune work to prevent flooding,
- continuing work in the park (where I see our children playing outside rather than inside, for a healthy change!),
- Harbor improvements, which directly bring income into the town,
- sidewalks which are a safety issue and
- FINALLY getting high speed broadband access to ALL our full-time residents and businesses, a vital competitive edge.

As for the sale to Echelon, the restoration of the Old School is a perfect example of what government should let free enterprise take care of, so our town government can focus its time & our tax dollars on the things free enterprise *cannot* take care of.

Respectfully Yours,
Libby Gray

Tammy & Jim Holloway, 403 Tazewell Avenue

We support rezoning the high school property from Open Space (O-S) to Residential (R-1) and granting the Conditional Use Permit and use the property as residential apartments.

Thank you,
Tammy & Jim Holloway

Bruce Gittinger, 4 Tazewell Avenue

Dear Madame Mayor and Council,

I am writing in support of the Council's decisions regarding the old school building and grounds. My support includes any zoning modifications or changes deemed prudent and necessary.

Thank you,
Bruce Gittinger

Evelyn Pinili, 13 Carissa Court

I am FOR changing the zoning, granting the waiver, and selling the school to Echelon.

Beth Hayward, 121 Strawberry Street

I whole-heartedly approve of and agree with the Council's decision to go ahead with the sale of the Old School Building to the Echelon Corporation. It shows fiscal responsibility which will add to the town's financial coffers, and not deplete them with a ridiculously large Community Center.

There is a lot of "emotional" rhetoric being bandied about at present, with regard to the sentiment that is attached to this "old school". This building has been in a serious state of disrepair and is unsafe, but it has been that way for a long time. Where was all the emotion and sense of indignity 20 years ago, or even ten or five years ago? Why has it become so "urgent" now?

I have been told by several of the "community center yes" group that "not one penny of town money will be used for the center" Really? Would you want these financial wizards handling your family's budget!! And, as far as "don't increase my taxes to pay for more condos" it would be interesting to see what happens to taxes when they have to support a community center of this magnitude!!!

Come on people, it's time to get real here, in this economic environment I would really be interested to know who or what body would be willing to come up with the enormous amount of money needed to

achieve the necessary, refurbishment/repair, maintenance and administration of this proposed community center.

There other more viable locations in town - not this behemoth for a population of under 1,000 residents.

One last thought - the "end discrimination" signs - they are beyond contempt.

Think, and think hard about this. It's time for the silent majority to stand up and be counted.

Respectfully yours,
Beth Hayward

Terry & Nansey Carney, 1 American Court
Dear Council,

As home owners, tax payers and patrons of local businesses, we wonder where the money would come from to pay for the Community Center. We have seen no documents/studies as to how this project would be funded and maintained. We are not opposed to a Community Center, but question, when, where, and how much would this cost everyone. From what we see, local businesses are struggling in an economy not likely to recover any time soon. Should the rehab of the school turn it into apartments/condos, that seems to us a logical step to bring more people into the community, who would pay taxes, utilize goods and services in Cape Charles. Common sense should prevail in this matter.

Sincerely,
Terry and Nansey Carney

Nancy Smithwick, 11 Kings Bay Drive

I support the rezoning and the conditional use permit to enable Echelon to historically renovate the old Cape Charles School to one bedroom apartments.
Nancy Smithwick

Jean L. Smith, 27 Kings Court

I am for changing the zoning, granting the waiver and selling the school to Echelon.
Jean L. Smith

Stuart M. Smith, 27 Kings Court

I am strongly in favor of the Echelon proposal for rezoning the Old Cape Charles School property and the issuing of a conditional use permit for the rehabilitation of the school into apartments.

The town council is to be applauded for their courage and progressivity in supporting forwarding looking projects like the Echelon proposal that will improve the tax base of Cape Charles.

Regards,
Stuart M. Smith

Ken Kuttler & Mark Usry, 117 Strawberry Street

Please add both our names to the list of people who support selling the old school and moving forward.

George Southern, 104 Monroe Avenue

Dear Town Council,

My name is George Southern and I live at 104 Monroe Avenue. I am asking you to deny the Conditional Use Permit for the following reasons:

The applicant, Echelon Resources, does not own the property. The Town of Cape Charles has never before granted a Conditional Use Permit to an applicant that does not own the property. To the contrary, an applicant for a Conditional Use Permit is required to attach a "disclosure statement signed and notarized verifying ownership." That is requirement #6 on the Town's Application for Conditional Use Permit. The Application submitted by Echelon Resources does not contain a disclosure statement signed and notarized verifying ownership. How could it, since Echelon does not own the property?

Is Town Council aware that the Conditional Use Application form was revised last month in order to make it more convenient for Echelon Resources? At a previous public hearing, I pointed out that Edwin Gaskin, on behalf of Echelon Resources, had signed the June 22, 2012, Application as the "Land Owner," although he of course had been unable to provide notarized verification of that falsity. Apparently in response to these failings, the application has been revised, with the requirement for "Land Owner's Signature," changed to "Signature of Owner/Agent."

The previous Application stated: "Applicant or representative must be present in the public hearing." The Town has held several public hearings on the old school property, and an Echelon representative has never been present. The new Application has removed that requirement. Under whose authority was that decision made and why?

The June 22 Application indicated a payment of a \$300 fee, but failed to provide proof of payment in accordance with requirement #2. Subsequently I requested through the Virginia Freedom of Information Act for the Town to provide proof of payment and a copy of the check, if any. In response, the Town sent me a copy of a receipt dated July 5, 2012, for \$300. Why did the June 22 application state that the \$300 had been paid, while the receipt is dated July 5?

Finally, an apartment house has never before been allowed as a conditional use in an area zoned R-1 Residential. Until March 2012, the Cape Charles Zoning Ordinance prohibited the construction of an apartment house in an R-1 area -- even as a conditional use. But in March, Town Council passed a new "adaptive reuse" provision in order to make legal what previously was illegal. We have already heard a new property owner in the area state that had he and his wife known that the school would be converted into an apartment house, he would not have purchased his property.

Finally, to schedule a special meeting of Town Council immediately following a public hearing makes a mockery of the hearing, because there is no time for Council to consider what they have heard at the hearing. The Virginia Municipal League recommends "genuine public deliberation -- the thoughtful discussion, among informed citizens, of the possible courses of action well in advance of the actual decisions." It concludes: "The rewards are great for those officials who are willing to take the time and make the effort to nurture deliberative processes."

Dorie Southern, 104 Monroe Avenue

Page 10 of the Handbook for Virginia Mayors and Council Members compiled by the Virginia Municipal League says, "The missing element in most discussions of what government does and should do is genuine public deliberation—the thoughtful discussion, among informed citizens, of the possible courses of action well in advance of the actual decisions. The rewards are great for those officials who are willing to take the time and make the effort to nurture deliberative processes."

Genuine public deliberation has certainly been missing from this situation. Had there been genuine public deliberation there would have been no need for signs all over town so that people would know what was going on. We were out of town during the month of February. Without signs we would have known nothing about what was going on about the school because there was no public discourse.

Everything that the town has done has been covered in secrecy and mystery. The town changed the subdivision ordinance before the Planning Commission even knew anything about the school sale to Echelon Resources. The Adaptive Reuse ordinance was changed without people understanding the link between it and the school.

Next we learned that we were going to provide a discount for water hook-up fees for one bedroom apartments. Coincidentally, the developer of the old school was going to make one-bedroom apartments.

No one told any of us that the town would also have to give the \$41,000 insurance payment for the earthquake damage to the developer or that \$228,000 of Federal Emergency Management Agency money would have to be forgone because we could not give it to the developer.

The contract to sell the school was passed in June. Now there is the detail that the school is not zoned residential, and even if it were, an apartment house does not fit in the residential district. Those changes have to be made before closing.

What will we do if the town does that tonight but the developer does not get bank funding for the project or Tax Credits or a Virginia Department of Historic Resources grant? We have given away our historic property and \$41,000 with no assurance whatsoever that we will get anything for it. We have no guarantees -- no performance bond, and no buy-back option.

The people of Cape Charles have been told that we cannot afford a community center -- as if giving away our public property to a private developer, or making a community center, were the only options we have. Those are not the only options. We could stabilize the building with the \$228,000 FEMA money plus \$41,000 insurance money and wait for the right time to use it. Meanwhile we would still have a parking lot for our playground and a basketball court of our kids.

I urge you to put the interests of the people of Cape Charles over the interests of an out-of-town developer and refuse to change the zoning or to make inappropriate changes to the use of our historic old school.

**Included upon request of Councilman Wendell
Approved by Council to include – October 11, 2012**

Requested Addendum to Minutes of Public Hearing August 23, 2012

I would like to add the following addendum to the minutes of the August 23, 2012 Public Hearing for the record. They are a direct transcription of the meeting where stated.

Mayor Dora Sullivan began with ground rules asking people to be extremely respectful. She said comments were allowed only on the items on the agenda.

Then she said as recorded:

And before we start the public comment -- Councilman Wendell, you are here as a councilman, not as a citizen. A councilman, to hear from the citizens of Cape Charles and only to participate in the debate of the proposed action items before the council tonight at this special meeting. If you speak during the public comment period, you will not be participating in the debate during the special meeting as a member of this council.

Frank Wendell — Where did you dig that up ma'am?

Mayor Sullivan — It's what I said. It's my meeting.

Wendell — Where are you finding that? Where is it written down? I have not given up being a citizen of this town because I ran and got elected to the Cape Charles Council.

Mayor Sullivan -- Which would you care to do?

Wendell —I want all my rights.

Mayor Sullivan —You have one [right to speak in the comments or participate in the debate].

Wendell — I want all my rights, Mayor. I did not get elected to Council to lose my rights.

Mayor Sullivan confers with town attorney.

Mayor Sullivan — OK, Mr. Wendell. Councilman Wendell. If you want to take up the town's time that's fine.

Wendell — Thank you.

End excerpts of Sullivan/Wendell exchange

Comments begin and several individuals speak.

Malcolm Hayward —Spoke about the history of the town.

Photographer was taking his picture. Hayward broke off to say,

As transcribed

Hayward -- "I resent being photographed."

Sullivan — Chief.

Sullivan -- George, he wishes not to be photographed.

Hayward — "Put that where the sun don't shine. Stop it."

Hayward continues about how Echelon's development would benefit the town. As transcribed

Hayward -- But also from water -- now isn't that a surprise the signs around town are misleading. We will be getting increased tax revenue both from usage and hookups. Someone is feeding them bad information. But the gigantic costs of maintaining the school as a community center would ruin any chance of a balanced budget. It would hurt the arts center, the museum, and probably the library.

Hayward says, "What is the real motivation of the "Community yes" people? As Council I expect you want to know."

Sullivan — Sullivan says, "Careful where you tread but allows him to continue speaking."

Hayward continues, "Is it for the town to regress back to where we used to be? I don't know. I just see a propensity to disrupt. I am very much in favor of the Echelon Development" continues about its advantages.

Hayward threatens photographer as he leaves the podium in front of Chief Brown. He is allowed to remain in the meeting.

Bender is given extra time and gets up to speak.

Debbie Bender -- My name is Deborah Bender — boos

Gavel

Sullivan -- Go right ahead Ms. Bender.

Bender — My name is Deborah Bender. Gives family history in Cape Charles as reported in the minutes. As transcribed

Bender -- Our group, Old School Cape Charles LLC., has shown on many occasions the past few months the many reason why it is wrong for you to hand this historic one-hundred-year-old school, basketball court and Park Row over to a developer. it is against the Comprehensive Plan that you wrote. The Historic Review Board voted unanimously, no apartments in the building. You have not listened to your own lawyer. Your lawyer told you to get a two millions dollar performance bond. Edwin Gaskin said no. Your lawyer told you to get a buy-back option. Edwin Gaskin said no. Why are you listening to Edwin Gaskin over your own lawyer's advice? Old School Cape Charles offered \$10,000 dollars for the building. We were going to pay all the fees of fixing it up. But no, you're handing it to Edwin Gaskin. Who do you all working for and represent? Edwin Gaskin or us?

There is a reason that we may never know, why you are plowing over the citizens of this town in favor of a developer giving him our one-hundred-year-old historic school, the basketball court and Park Row which serves as the parking lot for the playground in the park -- the very park that you just spent a million dollars to build.

What gives? Tell us the truth for once.

Old School Cape Charles collected more than 300 signatures on a petition to save the school. That is more than the number of people who voted in the last election. Still you ignore us. As far as I'm concerned only people residing in the Historic District should have a say in what happens to the school. The Bay Creek people come in here spouting off that they are against the Community Center. They are all believing the lies that the taxes would increase by 20 or 30 percent. That is all lies and propaganda that the town is spreading. Do the little darlings that live in Bay Creek realize how much our taxes have increase because of Bay Creek?

Gavel

Sullivan -- Deborah you're not going to do it.

Bender — OK, I'll delete that.

Sullivan — Delete that. Thank you.

As far the people sitting up at the table are concerned, with the exception of Mr. Godwin, Frank Wendell. You have all handled this situation in the most conniving underhanded way I have ever seen. Most of you all are not even from this area. How would you like it if the very mayor that you elected, the town council you elected, all of the employees that you pay came to your peaceful little town, collaborated with a developer and behind your back stole your one-hundred-year-old school.

Gavel

Bender -- Free speech.

Gavel

Sullivan — Excuse me Ms. Bender, you're accusing us of corruption.

Bender — Well, I am accusing you (speaking directly to the Mayor] of making decision about the proposals ...

Sullivan — Chief, take her out.

Bender -- Old School Cape Charles gave you three proposals. You never put it to a vote. That's against the law.

Wendell — I've got a question mayor. How is it that a man can tell the photographer that he's going to put the camera where the sun don't shine, but she does not have the same first amendment rights? What kind of show are we running here?

Sullivan — I'm trying to be consistent and fair. Frank hush. Wendell — Well you're not doing a very good job.

Sullivan Yes, I am.

End of Bender excerpts

Public hearing portion of meeting closed — break

Requested Addendum to Minutes of Special Meeting convened after Public Hearing August 23, 2012

I would like to add the following addendum to the minutes of the August 23, 2012 Special Meeting for the record. They are a direct transcription of the meeting where stated.

Discussion of Rezoning

Wendell— How is taking away the basketball court appropriate according to the Comprehensive Plan page 44 basketball court -- The basketball court is our most used recreational facility.

Comp Plan will be key in future proceedings — Community services -- restoration of high school

Natali — Comp Plan is a strategic direction that points us where we want to go in 10, 15, and 20 years. The zoning ordinance is the law. We follow the zoning ordinance as law and we look to the Comp Plan for direction. We are required by law to reevaluate our Comp Pan every five years. A lot of people seem to think that it is the Comp Plan that is law. It is not. Buildings that are not allowed in open space, period. So if we don't make this change I believe our only choice is to let the building rot in place.

Wendell — What about the basketball court? You are change the zoning of the basketball court that qualifies as open space. How does the ordinance make you need to change the zoning of the basketball court?

It's not appropriate to change the ordinance of the basketball court.

Bannon — excerpts

I think you know how I feel. ... I think whatever has happened in this town with newspapers and emails has been vicious. I think it's turning one part of the town against another part of the town. I think it's got race in to it, which should never be there. I just think that.

Wendell -- Well just define the undesirables that are playing at the basketball court.

Bannon — Talks about school teachers and the need for apartments for them

Wendell questions -- Sell the school for \$10?

Bannon — Nobody has run up to us and told us we're going to give you \$20.

Wendell — You had an offer for \$10,000.

Veber — Says it is time to make a decision and vote.

Godwin — There are a few things I want to share with you. I've spent a lot of time considering this information. I have not had a lot of discussion with everybody.... I'm voting on my own and doing what I think is right. Every time someone brings something up I will question it to make sure that we get the best deal that we can. That's the way I work. I came here and took a lot of time. I'm ready to vote.

Sullivan — Mr. Wendell, Councilman Wendell anything else to add?

Wendell — This is totally unnecessary and unwise. You are giving away an asset that has been in this town for 100 years -- that five generations have worked and paid taxes to keep the school building. You violated the state law by not maintaining the school building and now you are giving it to a developer. You met with a developer in executive session. You should have put this to the people first. Once you signed the contract we had to force you to let us see it. You should have had a char ret. And then you wonder why you've got people worked up -- very naive and not very wise.

Rezoning passed

Conditional Use Permit brought up

Heather Arcos provided staff report and said that representative of Echelon Resources, Edwin Gaskin and Dave McCormack, were present at the meeting when introducing the conditional use permit discussion. She asked if anyone had any questions.

Wendell — The conditional use permit application is defective. I'm curious as to who actually filled it out? Do you know Mr. McCormack. Number 6 the disclosure statement verifying ownership is checked. Gaskin signed.

V Names and addresses of adjacent land-owners is checked. I know that they have not all been notified. You'll hear more about that later.

We paid good hard tax money [to our lawyer]. However our lawyer recommended a performance bond and a buyback option. Our lawyer Did you not Mr. Sterling? Were you paid for that?

Sterling -- I'm not disclosing attorney client privileged communications.

Wendell — Why aren't we following our attorney's advice? We have an incomplete application. I want to know why you did not take our attorney's advice. (Said again) Chris, you're looking at me. Any comment?

No comment

Nothing from Sterling.

Wendell — No comment.

Wendell — Mr. Krawczel came up here [to speak about conditional use]. We are going to have a conditional use permit with no conditions. What about the basketball court? Who pays to relocate that? In this town we used to have three baseball fields. Now we have none. No public basketball courts either? Why?

There are two lots across the street. We don't need to give these gentlemen our public space. These gentlemen could purchase lots for parking.

Wendell -- Once again number 6 has not been filled out. Why has our high price staff not been following up on this?

Sullivan -- Gentlemen can you afford the basketball court? Anything?

Gaskin brought up to speak.

Gaskin — Not all received our proposal in the same spirit that we brought it, We negotiated in good

faith with town staff. I do apologize for some of the language that I used in some of my e-mails. We arrived at a contract that was approved by town council ...

Sullivan -- Is it too late to offer anything?

Gaskin -- We feel like we've already negotiated the contract and we would like to leave it as it is.

Sullivan — That's too bad.