



**TOWN COUNCIL**  
**Regular Meeting**  
**St. Charles Parish Hall**  
**July 12, 2012**  
**6:00 p.m.**

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan and Wendell and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Public Works/Public Utilities Director Dave Fauber and Town Clerk Libby Hume as well as the Department Heads and approximately 20 members of the public.

Mayor Sullivan gave the invocation followed by the recitation of the Pledge of Allegiance.

Mayor Sullivan presented Jimmy Pruitt birds as gifts to the outgoing Council members – Mr. Larry Veber who served from July 1, 2008 through June 30, 2012; Mr. Bruce Evans who served from July 1, 2002 through June 30, 2012; and Mr. Steve Bennett who served from July 1, 2008 through June 30, 2012. Mayor Sullivan thanked the gentlemen for their years of service to the Town.

**PUBLIC COMMENTS:**

*Mary Ann Roehm, 27406 Allure Way, on behalf of the Arts Enter*

Ms. Roehm informed the Council that the National Endowment for the Arts (NEA) announced 80 Our Town Grant awards which were made to partnerships that included a non-profit art organization and a local government entity. Through "Our Town" the NEA supported creative place making projects that helped transform communities into lively, beautiful and sustainable places with the arts at their core. Arts Enter in partnership with the Town of Cape Charles, Citizens for Central Park and Cape Charles Business Association received an award of \$50K. The project partners were committed to engaging the community to work together on an arts plan that would establish the Town as an arts and cultural destination. Cape Charles and Roanoke were the only grant recipients from Virginia. There were 317 applications. Ms. Roehm continued to state that at the heart of the project was the creation of a broad based arts plan that would complement the Cape Charles Comprehensive Plan, the Community Trail Master Plan and the Cape Charles Harbor Plan. Ms. Roehm publicly thanked the Town and the other partners for their support and added that she looked forward to implementing plans that would continue to make Cape Charles more vibrant and robust in the coming years. The original request to the NEA was \$75K as part of a total project budget of \$175K. The first meeting to discuss the modifications of the proposal was scheduled for Tuesday, July 17<sup>th</sup>, and the Arts Enter looked forward to moving ahead together on this project.

*Howard Stiles, 525 Madison Avenue*

Mr. Stiles deferred his allotted time to Councilman Frank Wendell.

*Jim Stallings, 525 Madison Avenue*

Mr. Stallings deferred his allotted time to Councilman Frank Wendell.

*Kim Starr, 115 Mason Avenue, Unit 201*

Ms. Starr deferred her allotted time to Councilman Frank Wendell.

*Drew Harman, 104 Madison Avenue*

Mr. Harman deferred his allotted time to Councilman Frank Wendell.

*Katie Wendell, 115 Mason Avenue, Unit 201*

Ms. Wendell deferred her allotted time to Councilman Frank Wendell.

*Frank Wendell, 515 Monroe Avenue*

Councilman Wendell began by thanking the citizens of Cape Charles for electing him and Councilman Godwin and added that it was an honor to serve the Town again after having served the Town for twelve years previously. Councilman Wendell stated that he knew what the outgoing members had sacrificed in order to serve the Town of Cape Charles. Councilman Wendell stated that he wanted to continue to address the disingenuousness on behalf of the Town Council and staff in regards to the Echelon proposal and whether or not we had public space, whether or not they were negotiating as long as stated and why the Town was not following the lawyer's advice when it came to repurchase rights and performance bonds. Councilman Wendell distributed a number of emails which showed some of the negotiation between the Town and Echelon Resources as he continued to address the audience and Council as follows. As far back as January 9<sup>th</sup> of this year there were two scenarios. Scenario B stated that there would be no library in the gym space and included waiver of the tap fees. On January 23<sup>rd</sup>, Edwin Gaskin wrote Bob Panek stating that Echelon was comfortable with Scenario B but had a \$160K funding gap to bridge. On January 30<sup>th</sup>, another email from Edwin Gaskin to Bob Panek stated that there would be 17 units, not 16. Councilman Wendell added that there would be no public space for a library, gymnasium or whatever and the zoning would have to be changed to make the plan work. On February 27<sup>th</sup>, Bob Panek wrote to Edwin Gaskin that Council still preferred Scenario B with no public space. Councilman Wendell reiterated for the benefit of the audience that on February 27<sup>th</sup>, there was no public space being considered. On April 2<sup>nd</sup>, Heather Arcos wrote to Edwin Gaskin and Dave McCormack with four points but point #1 was that Council supported the 17-0 scenario. Councilman Wendell repeated again that there would be no public space. On April 3<sup>rd</sup>, Edwin Gaskin wrote to Heather Arcos with a number of terms including the Town's agreement to 17 residential units. Councilman Wendell stated that by this time, Old School Cape Charles (OSCC) had submitted its proposal and on April 4<sup>th</sup>, the Mayor wrote a letter to OSCC thanking us for our proposal and notifying us that the proposal was rejected by Council stating that a financial pro forma was needed. Councilman Wendell added that, to this day, Council was not releasing Echelon's financial pro forma due to executive session privileges so the public could not see their pro forma. Councilman Wendell continued reading excerpts from the letter, adding that he thought staff was not keeping Council up to date with the information or whether it was more disingenuousness. The letter stated that the Town was continuing its negotiations regarding the school which may include some public space. Councilman Wendell stated that this conflicted with the emails between staff and Echelon. Councilman Wendell stated that he distributed a lot of material regarding fiduciary responsibilities, due diligence and holding the public's trust. Councilman Wendell went on to state that he wanted to know why Council was not following the lawyer's advice and continued with his references to more emails. On April 18<sup>th</sup>, Bob Panek wrote to Edwin Gaskin regarding the revised draft contract. Councilman Wendell stated that the Town's lawyer advised the need for repurchase rights and a performance bond and added as an aside that the Town probably paid a lot for the lawyer's advice. On April 19<sup>th</sup>, Edwin Gaskin wrote to Bob Panek regarding the repurchase rights and performance bond stating that they would be an imprudent waste of their time and prudent capital as well as a misuse of the Town's good faith in their reputation and their quality developers. Councilman Wendell continued to state that Mr. Gaskin saw no reason for Echelon to incur the costs to satisfy the mental curiosity of the Town's external legal counsel. Mr. Gaskin wrote that the Town's external legal counsel was the only one asking for the repurchase rights and performance bond and to agree to the request would be merely to satisfy the heavy-handed approach of the legal counsel and Echelon was not in that business. Mr. Gaskin wrote that if the Town wanted that luxury, the Town should pay for it. Councilman Wendell went on to read that Mr. Gaskin thanked the Council for letting him respond to the request for the repurchase rights and performance bond, to which Councilman Wendell reiterated that the Town's lawyer asked for these points, and continued to read that Mr. Gaskin expressed his agreement in sharing his position in unedited form to the Town Council, to which

Councilman Wendell stated his preference, or edited as staff saw fit. Councilman Wendell stated that this meant that staff would tell Council all or some of it and he did not need staff to edit the response and Councilman Wendell added that this brought us back to the fiduciary and credibility issues. Councilman Wendell went on to refer to an excerpt from the draft minutes of the June Town Council meeting, before the vote to sell the school and seven lots for \$10 and giving Echelon \$150K in tap fees and doing back flips to rezone the property. Councilman Wendell read the excerpt of Councilman Veber's comments where he stated that he did not take his position to represent the citizens of the Town lightly and wanted to talk a little about compromise. Councilman Veber talked about several conversations he had with himself (Frank Wendell), Lisa Harman and Karen Jolly Davis about a compromise which was on the table several months ago where the Town could have had possession of the gym space which could have been converted into a community center where the town could hold meetings, be a place for children to gather and a place for other activities. The Town had an opportunity to have someone else pay to restore the building, put everything together and the Town would have added revenue coming in. Councilman Wendell stated that it was never stated in those terms and Council had agreed to Scenario B longer than a couple of months ago. Councilman Wendell continued reading the excerpt where Councilman Veber had stated that he had asked him (Frank Wendell) and Lisa Harman if they had a benefactor to back the plan and whether the 120-year old Wendell Distributing Company would sign an agreement backing the project, if the Town were to move forward with the renovation of the old school but ran out of funding. Councilman Wendell added that Councilman Veber was asking for a performance bond from the Wendells but Council was not asking for one from Edwin Gaskin. Councilman Wendell went on to state that it was a double standard that Council would not agree to let OSCC move forward to raise money for their project without the Wendells backing the project but agreed to let Echelon move forward without a performance bond. Councilman Wendell reiterated that there was one standard for the local folks and the Wendells and another one for someone from Richmond who had not paid a dollar in taxes to the Town or ate a cheeseburger at Rayfield's. It was a double standard and could be discriminatory. Councilman Wendell stated that he did not know how the Council got all wrapped up in this issue but he was wrapped up in it along with Council. Councilman Wendell added that he would move back to everyone's good buddy Edwin Gaskin and referred to the May 16<sup>th</sup> email from Edwin Gaskin to Bob Panek regarding a citizen complaint. Mr. Gaskin had a full-time job as Economic Development Director for Hanover County. Councilman Wendell stated that he did not like to see his employees doing other jobs while he was paying them by the hour. Councilman Wendell added that Edwin Gaskin got mad when someone called his hand and filed a complaint with Hanover County regarding the use of their taxpayer money. Councilman Wendell stated that he would not bore the audience with too much regarding Edwin Gaskin's email but referred to a statement that said much progress could be borne of controversy provided that the strength of leadership existed to ignore the idiots of the world. Councilman Wendell stated that he had been called an idiot before but he took offense at how this statement called everybody who disagreed with this project moving forward an idiot and added that he felt this was arrogant and he was more offended for everyone else. Councilman Wendell stated that he had a thick skin or would not have agreed to take this job. Councilman Wendell went on to refer to an email from May 11th where Edwin Gaskin wrote to Heather Arcos and Bob Panek stating his concerns regarding the project opposition, interjecting that this was America and the people had the right to descent as part of the First Amendment rights such as the "Community Center Yes" signs, even though other people removed them from private and public property and rights-of-way and added that the rights-of-way were still owned by the property owner or the State would not need a right-of-way. Councilman Wendell went back to the email where Edwin Gaskin expressed his concern in regards to allowing the project opposition to let loose with their insidious plans, interjecting that the community center was considered an insidious plan. Edwin Gaskin continued to state that we could not hog-tie them or ship them off to Gitmo or anything and just had to weather their antics. Councilman Wendell asked whether this was the guy the Town wanted to do business with and added in closing that it was not too late to revisit the contract. Edwin Gaskin submitted a fraudulent application for conditional use by stating that he was the owner of the building when he did not yet own the building. Councilman Wendell stated that he was asking Council a trivia question regarding who currently owned the building.

Heather Arcos replied that the Town owned the building.

Councilman Wendell asked why Edwin Gaskin was filling out a form stating he was the owner and asked whether that was fraudulent or incorrect. Councilman Wendell concluded by stating that he wished Council would reconsider this boondoggle.

Mayor Sullivan thanked Councilman Wendell for his comments and added that she wanted to state for the record that, although all necessary responses were given in writing, she wanted it noted that in a conversation that she had with Councilman Wendell before he was elected to Council and during the negotiations with Echelon, she asked him if he wanted the gym space and he responded "No" and that he wanted the entire building. Mayor Sullivan asked Councilman Wendell if she was wrong.

Councilman Wendell responded that he did personally say that.

*Larry Veber, 507 Tazewell Avenue*

Mr. Veber stated that as a former Council member, he wanted to address what he had heard from Councilman Wendell and the fact that much of it was not true. Mr. Veber added that he personally spoke to Councilman Wendell regarding his willingness to work with OSCC and Councilman Wendell told him, as he also told the Mayor, absolutely not. Mr. Veber stated that he disagreed strongly with Councilman Wendell's remarks.

Councilman Wendell objected to Mr. Veber's comment. Mayor Sullivan reminded Councilman Wendell that he was not to respond to the public's comments.

Mr. Veber continued to state that it was amazing to him that several people had done what they had done to our Town. There was \$2M to \$3M to be spent on this building. When the Cape Charles Christian School was asking for financial assistance of any kind to renovate the building for their school, why didn't the people in OSCC join them to help them make it work? Nothing was done to help them raise money.

Councilman Wendell tried to interject but Mayor Sullivan again reminded him that this was Mr. Veber's three minutes.

Mr. Veber also stated that when he was on Council, he listened to what Councilman Wendell had to say but never jumped in even though a lot of things were said to which he strongly disagreed. Mr. Veber went on to state that there were different towns that were in serious trouble financially and he was not looking to put this Town in trouble. Financially, Cape Charles did not have the money to put \$3M into the school. It was a great idea and that was why he asked Councilman Wendell to get someone to back him. He did not want to see the project only get partially done. Mr. Veber stated that it was really important to him as a citizen of this Town, not as a Council member. Mr. Veber asked the Councilman Wendell if they had the money and the wherewithal and why didn't OSCC come forward to help the Christian School. Absolutely nothing was done. Mr. Veber stated that when he asked Councilman Wendell about this, Councilman Wendell told him that he did not have time to get into it. But the first time in twenty some years when the Town had an opportunity to do something with the building, all of a sudden all heck broke loose. Mr. Veber asked everyone to think where the money would come from if the Town were to do the project. Mr. Veber added that Echelon had been put down a lot and asked Councilman Wendell to do some research but Echelon Resources had successfully done \$80M in historic renovations.

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

**CONSENT AGENDA:**

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

The Town Council reviewed the minutes of the June 7, 2012 Public Hearing, the June 7, 2012 Executive Session, the June 14, 2012 Public Hearing, the June 14, 2012 Regular Meeting, the June 28, 2012 Special Meeting, the July 3, 2012 Work Session and the July 3, 2012 Executive Session.

Councilwoman Natali stated that she was absent from two of the meetings so would abstain from the vote.

**Motion made by Councilman Sullivan, seconded by Vice Mayor Bannon, to approve the minutes of the June 7, 2012 Public Hearing, the June 7, 2012 Executive Session, the June 14, 2012 Public Hearing, the June 14, 2012 Regular Meeting, the June 28, 2012 Special Meeting, the July 3, 2012 Work Session and the July 3, 2012 Executive Session as presented. The motion was approved by majority vote with Councilwoman Natali abstaining.**

**REPORT PRESENTATIONS:**

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

Town Manager Heather Arcos reported the following: i) Several Planning Commission applications had been received and several more were expected. Planning Commission Chairman Bruce Brinkley recently submitted his resignation stating work constraints and the inability to commit the time needed to the Commission. The Town Council would set a meeting next month to review the applicants to fill the vacancies on various boards and the commission; and ii) County Administrator Katie Nunez informed her that there were no updates regarding the HUB Zone designation but the issue had been referred to Congress. Heather Arcos stated that an email was sent to Ms. Sylvia Parks, Senator Scott Rigell's staff person on the Eastern Shore, but to date no response had been received.

Councilwoman Natali suggested that the item regarding the 4<sup>th</sup> of July Celebration from the Town Manager Report be stated publicly to thank the Cape Charles Business Association for their \$1K donation for the fireworks. Mayor Sullivan added that the fireworks display was stupendous and that she heard that the Cape Charles fireworks ranked seventh in the State. Heather Arcos added that NMA Federal Credit Union also contributed financially as well as donating 2K bottles of water for the volunteers. Heather Arcos also thanked all the town staff for all their hard work to make the 4<sup>th</sup> of July celebration a great day in Cape Charles. Many thanks also to the Cape Charles Volunteer Fire Company, Ms. Marie Brady, Councilwoman Natali, Mr. Larry Veber, Ms. Jenni Potts and all the volunteers on hand working behind the scenes. Councilman Sullivan also thanked Bayshore Concrete for allowing the Town to use their property to set off the fireworks.

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

Treasurer Kim Coates reviewed the Treasurer's report dated June 30, 2012 which showed Total Cash on Hand at \$1,211,172. The report also showed Total Cash Held in Reserve at \$354,683. Tax collections for Fiscal Year (FY) 2012 as of May 31<sup>st</sup> amounted to \$1,050,803.97 for real estate, \$75,763.31 for personal property, \$34,819.00 for machinery & tools, and \$17,870.03 for licenses. Kim Coates stated she performed the temporary close of the fiscal year and the final year-end close was mandated to be done by September 30<sup>th</sup>, but added that she hoped to get the year-end finalized soon. Kim Coates went on to review the FY 2012 Capital Improvement Projects which totaled \$358,504 for the General Fund, \$29,226 for the Water Fund, \$4,349,591 for the Sewer Fund, and \$540,329 for the Harbor Fund.

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

C. *Recreation Report:*

Community Events/Recreation Coordinator Jen Lewis stated that she did not have any changes to her written report.

D. *Library Report:*

Librarian Ann Rutledge reported that 100 kids signed up for the Summer Reading Program and so far, it had been a terrific summer.

E. *Harbor Report:*

Harbor Master Smitty Dize reported the following: i) He had been busy working on the Inaugural Clam Slam Festival; ii) 300 boats came into the Harbor in June compared to his first year at the Harbor, 2005-2006, when 232 boats came to the Harbor during the entire year; and iii) He and his staff were still working to complete the parking lot.

F. *Public Works/Public Utilities Report:*

Public Works/Public Utilities Director Dave Fauber stated that he did not have any changes to his written report.

Councilman Wendell stated that about a dozen citizens had commented to him about the smell of the new sewage treatment plant and asked whether this smell was the new norm. Dave Fauber stated that the influent coming into the plant was causing the smell and it was a sewage plant to which only so much could be done and the gasses had to be released into the air. Councilman Wendell had numerous questions and comments regarding the smell and whether there was additional grant money to pay for a remedy. Dave Fauber responded that there probably was a remedy which could be cost prohibitive but he would check into the matter to see if anything could be done to mitigate the problem. Assistant Town Manager Bob Panek added that one of the issues was the discharge of the Bay Creek vacuum pump stations which had very low usage. The sewage sat in the pump stations for a while before being pumped to the wastewater treatment plant and became septic. Councilman Godwin asked if there was much odor from the old wastewater treatment plant to which Dave Fauber responded that the odor was worse but not many people drove by it to smell it. Councilman Godwin thanked Dave Fauber for his honest answer.

G. *Code Enforcement Report:*

Code Official Jeb Brady was not in attendance.

H. *Planning Report:*

Town Planner Tom Bonadeo reported the following: i) A recent test of the broadband wireless service had been completed and eight test users showed good results. The Town would be putting out a Request for Proposals in the future for wireless service providers; and ii) When the STIP Park was built, it was discovered that the location of the plotted road was not the actual location of the current road. He had been working with VDOT to get the road re-surveyed. The final road easement had been signed and the road was now shown in the correct location. The affected patrons worked together to get the proper easements and no money actually changed hands.

Councilman Wendell asked Tom Bonadeo whether he had any problems with the discussion at the July 10<sup>th</sup> Planning Commission meeting where Edwin Gaskin signed the conditional use permit application as the owner of the school property when he was not the owner. Mayor Sullivan informed Tom Bonadeo that he did not have to respond as this issue was not part of his department report. Tom Bonadeo stated that the current application only had one space for

“owner” and did not include a space for “applicant.” There were several forms like this one and they were being revised.

I. *Police Department Report:*

Police Chief Charles Brown informed the two new Council members that his monthly report provided information requested by the past Town Council. Chief Brown stated that if there was any other information that Councilmen Godwin and Wendell would like included, to please let him know. Chief Brown added that he hired a new police officer to replace Officer Graham who recently retired. The new officer, Dan Bell, would be starting the police academy on October 26<sup>th</sup> for 17 weeks and would be in field training until that time.

**OLD BUSINESS:**

A. *Wastewater Treatment Plant Status:*

Bob Panek stated that the construction of the new wastewater treatment plant (WWTP) was almost complete. The contractor was working on the punch list items which included mostly architectural and landscaping items.

The steel structures at the old WWTP had been cleaned, demolished and removed. The water plant backwash line had been re-routed from the polishing pond to the old disinfection tanks and the pond had been drained. A contract had recently been awarded to demolish the concrete structures and the polishing pond. The contractor started working on July 11<sup>th</sup> and the work was expected to take about one and a half weeks. Upon completion of this work, the property would be available for South Port Investors for the boat storage.

The design work continued for the reuse system and had been approved by the Department of Environmental Quality.

Councilman Godwin asked whether the WWTP would have less of an odor with increased usage. Bob Panek responded that at the Bay Creek vacuum pump station, the sewage sits in the tank until it filled up and turned septic and with increased usage, the less time it would sit and therefore it would lessen the odor. Councilman Godwin asked whether Bob Panek knew about how many people would be needed to improve the odor. Bob Panek stated that he did not know but there were techniques which could be used to assist with the odor and he would be checking into the matter. Mayor Sullivan asked whether the odor was less in the summer since there were more people in Town. Councilman Wendell stated that the odor was worse in the summer due to the methane gas. Vice Mayor Bannon added that about eight years ago, Bay Creek had informed the Town that they would send water down the lines to flush the system to keep the smell down and asked if this could be done again. Councilman Wendell stated that the system needed to be flushed around 3:00 AM – 4:00 AM when people were not travelling between Bay Creek and the historic part of Town. Councilwoman Natali asked whether the water used was potable or not. Bob Panek stated that either could be used and that he would check into the matter to see what could be done.

Bob Panek concluded his report by stating that about \$14M had been billed to date, all of which had been reimbursed from the Water Quality Improvement Fund and the Virginia Clean Water Revolving Loan Fund. This was about 92% of the contract value and 5% had been held as retainage.

B. *PSA / Regional Wastewater System Update:*

Bob Panek stated that the Northern Node was estimated to cost approximately \$11.3M. The PSA’s FY 2012 financial assistance application had been approved by the State Water control Board for a \$4.0M 0% loan for a 30-year term. Grant funding for the balance was needed to achieve affordable service rates but funding would not be available until FY 2014. The PSA had therefore decided to restructure the sequence to obtain funding from different agencies and

withdraw this year's application for loan assistance. The PSA was working on the application for a USDA Rural Development (USDA RD) grant. For the Southern Node, based on additional surveys, public engagement and engineering analyses, the PSA recommended that no county areas be included. Limiting the service area to the Town of Cheriton would decrease the project cost to about \$7.5M; however, funding agencies indicated that they could realistically fund only one large project in Northampton County. The PSA decided to explore a more limited service area focused on the commercial properties around the US Route 13 and State Route 184 intersection and 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 and the PSA met with many of the commercial property owners on May 15<sup>th</sup> to explain this approach. The owners expressed some interest in establishing a special tax district to fund the project.

Councilman Wendell stated that he thought the addition of more users would reduce the water bill and added that the residential properties surrounding Cape Charles needed to be included. Councilman Wendell went on to state that he had a problem with creating new commercial businesses on the highway which would dilute the value of the commercial district in Cape Charles. The Comprehensive Plan language was contrary to the creation of commercial businesses on Route 13.

Bob Panek stated that this was not something the Town was doing. It was the plan of the PSA of Northampton County. The Board of Supervisors wanted more commercial businesses. If the Town of Cape Charles was opposed to this idea, it needed to be reported to the PSA.

Councilman Wendell continued regarding his opposition to new businesses outside of Town. Mayor Sullivan stated that the Town had no control over the County. Bob Panek again stated that if the Town was opposed to this plan, it needed to get its opposition on record with the PSA.

Councilman Godwin asked whether any modifications needed to be made to the WWTP to accommodate additional commercial usage. Bob Panek responded that no modifications would be necessary and that if the commercial sewage did not meet the standards, it would be pretreated before being introduced into the WWTP.

Vice Mayor Bannon asked how the new Cheriton Town Council felt regarding this issue. Bob Panek stated that they were supportive of the idea. The estimated rate for Cheriton was approximately \$42 - \$45 per month but a guarantee of over 80% participation was needed to get an affordable rate.

Councilman Wendell again stated that increasing commercial businesses outside of Town was a bad move and would hurt the Shanty at the Harbor and the other restaurants and businesses in Town. If a commercial chain such as Ruby Tuesday's were to open on the highway, it would make it hard for small businesses in Town to remain open. Bob Panek stated that he was just giving the PSA report and if the Town was opposed to the PSA's plans it needed to communicate its opposition to the PSA.

#### **NEW BUSINESS:**

##### **A. *Appointment to Fill Town Council Vacancy and Submit Petition for Special Election:***

Heather Arcos stated in accordance with Code of Virginia § 24.2-228(A), the Town Council needed to appoint a qualified voter of Town to fill the vacancy until a special could be held. The Town Council held a Work Session on July 3, 2012 to discuss the process and possible candidates for this interim seat on Council. The Code of Virginia § 24.2-226 required the governing body to petition the circuit court requesting the scheduling of a special election within 15 days of the date the vacancy occurred. In our case, the vacancy occurred on July 1, 2012. The petition to the circuit court was finalized today requesting a special election be scheduled for

November 6, 2012 and needed to be delivered to Northampton County Circuit Court Clerk Traci Johnson on July 13<sup>th</sup>.

**Vice Mayor Bannon nominated Larry Veber. Councilman Sullivan seconded the nomination.**

**Councilwoman Natali nominated Steve Bennett. There was no second to the nomination.**

**Councilman Wendell nominated Reverend Jim Davis. There was no second to the nomination.**

Councilmen Wendell stated that he had tremendous respect for Larry Veber but in his opinion, with the May election results, the citizens of Town stated that they did not want business as usual and wanted a change of direction. Putting Larry Veber back on the Town Council was business as usual and the people did not want this.

Mayor Sullivan stated that she had a nomination and a second and asked if there was any further discussion regarding the nomination and the second.

Councilman Wendell stated that this was the Town's opportunity to have two African-Americans on the Council to which Mayor Sullivan responded that she was born in Africa.

Mayor Sullivan called for a roll call vote on the nomination to appoint Larry Veber to the Town Council to fill the vacancy until a special election could be held. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no. Mr. Larry Veber was appointed to the Town Council by majority vote.

Mayor Sullivan stated that a resolution needed to be adopted to petition the court to schedule a special election on November 6, 2012.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt Resolution 20120712A to authorize the Mayor to petition the court to schedule a special election on November 6, 2012.**

Mayor Sullivan read Resolution 20120712A – Petition to Schedule a Special Election and asked for a roll call vote. Resolution 2012071A was adopted by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.

**B. *Election of Vice Mayor:***

Heather Arcos informed Council that Section 3.6 of the Cape Charles Town Charter outlined that the Town Council elect a vice mayor from its members, by a majority of the members present. Each election year, a new vice mayor was elected at the first regular meeting with the new Council. In July 2010, Councilman Bannon was elected vice mayor for a two-year term.

Councilman Wendell nominated Councilman Godwin for Vice Mayor. Councilwoman Natali seconded and asked Councilman Godwin if he would be interested in serving as Vice Mayor. Councilman Godwin stated that he would not accept the position. Councilwoman Natali withdrew her second.

Councilman Sullivan nominated Councilman Bannon for Vice Mayor. Councilwoman Natali seconded and asked Councilman Bannon if he would be interested in continuing to service as Vice Mayor. Councilman Bannon stated that he would continue to serve in that capacity. There were no more nominations.

Mayor Sullivan asked for a roll call vote. Councilman Bannon was elected Vice Mayor for a two-year term from July 2012 through June 2014. Roll call vote: Bannon, abstained; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.

C. *Council Representative to Harbor Area Review Board:*

Heather Arcos stated that Section 9.7 of the Cape Charles Zoning Ordinance outlined the membership of the Harbor Area Review Board which consisted of seven members appointed by the Town Council with one member from the Town Council, two members from the Planning Commission, one member from the Historic District Review Board and two citizen members. Appointees serving on the Town Council, Planning Commission and the Historic District Review Board would be appointed to a term coinciding with their term on their respective board. Councilman Bennett was the Council representative to the Harbor Area Review Board. Since Mr. Bennett was no longer on Council, another representative needed to be appointed.

Mayor Sullivan asked for volunteers to serve on the Harbor Area Review Board. After some discussion, Councilman Sullivan volunteered to serve on the board.

**Motion made by Councilman Wendell, seconded by Councilman Godwin, to appoint Councilman Sullivan as the Town Council representative to the Harbor Area Review Board. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, abstained; Wendell, yes.**

D. *Appointments to Industrial Development Authority of Cape Charles-Northampton County:*

Heather Arcos stated that Industrial Development Authority (IDA) of Cape Charles-Northampton County was initiated by resolution adopted June 5, 1972 to administer the Industrial Revenue Bond to finance Shore Memorial Hospital and Heritage Hall until the bond debt was retired. The IDA consisted of seven members who served four-year terms and appointments were made by both the County and the Town of Cape Charles. The Northampton County Board of Supervisors, at their June 12, 2012 meeting, unanimously appointed Dr. Drury Stith and Messrs. William Hughes and Stewart Sturgis to serve on the IDA of Cape Charles-Northampton County for terms of office ending December 31, 2015. The Cape Charles Town Council must also act on the appointment in order for it to become official. Heather Arcos added that a letter was mailed to the Board of Supervisors requesting consideration for the Town to be part in the appointment process in the future.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to accept the appointments of Dr. Drury Stith and Messrs. William Hughes and Stewart Sturgis to the IDA of Cape Charles-Northampton County for terms to expire December 31, 2015. The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, abstained; Wendell, no.**

E. *Code 42-3 – Adoption of State Law:*

Heather Arcos stated that from time to time, the Code of Virginia was amended to either delete or add new safety tactics to protect those traveling the highways, streets and roads. Changes to penalties and violations were also made. In order for the Cape Charles Police Department to have the authority to enforce these new laws, a new ordinance must be adopted each year accepting any and all amendments to the provisions and requirements set by Code of Virginia in matters of regulation of motor vehicles in the Town of Cape Charles and any penalties for traffic violations.

**Motion made by Vice Mayor Bannon, seconded by Councilman Godwin, to adopt Ordinance 20120712 To Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 18.2-278, Et Seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266, Et Seq.), if any, for incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic.**

Councilman Wendell stated he had no problem with protecting the safety of the citizens and brought up the lack of a stop sign at the end of Randolph Avenue at Fig Street. There was a stop sign there for years and he did not understand why it was removed. There was a safety repercussion and he wanted the stop sign put back, especially since there was a lot of golf cart activity in Town and there was a safety issue at this intersection. Heather Arcos explained that the Town did not remove the sign. The Virginia Department of Transportation (VDOT) removed the stop sign after performing a traffic study. Heather Arcos added that if Council felt strongly about this issue, a letter could be sent to VDOT requesting them to revisit the issue. Vice Mayor Bannon stated that he did not feel that it was unsafe. Chief Brown stated that in the past, the Town asked for a four-way stop at that intersection. VDOT performed a traffic study and removed the stop sign from Randolph Avenue going out of Town. Chief Brown added that it was not a safety issue. There was much discussion regarding this issue before it was pointed out that this discussion had no relation to the motion on the table.

**Mayor Sullivan moved for adoption of Ordinance 20120712 as noticed and forewent reading of the Ordinance and asked for a roll call vote. Ordinance 20120712 was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.**

*F. USDA Rural Development Grant/Loan for Police Car:*

Heather Arcos stated that in June 2011, the Town Council authorized an application requesting \$34K from a USDA RD grant program to purchase a new 4WD Dodge Durango. The purchase of a new police car was included in the FY 2012/2013 budget with the terms as submitted in the June 2011 application. Staff received notification from Ms. Peggy Jordan from the USDA RD that the Town had been approved for a grant not to exceed \$12,750 for a new police car. The purpose of the grant was to assist local governing bodies in obtaining emergency/police vehicles that they would normally not be in a position to obtain. A stipulation of the grant program required the Town to finance the remaining balance of \$15,250 with USDA RD for a total of \$28K. Council reviewed the loan schedule which compared the USDA RD loan to Ford Motor Credit which was who financed the previous police cars purchased/leased by the Town. Heather Arcos stated that Resolution 20120712 needed to be adopted by the Town Council stating its agreement to abide by the covenants and to execute the forms required by the USDA RD. A loan resolution was part of Resolution 20120712.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Resolution 20120712 authorizing the Town Manager and the Mayor to execute all applicable forms required by the US Department of Agriculture, Rural Development.**

Councilman Wendell stated that the initial grant terms showed 75% grant / 25% Town match, but the final numbers did not appear to the same ratio and asked that this figure be corrected for future reports.

**Mayor Sullivan moved adoption of Resolution 20120712 as noticed and forewent reading of the Resolution and asked for a roll call vote. Resolution 20120712 was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.**

*G. Water Works Control Panel Engineering:*

Dave Fauber stated that the existing control panel that operated the automatic backwash of the pressurized green sand filters at the water plant was installed in 1993 when the plant was constructed. Soon after installation, the manufacturer redesigned modules that were the "brains" of the operation which made the Town's system obsolete and 20 years later, very difficult to find. Over the years, the design of control panels had changed greatly with the addition of digital displays and touch screen operation making the need for upgrade more necessary each year. The Town advertised a Request for Proposals for the design and installation of a new state-of-the-art control panel for the water plant. Four submittals were

received and after evaluation of the submittals/companies, MC Dean was chosen to design and install the control panel. MC Dean also designed and installed the control panels for the new Wastewater Treatment Plant. In May, the Town Council awarded the contract for \$81K to MC Dean to design, construct and install a new control panel. The FY 2011/2012 Water/Wastewater Fund Budget included a \$120K allocation for the new control panel. This project was a capital project and allocated funds were carried over into FY 2012/2013. GHD, the engineering firm for the Town's water quality improvement project, prepared Task Order #3 for the engineering support regarding the control panel project and their assistance would be an asset to the Town in the highly technical project of replacing the water filter control panel. The total task order amount was \$9K and was included in the total project budget.

**Motion made by Vice Mayor Bannon, seconded by Councilman Wendell, to authorize the Town Manager to execute Task Order #3 with GHD for the engineering support during filter control replacement with a cost not to exceed \$9K. Mayor Sullivan asked for a roll call vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, yes.**

H. *Boating Infrastructure Marketing Grant:*

Heather Arcos stated that this item was to authorize staff to submit an application for the Boating Infrastructure Grant (BIG) Program which was funded by the Department of Interior, Fish and Wildlife Service and managed by the Virginia Department of Health. Last year, the Town requested and was awarded \$10K to assist in the development of a marketing campaign designed to attract transient boaters to the Harbor's new transient slips and sanitary facilities. The Town advertised in two regional boating magazines – PropTalk and SpinSheet. The BIG monies were also used to create brochures to highlight the cultural, historic and natural wonders that Cape Charles and Northampton County had to offer. The Town's share for FY 2012 was \$2,700. This funding opportunity was announced for FY 2013 and the Town would like to apply for \$10K to be used for another marketing campaign similar to last year's. The awards would be announced in March 2013. If the Town received an award, the contract would be presented to Council for review and authorization to execute. The Town match would be included in the FY 2013/2014 Harbor Fund Budget.

Smitty Dize added that the numerous boaters had come to the Cape Charles Harbor as a result of the advertisements in the various magazines, rack cards, etc. Mayor Sullivan commented that all the businesses in Town benefited from the Harbor's growth.

Councilman Godwin asked whether the Town and Bay Creek Marina worked together. Smitty Dize stated that the Town Harbor worked well with Bay Creek Marina and often referred boaters to each other depending on the needs of the boater.

Vice Mayor Bannon asked for the total number of slips at the Harbor. Smitty Dize stated that there were 96 slips but a total of 123 docking locations.

**Motion made by Councilwoman Natali, seconded by Councilman Godwin, to approve the submission of an application for the Boating Infrastructure Grant Program Tier 1 for \$10K to be used towards a marketing campaign for the Cape Charles Harbor. Mayor Sullivan asked for a roll call vote. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, yes.**

**ANNOUNCEMENTS:**

- July 14, 2012 – Chamber of Commerce Gazebo Party, 6PM – 10PM
- July 17, 2012 – Blood Drive, 2PM – 7PM at St. Charles Parish Hall
- July 21, 2012 – Public Information Meeting w/Echelon Resources, 10AM, location to be determined. A Special Edition Gazette will be sent once details have been finalized.
- July 21, 2012 – Old School Cape Charles Crab Feast, 5PM – 10PM at Wendell Distributing
- July 25, 2012 – Town Council Ethics Workshop

- July 26-28, 2012 – VML Newly Elected Officials Conference. Mayor Sullivan added that this conference was very informative and hoped the two new Councilmen would be attending. Councilman Godwin stated that he was attending, but Councilman Wendell stated that he was not.
- August 3-5, 2012 – First Annual Cape Charles Clam Slam Festival
- August 9, 2012 – Town Council Regular Meeting, 6PM at St. Charles Parish Hall

**Motion made by Councilman Wendell, seconded by Councilman Sullivan, 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