



TOWN COUNCIL
Regular Meeting
Palace Theatre
June 14, 2012
Immediately Following Public Hearing

At 7:20 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 Bennett, Evans, Sullivan and Veber, and Councilwoman Natali. Also in attendance were Councilman-Elect Frank Wendell, Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Clerk Libby Hume and Michael Sterling of Vandeventer Black LLP. There were approximately 90 members of the public in attendance.

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

Mayor Sullivan announced that the Installation of New Council Members was being postponed to a later date.

PUBLIC COMMENTS:

Brock Stiles, Madison Avenue

Mr. Stiles deferred his allotted time to Mr. Kevin Martingayle.

Mike Belote, Madison Avenue

Mr. Belote deferred his allotted time to Mr. Kevin Martingayle.

Chad Davis, 5 Randolph Avenue

Mr. Davis deferred his allotted time to Mr. Kevin Martingayle.

Kevin Martingayle, Attorney representing Old School Cape Charles

Mr. Martingayle stated that he wanted to comment on an issue raised by another speaker earlier this evening regarding the fact that the developer had not met with the people to give a presentation regarding the planned project. Mr. Martingayle added that he lived in a city with a population of 435K and had attended many Virginia Beach City Council meetings regarding development projects and had never seen or heard of an instance where the developer did not meet with all the neighbors and give a presentation regarding their plan, especially when there was so much opposition and particularly when it was regarding such an important landmark. Mr. Martingayle stated that this was not normal. It was our Town and our landmark. If developers do it for big cities, couldn't they do it here in Cape Charles? Didn't they respect the Town enough to come make a presentation? Mr. Martingayle continued to state that he had looked at the documents which were distributed showing some of the developer's other projects and there was no address on the documentation. There was no address listed on the developer's website. Mr. Martingayle stated that he looked up the address in the contract and it was in Montpelier which was north of Richmond. When he pulled up the picture on the Internet, it looked like a residence in the country, not a real business and asked if anyone had ever visited the headquarters of this business to which the Town was entrusting the over 100-year old building. Mr. Martingayle asked if Council had met personally with the developer, if there was a personal guarantee in the contract, had Council seen a financial statement and commitment letters from banks, had Council done the homework to make sure they were fully satisfied that there was an equal commitment on the other side of this deal. Mr. Martingayle added that we knew Council was committed to this Town and the welfare of its citizens, regardless of how they would vote on this issue, and currently there was a disagreement with the citizens over whether this was the right deal. Has Council done enough homework on the deal to make sure they were comfortable with the terms and on this company to make sure they

were legitimate and whether there were people standing behind the company who were fully committed to the project? Until all this homework had been done, this matter was not right for a vote. Mr. Martingayle stated that he attended the June 5th public hearing and meeting regarding zoning and the conditional use permit and the Planning Commission wisely tabled the issue. A young man who had recently graduated from high school spoke at the meeting and pointed out that there were so few recreational opportunities in Town for the young people and he spoke very eloquently and from the heart for the youth. Tonight's public hearing was opened with a presentation by Town staff stating that there were not enough kids in Town to justify a community center or recreational opportunities. Mr. Martingayle stated that he knew there was nobody in Town that believed that and he did not believe anyone could seriously say that if there were only 50 or 60 kids, the Town should not worry about it. Mr. Martingayle added that he worried about it and he did not even live here. The Town Council could not possibly believe that this was good governance. Mr. Martingayle continued to state that he had previously pointed out that this was a self-created crisis much like a lifeguard creating a rescue situation just so they could go out and perform the rescue to take credit for it. This building was in disrepair because the County and the Town did not take care of it, but Council could not turn around and take this offer from the developer because with the condition of the building, this was the only solution. Mr. Martingayle asked Council not to think in that kind of circular argument and not go in that direction. Mr. Martingayle went on to state that, finally, he wanted to talk about some points in the contract which were troubling. Page 3 of the document allowed the developer the right to decide in its "sole and absolute discretion" whether or not to go forward after the review period. The Town could do everything that it was supposed to do and make all the necessary approvals but the developer had the sole and absolute discretion within the six month review period to pull out of the deal. It did not have to be reasonable or explained and Mr. Martingayle stated that he did not view that as being fair. Page 5, paragraph 6 stated that the Seller would rezone the property to allow for multi-family residential use. Once the contract was executed, the Town would be committed to rezoning the property to allow for this project. This meant that what the Planning Commission put off did not matter because the contract would make the commitment on the Town and the Town would be contracted to do the rezoning. This was the last opportunity to pull back. Once the historic building was handed over, the Town could not get it back. The Town could slow down since there was not an emergency. This was not a situation where this was a one-time opportunity. There were other people who would do this project. Mr. Martingayle stated that his final point was that several years ago, the Virginia Department of Historic Resources was created along with a tax program which essentially gave back 50¢ for every dollar spent to renovate older buildings. It was a great program and allowed the Norva to reopen in downtown Norfolk as a concert venue after sitting empty for years. The National in Richmond sat empty for decades and was in horrible condition but was now a concert venue. Delegate Ward Armstrong from the western part of the State was one of the architects of the program and spoke at the grand opening of the National about how he was able to renovate his office and preserve an old building to keep it in character with other buildings around it. There was money and tax opportunities available that the Town could take advantage of or that Old School Cape Charles LLC could take advantage of that made this project doable. That was why developers were running around making these deals because there was money available to them so they could make a big profit off these kinds of deals. It also gave the Town an opportunity. The Town did not have to take their deal but could do its own deal which it could control. If the Town did not want to do business with Old School Cape Charles LLC, then it should find another path, but the Town did not have to give the school away. Council was doing a disservice if they had not talked to the Virginia Department of Historic Resources prior to casting this vote. Mr. Martingayle stated that a friend of his, Mr. Bill Reed, who was the developer of the Norva and worked on the Virginia Beach Amphitheater, the Portsmouth Amphitheater, and the National in Richmond, told him that anyone on the Town Council who wanted information on who to talk to in the Virginia Department of Historic Resources should contact him. Council was undoubtedly at the fork in the road but once they went down one of the paths, they could not turn back, but if Council went down the path of thinking about this further they could make sure they were making the wisest decision. Council could come back to this decision regarding the sale but Mr. Martingayle stated that he felt other attractive opportunities and alternatives would be found. Council needed to at least do

themselves and all the citizens a service of making sure to fully investigate who the Town was going to be doing business with and have models, designs and a detailed presentation as well as fully investigate the opportunities with the Virginia Department of Historic Resources. Tonight was not the night to sell a landmark for \$10.

Frank Wendell, 515 Monroe Avenue

Mr. Wendell asked for a show of hands on Council and staff of who had made a trip to Onancock to investigate how they had been able to accomplish a community center for six years without any tax increase. Had anyone talked to Onancock's Town Manager?

Mayor Sullivan stated that she had visited the Town and spoken with the Town Manager. Councilman Evans stated that he had spoken to people in Onancock.

Mr. Wendell thanked the Mayor and went on to ask where the due diligence was that the public officials owed the citizens of the Town, if in four months, they could not make a 45 minute drive north. How could the Town Council, in good conscience, vote to give away the building without investigating the Onancock community center? Onancock's administration budget was about \$300K. It was available online. Cape Charles' administrative budget was about \$600K. Onancock's population was 1,500 compared to Cape Charles' population of about 1K. Mr. Wendell continued to state that when he went to Onancock and talked to the Town Manager, he was told that Onancock had 15 full time employees. 1,500 people, 15 full time employees. Cape Charles had 27 full time and 6 part time employees. Mr. Wendell added that he felt that people could now get the picture of how Onancock ran their town and had money and energy for things like a community center and why Cape Charles did not and added that he planned to see that changed. Mr. Wendell went on to state that when the Town opened the new community center, he planned to see a room dedicated to the memory of Don Clarke who was one of the first people to approach him in support of the community center effort. Mr. Wendell continued to state that he had heard a lot of talk about the sad state of disrepair of the building and asked why the building code was not consistently applied. Six years ago when the building was abandoned, why wasn't any maintenance done? The Building Code was designed to preserve the building. Council did not need to rush to Echelon to preserve the building. Mr. Wendell concluded by asking Council to please not give the school away.

Deborah Bender, 300 Fulcher Street

Ms. Bender stated that her husband had lived in Cape Charles almost all of his life. His grandfather built all the houses on Benders Row and his great grandfather cleared Hollywood Farm, which was now Bay Creek. The community center was important to the Town, to the children and to the adults. Ms. Bender added that it seemed to her that half of the Council did not even know what the laws were. Council did not know about the tax credits and no one even bothered, with the exception of Mayor Sullivan, to go to Onancock. Onancock seemed to operate with a whole lot less money and a whole lot less employees and they had more people living there and Ms. Bender added that she used to live in Onancock for almost 20 years. Ms. Bender concluded by reiterating that the Town needed a community center.

Don Bender, 300 Fulcher Street

Mr. Bender deferred his allotted time to Mr. George Southern.

Veann Duval, 110 Tazewell Avenue

Ms. Duvall deferred her allotted time to Mr. George Southern.

George Southern, 104 Monroe Avenue

Mr. Southern stated that before returning to his previous remarks, he wanted to say that he heard a lot of comments, pro and con, about taking action tonight. Mr. Southern stated that he respected everyone's opinion on that subject but his beef was when so called facts were presented that were not facts which could easily be refuted. That was why he was standing here tonight. Mr. Southern continued to state that another case had come up. As he stated previously, he did not think it was

proper for a public hearing to begin with a 15 minute one-sided presentation by paid staff which his taxes were paying for. One of the things stated was that tonight's meeting had nothing to do with zoning. Zoning was not going to be voted on or considered tonight. Now, a paid attorney explained to everyone that if Council were to vote to approve this contract tonight, it was obligating the Town to change the zoning because it was in the contract. This was absolutely the opposite of what the citizens were told by staff an hour ago. Mr. Southern stated that he would now return to the problems with staff reports. A letter came from the Vice Chairman of the Board of Supervisors of Northampton County to Mayor Sullivan dated April 2nd, expressing interest in the idea of a community center, making the point that the County had no community center, and offering to at least develop a dialogue to see how County taxes could support a community center in Cape Charles. Mr. Southern stated that for those people who state that they did not want the County people to come use our facilities, he wanted to remind them that the County people were already doing that and the Town was subsidizing them completely. Shouldn't the Town at least be receptive to an offer from the Board of Supervisors of Northampton County to inject some money into the Town's public facilities? Mr. Southern stated that the Mayor responded on April 27th stating that the Town respected the thoughts of the Board of Supervisors, but the Town Council and staff had put in numerous hours studying the situation and reviewing plans that were developed over the years and the estimated cost of performing a historic restoration of the school building was prohibitive at \$2M - \$4M. One exterior wall collapsed as a result of the earthquake last year and the estimate to repair that wall alone was approximately \$200K. Mr. Southern went on to state that it sounded terrible that a wall collapsed and added that he walked around the building and did not see the collapsed wall. He looked closer and no wall collapsed. What actually happened, presumably as a result of the earthquake, was the brick veneer on a small portion of the building between two windows at the backside, where the old police department was, fell off and there was a pile of bricks on the ground. Mr. Southern presented the Mayor with a picture that he took with his iPhone yesterday and asked that she circulate it to members of the Council. Mr. Southern stated that he showed the picture to a professional contractor today, who he had observed repairing old brick structures, and asked him what his best estimate would be to repair this brick wall and then double it. The contractor told him that he was unsure of the structural basis of the whole thing so he wanted to err on the high side. The contractor informed him that the building he was currently working on was re-bricked in a lot of areas and it cost about \$25K. Mr. Southern stated that he would double that cost to \$50K, but the Mayor wrote to the Deputy Supervisor that the estimate was approximately \$200K. Mr. Southern asked whether the person supplying the estimate was a professional or whether it was a staff member who just came up with a figure out of his head. Mr. Southern went on to ask why only one estimate was obtained. Wasn't this a perfect example of why the Town needed to get more than one bid? If the Town was going to do something with the building, more than one bid was needed and it was a standard rule of thumb to go with three. Council needed to act professionally on behalf of the Town's people. Mr. Southern continued to state that he was very disturbed about the staff report that stated that turning the school into an apartment building was not in conflict with the purposes of the Comprehensive Plan. The staff report was completely wrong. Mr. Southern read from page 44 of the Comprehensive Plan which stated that Growth of the Town would require an increase in space for community services, therefore, the Town plans included the restoration of the Cape Charles school as an adaptive reuse to preserve the structure, establishing a community center, relocating the library to a larger space with adequate provision for increased patronage, meeting rooms and technology, and relocating the Town offices including space for the Town archives and the police department. Mr. Southern asked the Town Council not to give up the public space. This Town was growing. If the Town was not going to use it this year or next year, it needed to preserve the building by spending the \$25K - \$50K to repair the brick veneer that fell down, stabilize the building, and hold it for future use.

Dorie Southern, 104 Monroe Avenue

Ms. Southern stated that she was asking about Mr. Gaskin who was the proposed savior and checked on the Internet. Mr. Gaskin was the president of this two-person company, Echelon Resources, which he worked on from 2004 to 2011 when he took a day job as the Director of Economic Development for Hanover County. Maybe he was not here because he was busy with his

day job and maybe the people who work for the Town of Cape Charles could be busy with their day job doing what they should be doing and not be doing the work that Mr. Gaskin should be doing like applying for zoning changes and conditional use permits and so forth. That was Mr. Gaskin's job, not staff's job. Ms. Southern went on to state that we knew the contract was for the benefit of Echelon and added that if Council approved the contract, it would lead headlong into law suits and waste precious time, money and energy that could be spent taking care of the needs of the Town, the school and whatever should be done to the school. The Town could turn this building into a really useful property for our Town in whatever way with input from everybody. If anyone on Council was not interested in the best interest of this Town, she asked that they just resign from Town Council and the citizens would find someone that was interested in looking after the interests of this Town. Ms. Southern moved on to comment on the budget and stated that because she had heard that the Town could not afford anything she wanted to put the Council on notice that she was going to check into what was going on with the budget and people in this Town were going to know why we were spending so much more than Onancock on administration and we still state that we could not afford to do the things we needed to do. Why? Ms. Southern stated that bottom line, this was not Disney World. This was a Town. Let's have a community center.

Ginger Strong, 7 Carissa Court

Ms. Strong deferred her allotted time to Mr. Paul Strong.

Paul Strong, 7 Carissa Court

Mr. Strong stated that he and his wife moved to Cape Charles about a year and a half ago after building a home here, retired here and now lived here full time and planned to live here the rest of their lives and added that they loved the Town. Mr. Strong stated that he had talked to many people in Town about the issues of Cape Charles, the old high school and the community center and had also read the letter in the Eastern Shore News by John Burdiss and the more recent letter by Ms. Southern which was published yesterday. Mr. Strong stated that he thought Mr. Burdiss, in particular, summarized the issues very well relative to the proposed sale of the high school and he agreed completely with Mr. Burdiss' conclusions. Mr. Strong agreed that the old high school should be preserved and restored if at all possible and he believed that the sale to Echelon was the only scenario which would likely lead to that happening. Mr. Strong went on to state that he feared if the sale did not occur, the only realistic option left to the Town would be to ultimately demolish the school. The best way to save the high school was to sell it to Echelon and have them renovate it at their expense which would be considerable. Feasibility studies had been done and those studies were public and were available in the Town Hall. They showed that to stabilize and renovate the school would be prohibitively expensive for this Town. Unfortunately, the school was continuing to deteriorate and we did not have the luxury of waiting a few more years in hopes that things would somehow get better. Mr. Strong added that it seemed to be a true tragedy that our Town had become so deeply divided on this issue. We really needed to find a way to disagree with one another and yet remain friends. No one should have to be reminded that we probably all wanted what was best for Cape Charles. Even though we might disagree on what that was, we should all be willing to accept the decisions that were made legitimately after a full and rational debate. We should at this point be able to smooth our ruffled feathers and move on together no matter what happened here tonight. Mr. Strong added that he hoped and expected the Council to proceed with the sale tonight to Echelon and the fact that this was a "lame duck" Council did not diminish its legal authority or even its ethical responsibilities to proceed with this sale if they were convinced it was in the best interest of this Town. Mr. Strong stated that he doubted whether anyone in Town knew the facts surrounding this issue better than the Council members and he had absolutely no question about their honesty and integrity and he had met and talked with them all. The suggestion that there had been "backroom dealing" along with the resulting implications that members of this Council might have some ulterior motive for doing this, were ludicrous. Mr. Strong went on to state that if the Council did indeed proceed with the sale, he hoped we could move forward to figure how we could best get a good, affordable community center for the Town and he felt there would definitely be a better, less expensive way to do that than to convert the old school into one. Mr. Strong stated that he wanted to add a personal note relative to incoming Council member Frank

Wendell who appeared to be at or near the center of this controversy. A few days before the recent election, he met with Frank Wendell along with several other interested people and he found Frank Wendell to be intelligent, sincere, and passionate and he knew that Frank Wendell would fight for what he believed was the best for Cape Charles. Mr. Strong stated that he became convinced that Frank Wendell was not a one issue candidate as many believed him to be. They discussed several other issues that night that Frank Wendell took an interest in and had significant knowledge of and he also presented what appeared to be a good record of his past service to Cape Charles. Mr. Strong went on to state that he voted for Frank Wendell, not because he agreed with the school issue, but because he felt that Frank Wendell would stimulate good, healthy discussion on the Council by frequently bringing up opposing views. That night, Frank Wendell was asked about the possibility that the sale of the school would succeed despite his opposition, and he answered that he would then work actively with the Council to pursue alternative sites for a community center. Mr. Strong stated that one reason he was telling everyone that he voted for Frank Wendell was to make it clear that not every vote for Frank Wendell in the recent election represented a vote against the sale of the school. Mr. Strong stated that in summary, he recognized that there were many good people who he liked and respected who opposed the sale of the old high school but he also believed that this Council had fully and adequately researched the pros and cons of such a sale and he urged Council to now proceed with what he thought was the only decision that had a realistic chance of saving the school.

Tim Krawczel, 409 Nectarine Street

Mr. Krawczel stated that he was opposed to the sale of the school for residential purposes. When he came to Cape Charles in 2005, the school and the harbor were about in the same shape. What was now Central Park was still lined off for a football field and the Town Harbor was just a shanty. Mr. Krawczel went on to state that we had all seen what had happened at the Town Harbor. That did not happen because of the genius and talent of the staff, adding that he was not disparaging the staff, but it happened because of the taxpayers of the State of Virginia making the money available and everybody in this room owned the Town Harbor. The opportunity had come and was there for the Town Harbor. The opportunity to renovate the school was not there now but could come some day in the future. If this sale were to happen, the school was lost. Mr. Krawczel continued to state that his second point was procedural and that tonight was not the last word on the school. The zoning was not in place and had been tabled. Mr. Krawczel stated that the copy of the contract that he saw stated that the Town would take care of the zoning. This Town Council was going to be in office for 16 more days and he did not believe this Town Council could lawfully obligate a future Town Council to a zoning decision. If Council were to go forward, the Town would see more contentious meetings in the months to come, more posturing, and more profiling. Mr. Krawczel went on to state that he voted for people to represent him and they would come into office in 16 days and added that this was going to go on one way or the other but asked Council to do things gracefully and let the new Council review the pros and cons and let fresh minds study the issue and make the decision. Two years from now, there would be another election and it would be somebody else's turn. Right now it was Frank Wendell and the new Council's turn to deal with this and they would deal with it one way or the other. Mr. Krawczel asked again for Council to leave the decision to the new Council and give them the same faith that the citizens have given the current Council over the last two years.

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

CONSENT AGENDA:

Mayor Sullivan stated that the Departmental Report Presentations would not be given this evening with the exception of the Town Manager and Treasurer Reports.

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

The Town Council reviewed the minutes of the May 8, 2012 Executive Session, the May 10, 2012 Public Hearing, the May 10, 2012 Regular Meeting, the May 17, 2012 Executive Session, the May 17, 2012 Work Session, the May 24, 2012 Special Meeting and the May 24, 2012 Executive Session.

Councilwoman Natali stated that she thought the language regarding the motion and vote on page 5 of the May 10, 2012 Regular Meeting minutes was unclear and suggested it be amended to read "Resolution 20120510 – Sale of Former School was adopted by the Town Council by unanimous vote authorizing a public hearing be scheduled and held for the sale of the former school."

Councilman Veber stated that he was absent for two of the meetings so would abstain from the vote.

Motion made by Vice Mayor Bannon, seconded by Councilman Evans, to approve the minutes of the May 8, 2012 Executive Session, the May 10, 2012 Public Hearing, the May 17, 2012 Executive Session, the May 17, 2012 Work Session, the May 24, 2012 Special Meeting and the May 24, 2012 Executive Session as presented and the minutes of the May 10, 2012 Regular Meeting as amended. The motion was approved by majority vote with Councilman Veber abstaining.

REPORT PRESENTATIONS:

A. *Town Manager's Report:*

Town Manager Heather Arcos reported that Tall Ships at Cape Charles was held this past weekend and it was a wonderful weekend for everyone with over 7K visitors. Heather Arcos thanked the Town Council, the Northampton County Board of Supervisors, the other towns, Eastern Shore Festivals, the Town's businesses, Town staff and all the volunteers that helped make the Tall Ships at Cape Charles such a great success.

B. *Treasurer's Report:*

Heather Arcos introduced the new Town Treasurer, Kim Coates, who joined the Town staff on May 30th.

Town Treasurer Kim Coates reviewed the Treasurer's report dated May 31, 2012 which showed \$73,080 in the Bank of America checking account, \$253,961 in the Shore Bank account and \$439,598 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$766,639. The report also showed \$97,076 in the Restricted Cash Balance LGIP – Rural Development and \$257,589 in the US Bank – VRA Interest Free Loan with a Total Cash Held in Reserve of \$354,667. Kim Coates stated that pending grant reimbursements included \$539,000 which would be deposited into the Harbor Fund and \$120,000 which would be deposited into the Wastewater Fund totaling \$659,000.

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

OLD BUSINESS:

A. *Echelon Sale and Purchase Contract:*

Assistant Town Manager Bob Panek stated that this item was regarding the approval of an ordinance for the sale of the former school building per the draft contract that had been reviewed. The public hearing was held earlier this evening and public comments were received.

Mayor Sullivan read Ordinance 20120614 – Sale of Former School.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to continue discussion at this time regarding the sale of the former school. The motion was approved by unanimous consent.

Councilman Veber stated that he wanted to be the first to speak, adding that he did not take his position to represent the citizens of the Town lightly and he wanted to talk a little about compromise. Councilman Veber stated that he had talked to Frank Wendell on a number of occasions, as well as with Lisa Harman and Karen Jolly Davis about a compromise which was on the table a few 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, it could be a place for children to gather and a place for other activities. The Town had the opportunity to have someone else pay to restore the building, put everything together and the Town would have added revenue coming in. Councilman Veber added that those that have done rehabilitations knew these projects usually cost twice the estimated cost. He had offered this option to the individuals numerous times as recent as today and he did not understand why we were in this position when we could have had it all. Councilman Veber added that the Town did not have the money which was why nothing had been done regarding the building in 20 years. Councilman Veber stated that he had asked Frank Wendell and Lisa Harman if they had a benefactor who would back this plan and whether the 120-year old Wendell Distributing Company would sign an agreement, if the Town were to move forward with the renovation of the old school but ran out of funding, that Wendell Distributing would back the Town in this project. He was told by Frank Wendell and Lisa Harman that they did not have a benefactor and Wendell Distributing would not guarantee to assist with the funding of the project. Councilman Veber stated that he would be leaving the Council shortly but would not vote for a plan that would cost the Town and its citizens millions of dollars. Councilman Veber stated that he was glad that everyone received a copy of the letter from Mr. Martingayle and read the last sentence which stated "Please understand that any vote on June 14 to sell or dispose of the school property would virtually guarantee this matter proceeding to court." Councilman Veber added that he had never heard of anyone on the Town Council suing the Town and Council and did not understand it. Councilman Veber stated that recently there was a lawsuit against the Town that cost \$64,800 for the Town to defend ourselves and nothing happened because it was settled. He added that he was not looking to put the Town in that kind of financial bind and felt that it was important that the citizens heard from the Council why we were looking at some of these decisions. Councilman again stated that compromise was important and there was no compromise regarding this issue with anyone involved in the community center but he stated that he guaranteed that he would have voted to turn the gym into a community center. He thanked the Mayor for the opportunity to speak.

Councilman Bennett stated that he had a statement that he would like to read and proceeded as follows "We've heard and read much from the Old School Cape Charles LLC. I would like to remind everyone that the Council does not operate in a vacuum, nor do we consider any item on its own merit. Everything we discuss has to be balanced against everything else we're doing as a town and everything else we're considering as a town. For the 20 or so of you who have appeared meeting after meeting I want you to know that I've heard you. Each time you've spoken I've listened and considered my opinion in light of what has been said. I've also spoken to many others, some of whom have spoken or written and quite a few others who have not. A lot of people I talk with are confused as to what is happening and why. This is in many cases due to the misinformation that has been spread by some of the proponents of the Old School Cape Charles group. Each time as I weigh the pros and cons of these opinions I reach the same conclusion – the sale of the school to Echelon Resources is in the best interest of the Town. This has not been a quick process and has not been entered into without a great deal of thought, research and work. There has been no rush to "give" the school to Echelon. We have met with Echelon, deliberated, discussed, weighed the options, talked to references, held public information sessions, negotiated and have not come to this decision lightly. The Echelon proposal has full financial backing and is in keeping with the Town's Comprehensive Plan. You

can read pieces of it any way you want. A historic restoration and adaptive reuse of the building is in the Comprehensive Plan. It was what Mr. Martingayle spoke of, it is in keeping with that and that is exactly what they are proposing. Prior to Echelon submitting their proposal, I had not heard a single request for a community center in my time on Council. If there truly is a desire for a community center I would appeal to the Old School Cape Charles group to continue their efforts, but for a facility that makes better sense. The high school, in my opinion, is not the right building. There is another school in Town however, just over the Hump, which is in desperate need of saving, and much more historically significant. The proposals offered by Old School Cape Charles, for many reasons, have almost no chance of success in the high school. Unfortunately, the best option to selling and restoring the school, and one that is gaining traction as I speak to people in Town, as you're heard three or four times tonight, is the demolition of the building and incorporating the land into Central Park. Any decision we make as a Council is not going to be popular with all 1,000 of us in this Town. But we were elected to make those decisions on behalf of the entire Town's population. I do not make decisions on emotion and some of the emotional negativity we've heard on this issue is unfortunate. This isn't an emotional decision. It is a business decision and one we have investigated fully in hopes of best serving the majority of our residents' needs."

Mayor Sullivan stated that before moving on, she wanted to clarify when she asked for a motion, it was for a motion for the Echelon sale and purchase contract and she did not fully state that. There was some discussion regarding the Mayor's statement. Town Clerk Libby Hume stated that Vice Mayor Bannon's motion was for discussion on this issue. Mayor Sullivan stated that discussion would continue.

Vice Mayor Bannon stated that he was lucky enough to be elected a number of times and added that he was a Virginian by birth and saw the Town as a gem 24 years ago when he first came here. Don Clarke came to Town shortly afterwards. This past Monday, during the Tall Ships at Cape Charles, Don Clarke had asked him if he believed what had happened to this Town, the Harbor, the beach and Central Park over the last 24 years. Vice Mayor Bannon continued to state that he thought the Town staff had been attacked unjustly and people had been making Council feel that they were raving idiots from the lawyer all the way down. Council had pondered and pondered always hoping that something would happen to the school. Nobody wanted the school. In his last six years on Council, we had the Harbor which was spectacular, we had a beach which we keep replenishing, we had Central Park, we had cleaned the Town up but the school sat there like a broken princess. There was no money. He read through the proposal from Old School Cape Charles and it was all hope. Grants were few and far between. Unless they had a miracle worker in Richmond with some money or a presidential candidate in their pocket, it was not going to happen. Vice Mayor Bannon stated that he, with a clear conscience, helped organize the Central Park, voted on Central Park, voted on the Harbor, and the beach and with a clear conscience had to vote yes to the sale of the school. Vice Mayor Bannon apologized if the people thought he was a bumpkin and added the rest of the Council and our staff was above reproach.

Councilman Sullivan stated that for the past nine months, Council had been listening to presentations about the unsolicited proposal, reviewing staff reports, listening to comments from people both positive and negative, and as mentioned by Vice Mayor Bannon, a great deal of time had been spent pondering what it was that Council was going to have to do with the decision to be made tonight. Councilman Sullivan stated that he could not, with a clear conscience, put a financial burden of this size on the people of this Town. There was no other explanation – he just could not do it. Councilman Sullivan added that he was not against having a community center. He thought it would be great, but not there and not now.

Councilwoman Natali stated that she had listened intensively and respectfully to everyone and had read every email that had been submitted and had considered everything keeping in mind the best interest of the entire town. Councilwoman Natali stated that in good conscience, she

could do nothing but vote to give Echelon a chance to rehab that property and pointed out that in the contract with Echelon, they had one year to complete the renovation. In one year of contract acceptance, if they were dismal failures as some of the citizens purport, the Town would not have lost a lot of time and the group would have time to raise money and take the school back after that and go forward. Councilwoman Natali stated that she believed that Echelon would do as they proposed and they had the financial backing to do it. The Town did not have the money and the implication was that the Town had done nothing to the school for years which was not true but the Town could not do enough to make a significant difference. The Town had done some patchwork and repairs over the years for \$20K, \$30K or \$40K when we could and it kept the building where it was now and prevented it from deteriorating any further and this was the best option that she could see for the Town.

Councilman Evans stated that he had been more vocal than a lot of the other Council members in considering all of the constituents in this Town and he thought that selling the school to Echelon was, by far, the best option and he had not wavered from that. Councilman Evans added that he had listened to everyone and he was the one that George Southern talked to for 45 minutes. He had also talked to Frank Wendell numerous times. Council had considered this over and over and added that he did not think there was anyone in this Town who was more passionate about the historic resources we have in here and the financial asset they were to this Town. The feel and the look, and flavor of this Town was what made him come here and that was why the Town was starting to grow now. When people looked at the results of the new sewage treatment plant which cost \$17M and the Town only had to finance \$5M, that was because of our staff that some of the citizens would like to see cut. When you see the money coming from the Virginia Port Authority, that was because of our staff. When you see the park and what was there, that was because of our staff and the research they do. Before anyone, including Frank Wendell, thinks about going in and cutting jobs, you needed to know what they do and how much they do and the endless hours they worked. The reason this Town was moving forward more so than Onancock was because of our staff and the fact that the Council depended on them to provide information so Council could make decisions. That was why we had the boards and commissions that we did. The reason our payroll was probably more than people thought it should be was because the Town provided a living wage for our employees. The Town provided benefits probably like no other town on this Shore. If anyone talked to any of the employees, they would tell you they loved working for this Town. They would tell you that they absolutely admired and respected their supervisors. For anybody to come in and state that the dollar amount was too high or too low needed to study the facts. Councilman Evans stated that he saw the Echelon situation as a great opportunity to maintain and hold on to a great historic asset. As someone from the public said earlier, it was not the place for a community center. That was why there was a teacher or monitor in every room and hallways. Councilman Evans added that the memories of that school and what happened there were not going to go away because the building was sold. The memories would stay with everyone forever. The school was going to be restored to its original grandeur. Councilman Evans asked everyone to think about all the mud that had been drug out like the discrimination sign that was brought in earlier and asked what that was. Would the citizens go to any length to get their way? It appeared that way. This was the best option for the school. Did the Town need a community center? Absolutely. What other small town with a population of less than 1K had a recreational director? What other small town had an Arts Enter which was a non-profit organization that provided activities for people? What other small town had the New Roots group that was put together by Laurie Klingel, Roberta Newman, Chuck Little, and our recreational director, to provide for our children? For the Town to invest in the old school building for a community center was the wrong thing to do. If there was an urgency for a community center, the Town had two empty grocery stores which could be leased and converted easier than the school building. The Town also had a historic museum which most towns of this size did not have. Why couldn't all these things be joined together? There was no reason why a child could not walk from one location to the other since they were all close enough. The Town could not afford a community center. This place, the Palace Theatre, as

great as it was, was hanging on by the skin of its teeth. It took \$300 per day to run this building and the programs held here. What would it take to run the school building with 22K square feet? To heat it and cool it and have someone in every room to make sure things were not going on that children naturally do? Councilman Evans stated that no one here was against children. We had the New Roots program and a mentor program where people volunteer their time to work with children. Yes, we needed everything but the school building was not the place. Councilman Evans concluded by stating that when the roll call comes, he would vote to sell the school to Echelon.

Motion made by Councilman Bennett, seconded by Councilman Sullivan, to adopt Ordinance 20120614 to finalize the sale of the school to Echelon Resources, Inc. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

NEW BUSINESS:

A. *Fiscal Year 2012/2013 Proposed Budget:*

Heather Arcos stated that the Town's budget consisted of four separate funds – the General Fund, the Harbor Fund, the Sanitation fund and the Water/Wastewater Fund. The General Fund was supported by real estate taxes, other taxes and other revenues. The Harbor, Sanitation and Water/Wastewater Funds were Enterprise Funds and should be self-sustaining through fees for services and other charges. Pursuant to § 15.2-2503 of the Code of Virginia, the Town Council and staff held numerous work sessions since February to prepare the budget for Fiscal Year (FY) 2012/2013 and as a result of the work sessions, Resolution 20120614 included the summary of estimated revenues and expenditures by fund for the proposed budget. The Public Hearing on the proposed FY 2012/2013 budget was held on June 7, 2012 pursuant to § 15.2-2506 of the Code of Virginia and comments were received.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adopt Resolution 20120614 – Approving the Budget for Fiscal Year 2012/2013 and Making Appropriation for the Fiscal Year.

Mayor Sullivan moved for adoption of Resolution 20120614 – Approving the Budget for Fiscal Year 2012/2013 and Making Appropriations for the Fiscal Year, as noticed and forewent reading of the Resolution. Resolution 20120614 was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

B. *Resolution in Support of New Health and Emergency Care Facility:*

Mayor Sullivan stated that she had been working on this issue regarding the hospital for two years. Plan A was to stop Riverside Shore Memorial Hospital from moving. In December 2009, the Town Council adopted Resolution 20091210B Confirming Support of the Town of Cape Charles to Retain Riverside Shore Memorial Hospital in Northampton County but in 2010, Riverside Shore Memorial Hospital announced its intention to relocate the hospital to Accomack County. In March 2011, Northampton County requested the Town's support in opposing Riverside Shore Memorial Hospital's Certificate of Public Need stating that it was detrimental to the public health and safety of the citizens of the Town and County and the Town adopted Resolution 20120322 In Opposition to Riverside Shore Memorial Hospital's Certificate of Public Need #7820. In August 2011, the Commissioner of the Virginia Department of Health approved the relocation of Riverside Shore Memorial Hospital to Accomack County. Plan B was to bring another medical facility to the County and a group was organized consisting of a number of concerned parties to approach hospital groups in an effort to bring a new medical facility to Northampton County and written support from local governing bodies would strengthen the group's position in discussions with various hospital groups to help define the need and location for a new health and emergency care facility in Northampton County to provide for the health and safety of the citizens of the Town of Cape Charles and lower Northampton County.

Mayor Sullivan read Resolution 20120614A Confirming the Support of the Town of Cape Charles for a New Health and Emergency Care Facility in Northampton County, Virginia.

Councilman Veber stated that he had watched for the last two years what had been done by the Mayor and Town staff and seeing the hard work and what had been done and added that he had a strong feeling regarding that in hearing what some people said about the staff sitting there doing nothing. Councilman Veber stated that those people who thought that way needed to go to Town Hall and spend a day with somebody to see what they do all day. Councilman Veber continued to state that he commended the Mayor for starting this group and campaign regarding getting a health care facility but he also commended the paid staff for all their work on this issue as well.

Motion made by Councilman Bennett, seconded by Councilman Veber, to adopt Resolution 20120614A Confirming the Support of the Town of Cape Charles for a New Health and Emergency Care Facility in Northampton County, Virginia. The motion was approved by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

C. Virginia Retirement System Resolution – Employer Retirement Contribution Rate:

Heather Arcos stated that the Town had been a member of the Virginia Retirement System (VRS) since January 1989 and in the past, the Employer Retirement Contribution Rates had been set by the VRS. This year, local governing bodies had a choice to pay the rate certified by the VRS Board of Trustees for the 2012-2014 biennium or an alternate rate which was the current Board-certified rate for 2011-2012. This change was intended to offer localities some budget relief for the coming fiscal year however did not change the Board-certified rate or the annual required contribution. Opting for the alternate rate would result in a higher calculated contribution rate for the future to compensate for the lower rate for the 2012-2014 biennium. During discussions for the FY 2012/2013 Budget, the Town elected to pay the VRS Board-certified rate of 8.79% and a resolution must be adopted and submitted to the VRS by July 1, 2012.

Motion by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Resolution 20120614B Employer Contribution Rates for Counties, Cities, Towns, School Divisions and Other Political Subdivisions.

Mayor Sullivan moved for adoption of Resolution 20120614B Employer Contribution Rates for Counties, Cities, Towns, School Divisions and Other Political Subdivisions, as noticed and forewent reading of the Resolution. Resolution 20120614B was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

D. Virginia Retirement System Resolution – Member Contributions By Salary Reduction:

Heather Arcos stated that in 2005, the Town opted to contribute both the employer and employee contributions to the VRS as an added fringe benefit as part of the FY 2006 Budget. On April 18, 2012, the Virginia General Assembly approved legislation requiring all employees of a county, city or town to pay a 5% member contribution on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code. The bill allowed governing bodies to phase in the member contributions in each of the next five years for existing employees but employees hired after July 1, 2012 would be required to pay the full 5%. The Virginia General Assembly also approved language in § 51.1-144.G.2 requiring localities to provide an increase in total creditable compensation, effective July 1, 2012, to each affected employee to offset the cost of the member contributions. During discussions for the FY 2012/2013 Budget, the Town opted for the entire 5% effective July 1, 2012 vs. phasing in the amounts over a five year period. A resolution must be adopted and submitted to the VRS by July 1, 2012.

Motion by Councilwoman Natali, seconded by Councilman Sullivan, to adopt Resolution 20120614C Member Contributions by Salary Reduction for Counties, Cities, Towns, and Other Political Subdivisions.

Mayor Sullivan moved for adoption of Resolution 20120614C Member Contributions by Salary Reduction for Counties, Cities, Towns, and Other Political Subdivisions, as noticed and forewent reading of the Resolution. Resolution 20120614C was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.

E. Contract Award for Concrete Demolition of the Old Wastewater Treatment Plant:

Heather Arcos stated that the new wastewater treatment plant (WWTP) had been accepting 100% of the town's flow for over a month. Staff advertised an Invitation for Bids for the demolition and removal of the concrete structures and bulldozing/grading of the polishing pond. One bid was received from Brittingham Bulldozing & Excavating for \$19,100. The Town had budgeted \$288,650 for closure of the old WWTP and so far the Town had expended \$23,424 for engineering, steel demolition and removal, piping and other parts. The contract for concrete demolition and removal was for \$19,100. Additional work would include fencing around the former disinfection and aeration structure now used for settling of the water plant backwash, and grading and seeding. The estimated total for the closure project was approximately \$70K.

Councilman Bennett complimented the staff for saving that much money on this project.

Motion made by Councilwoman Natali, seconded by Councilman Bennett, to authorize the Town Manager to execute a contract with Brittingham Bulldozing & Excavating for the concrete demolition at the old wastewater treatment plant for \$19,100 subject to approval by the Department of Environmental Quality. The motion was approved by unanimous vote.

ANNOUNCEMENTS:

- June 28, 2012 – Town Council Work Session @ 6PM
- July 4, 2012 – Town Offices closed for the 4th of July
- July 4, 2012 – 4th of July Celebration
- July 12, 2012 – Town Council Regular Meeting @ 6PM

Councilman Evans stated that it was a great experience to serve this Town on the Council for the last 10 years. He chose not to run this time but the 10 years that he had served was sometimes like a roller coaster ride. At times he was so angry with everyone but everyone talked it over and even though we did not always agree with each other, we buried the hatchet and remained friends. Councilman Evans added that he served on the Planning Commission for 16 years and that was the greatest group of researchers that he had ever seen.

Motion made by Councilman Sullivan, seconded by Councilman Veber, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk

**Town Council Regular Meeting
May 10, 2012
Public Comments**

Frank Wendell, 515 Monroe Avenue

To Mayor Sullivan & Town Council:

I am here again tonight in opposition to the unsolicited proposal submitted by Edwin Gaskins of Echelon Resources, Inc., which asks that you the current Town Council “sell” our 100-year-old Historic Cape Charles High School for \$10.00.

I have observed this and recent past Councils’ continued violation of the spirit and intent of our Building Municipal Code with regard to our school building. I have also observed this and recent past Councils’ continued violation of spirit and intent of our Comprehensive Plan Vision Statement and Section III D.5, Page 44 of the Public Services and Programs Section with regard to our school building.

Now, I observe you the current Council trying to “railroad” through Edwin Gaskins’ proposal with a “lame duck” Council in a reckless and potentially unlawful manner which, in my opinion, violates the Town’s Code of Ethics Preamble and Section 1 of that as well as the Laws of the Commonwealth of Virginia. I simply am not going to allow this Council to continue to ignore the will of the town’s people.

I did not choose this fight, it chose me. So make no mistake when it comes to the 100-year-old Cape Charles High School Building, the former home of the Cape Charles Indian. I, Frank Wendell, have always been ready to fight for Cape Charles. Now, I am fighting for the opportunity for our citizens to have a multi-purpose Community Center, while you, the Cape Charles Town Council seem to be fighting for Edwin Gaskin and Echelon Resources. I do not understand how Edwin Gaskin who is neither a citizen nor a taxpayer in our Town has come to have so much influence over you. This level of influence seems to be so pervasive that the Council has continued to ignore over 350 of our fellow Cape Charles residents and taxpayers who have signed the Old School Cape Charles petition asking only for equal and fair treatment. Treat us the same as Edwin Gaskin and give us equal time to refine our plan and dream of a Community Center.

I would much prefer to work together with the Cape Charles Town Council as we move forward in the development of a Community Center Plan. However, to do that, you must give us equal time to develop this process.

I have submitted to Mayor Sullivan a potential Lease Agreement patterned after the one between the Friends of the Onancock School and the Town of Onancock to serve our Community as a guiding document.

Mayor Sullivan, I love this Town and our wonderfully, diverse community too much to give anything less than my best efforts going forward with the Community Center concept. I sincerely hope that you and the Town Council can learn to feel the same way. Let us work together for a better Cape Charles for all its citizens!

Sincerely,
Frank Wendell
Residence: 515 Monroe Avenue
Contact Frank Wendell via email at
Frank.Wendell@verizon.net

Daniel Burke, 516 Madison Avenue

Dear Mayor, Council members and Town Manager:

I am again taking this time to reiterate my opposition to council's intent to convey our old high school to Echelon Resources.

1. The town council has seen fit to restrict the flow of specific information regarding this issue. I suspect the council does not have detailed specifications on this project and is entering into this agreement based on undocumented, general statements.
2. The information made public to this point, that a broker is going to restore and convert the high school into 16 one bedroom apartments sounds like wild speculation from another time. If this was 2005 maybe it would have a chance. I have worked closely with real estate appraisers in the last year. They all say those days are gone, not to return anytime soon. Think about how much has changed in the last 7 years. Even if you assume full rental, and in this market that would be an enormous assumption, financially it can't work. So there must be another angle. What is that angle? Is it cashing in historic credits, huge tax breaks and impact fee waivers? No one seems to know, or if they do, no one is willing to publish it.
3. The committee to save the high school asked the council to table this project for 6 months and give others time to research alternatives. This would have been a fair and moral thing to do. To date that request has been ignored.

While council is within its legal rights to ignore this request and the council is within its rights to meet in secret, it creates an environment of distrust that is more pervasive than you may think. I believe that distrust was made evident in the recent election and will show up again in future elections. Again, we ask that you table the Echelon project for 6 months.

Thank you for your time and attention.

Daniel Burke

Chuck Little, 8 Randolph Avenue

I first came to the Eastern Shore and Cape Charles with my sisters years ago and we just roamed around lower Northampton County for a day. We thought about buying a lot or two at Arlington Plantation. There were two on the bay that were either \$74K each or \$74 for the pair, I can't remember. Cape Charles was in the throes of its decline and there weren't any signs of a revival. The next time I came to the shore was the mid-80s. My daughter and I camped, paddled and fished at Kiptopeke State Park. I needed some socks so we came into Cape Charles and I was able to buy what I needed at Fresh Pride. Cape Charles was a little worse off than on my previous trip with my sisters.

I was selling homes for Dick Foster in Virginia Beach in the mid-80s and told him that if he ever did the job on the shore he had been dreaming about I wanted to come over and run it for him. I made numerous trips with him before he actually purchased the bay Creek property from Brown & Root and started commuting to what was to become Bay Creek in mid-1999 as the development of the first golf course and infrastructure began. I moved to Cape Charles in July of 2000.

At that time, there was a rundown marina on King's Creek with shallow depth, a town harbor in dire need of maintenance and enhancement, a beach that was mostly eroded away, mostly empty store fronts and dilapidated buildings on Mason Avenue, many dozens of houses in total disrepair

in the town, and a mostly unused park in the middle of town that housed an old school in serious need of repair.

Fortunately for some and unfortunately for others, Bay Creek and the town started to boom from a real estate standpoint. I was still the sales director at Bay Creek in 2002 and we closed \$27,000,000 in sales, mostly to speculators and future retirees who hoped to build their retirement homes in a few years. Houses were being gobbled up in town, cosmetically enhanced and resold for some exorbitant profits. Not many of the homes were being bought by people who planned to live in them. Some of the buildings on Mason Avenue were being rehabilitated.

It looked like Cape Charles was on its way. The old Kings Creek Marina was gone and replaced by a modern facility with shops and restaurants and a few dozen new homes. The town harbor has not only been enhanced but improved to become a real source of pride for the community, the beach has been replenished and off shore breakwaters put in place to protect it, many of the buildings on Mason Avenue have been restored and now house businesses, many houses have been restored and we have a Central Park that is also a source of pride for the town and an old school still in serious need of repair. There's a fishing pier that wasn't there when I came to town.

Because of the collapse of the real estate market, Bay Creek has been struggling at best. Many speculators who had purchased lots in Bay Creek and in town and old houses with the expectation they would be able to turn a profit have lost their investments and properties have gone into foreclosure and real estate prices have plummeted.

But if you drive around town now you will see numerous houses being restored. Not just cosmetically prettied up for resale, but restored to their glory days condition by owners who plan to keep them. We have a tall ship initiative bringing ships and tourists to town. My vacation rental business is booming beyond my wildest dreams and I'm pretty sure the town is going to be full of vacationers all summer long. Bay Creek has turned us into a wedding destination bringing in thousands of guests each year.

The Cape Charles Hotel on Mason is nearly complete and has actually already housed guests. It has been redone beautifully. Incidentally, it has been redone by a group from Richmond who paid \$500,000 for it and have invested over \$2,000,000 in it. The reason they have been willing to do that is because they believe in Cape Charles and what it is going to become.

Bay Creek, even though it has been struggling, will come back. The beach club should be started soon and be open next summer and I'm pretty sure its opening will stimulate sales and construction in Bay Creek bringing back some of the prosperity that escaped us in the collapse.

We have space within the boundaries of Cape Charles, mostly in Bay Creek for thousands more residents and likely will come. It is a matter of time. I think we are on the verge of having a sane, stable resurgence in the town and in Northampton County and we will all benefit from it.

The old school was the heart and soul of the town and served as an unstated community center when it was open. It is of significant importance to the many people in the area who have spent their lives here. I have no personal attachment to it but I can understand what it means to the people who lived here when the school was in use. We only have a few hundred new residents in Cape Charles and it is understandable that they do not have a similar attachment to the school but not everything is about the money.

I believe it is also fair to say that none of you on council truly consider 17 apartments the highest and best use for the old school. Echelon has been very successful restoring numerous other historic buildings but they did so in places that had numerous historic buildings in need of restoration or demolition.

Considering all that this town has accomplished in the 12 years that I have lived here and considering that the Cape Charles Hotel has been accomplished without the town giving away its birthright, it seems that this council should suck it up and do the right thing instead of what seems to be the economically sound thing in the short term. When we have 3,000 or 4,000 residents and 100s of kids, you don't want to look back and say, "Darn, I wish we had listened to them."

Cape Charles will survive, Cape Charles will thrive. 17 one or two bedroom apartments are not going to be the determining factor. Get your thinking outside the box. Get proactive and make it happen. We can do it.

Public Comments submitted via email

From: Roger Day [mailto:dayr222@yahoo.com]
Sent: Friday, April 13, 2012 1:11 PM
To: clerk@capecharles.org
Subject: Cape Charles Historic High School Disposition

Town Clerk,

I hereby request that this letter be read at the next town council meeting and added to the town council minutes.

I oppose the give-away to developers of Cape Charles real property, comprising the historic Cape Charles High School and seven lots, worth hundreds of thousands of dollars. I believe that the Town of Cape Charles cash assets in hand and its annual budget are sufficient to maintain and support the above real property as a multiuse town center. Possible uses could include (a) housing the Cape Charles Police Department, (b) importantly, a senior citizens center, and (c) a youth center, which is badly needed in our town. I suggest that unused space upstairs might be rented out as offices or to businesses to help defray maintenance expenses. A town center director would have to be hired, but Cape Charles is a town of volunteers and much of the additional staffing could be filled by volunteers.

The "Old School Cape Charles" (OSCC) citizens group should be given at least six months to provide adequate planning and funding documentation. I also ask the Mayor and Town Council to fully support the OSCC in applying for grant money to help in the OSCC's effort.

I ask the Town Council and Mayor to accommodate themselves to the needs of the Cape Charles citizens and voters, instead of supporting developers of unneeded additional housing. I will closely watch your votes on this issue, whether your decision was made at the April 12 town council meeting or later.

Most Sincerely,

Roger W. Day, PhD
523 Randolph Avenue
Cape Charles, VA 23310

From: Julia Jolly [mailto:julesbtp@hotmail.com]
Sent: Wednesday, May 09, 2012 12:17 PM
To: clerk@capecharles.org
Subject: for the May 10 town council meeting

Dear Town Clerk,

Please read this letter into the public record at the May 10 town council meeting.

I'm writing in reference to the upcoming vote to sell the old Cape Charles school for \$10 to an out of town developer to build apartments rather than develop the historic structure for town use in spite of overwhelming public outcry against it.

So many things in that previous sentence baffle me and make me wonder what exactly the Town Council is thinking. Let's look at the following points:

1. We're considering selling a property valued at around \$700,000 in the current (dismal) market for TEN DOLLARS? I was under the impression that we are in a recession. If the Town Council decides that the public does think that this property should be sold, wouldn't it make sense to put the contract out to bid to see if we can top that amount? How about this? I formally offer you \$20 for the property. I've just doubled your income.

2. In a recession, in a historically impoverished county, we're offering one of the largest construction jobs that would be available to a company from Richmond? Are Northampton County unemployment rates not at all time highs? Why are we not employing a local company and providing a necessary boost to the town and county economy?

3. Apartments? You think we need more apartments in town? The entire town is filled with residential properties that no one has been able to sell in this market. The condos and apartments built in the last few years sit mostly empty because we've priced the lower and middle income residents out of our community. If you add all the empty Bay Creek houses, how much of Cape Charles is currently vacant?

4. In the past decade, Cape Charles has consistently made building and zoning decisions aimed at "cleaning up" and gentrifying the area. While I understand the impulse to make our town more desirable to tourists, what's actually happened is that we've whitewashed the area into blandness. There are plenty of places to stay in town, but nothing to do. While tourists might be content to eat at restaurants, do a little shopping, and then sit on the beach, that's not a sustainable lifestyle for the year-round residents. The residents need a community center. They need the only park in town. This need is no more prevalent than among the children and teenagers. By removing every possible venue where teenagers might hang out because of the perception that teens are up to no good, you've actually guaranteed that they will be. Without any moderated activities or any safe places to gather, teens will turn to drugs because they are bored. Then those teens grow up, go to college, and when the time comes to choose where they themselves will raise their children, they don't come back to Cape Charles because they know that there's nothing for their kids to do. So we end up with an aging community, no young people to sustain our tourism trade jobs, and a bunch of empty summer homes. Let's stop that trend by utilizing the beautiful, historic building we already have.

5. The public has already considered this proposal and overwhelmingly stated that they are against it. You are public officials charged with serving the will of your constituents. Anything other than that is an abuse of power and grounds for removal from office.

I urge the council to vote as their constituents demand and not make a mistake that will lead our great town down a path towards being a dusty row of vacant homes.

Best,
Julia Jolly
5 Randolph Ave.

From: Cindy Grissom [mailto:mcgrissom@baycrk.net]
Sent: Wednesday, May 09, 2012 1:46 PM
To: clerk@capecharles.org
Subject: Proposed Community Center - Opposition

Ms. Hume,

Please read our comments into the Minutes. We wish to state our opposition to the proposed Community Center for the following reasons:

1. A thin majority are in favor of the Community Center, however, a limited number are actually willing to increase their taxes to fund the multimillion improvements required.
2. The town's debt burden is already high in light of the waste water treatment facility. Further, most citizens have not experienced the financial impact, as we await the looming rate increases needed to fund the project debt service.
3. The Community Center will likely incur annual operating losses over and above the debt service for its improvements, which requires even more taxes from the citizens.
4. Whereas, the proposed apartment construction by Echelon actually increases the real estate tax base, rather than adversely impacting the City's annual operating budget.

Cindy and Monte Grissom
(757)685-1467
mcgrissom@baycrk.net

From: Scott D. Banks, DC [mailto:sbanksdc@dceducation.com]
Sent: Wednesday, May 09, 2012 4:05 PM
To: clerk@capecharles.org
Subject: Opinion for town council meeting

I would like to express my support for proceeding with the sale to and rehabilitation project for the old school by E. Echelon Company. The idea of a community center is appealing but not financially wise at this time. We would be much better served having a significant asset on the town tax rolls at this point versus a liability that would in all reality occur with a community center.

Sincerely

Scott D. Banks
1 Moon Ct
Cape Charles

From: Peter Lawrence [mailto:casscon@baycrk.net]
Sent: Wednesday, May 09, 2012 4:36 PM
To: clerk@capecharles.org
Subject: against the Community Center

To the Council,

This is a bad idea at this particular time. First, as I understand it, there is no formal group and no formal proposal from the folks who want to save the school. If there's not a guarantee from one or more of their supporters to back the renovation and operating costs, I've heard the burden could fall on the taxpayers to the amount of between \$2-4 million.

I'm not prepared to have my property taxes raised to support that project when there are other dramatically more pressing needs like construction and operation of a free standing emergency department in this area. With the hospital moving, this should be an issue that the Council and citizens really focus on.

If the Echelon proposal is accepted, the Town will be relieved of a potential liability of approximately \$500,000 to remove the asbestos and lead in the building and demolish it. It also means we go from a non performing Town asset to one that over time will generate needed new property tax revenue and hopefully attract additional residents to Town to help support our current businesses.

Over time, the group that supports the community center can get formally organized and raise funds to build and operate a community center somewhere else. It can be built in the image of the current school if they wish.

Nothing wrong in principal with the community center but when our economic future is this uncertain, the significant downside risk is not warranted. Thank you for the opportunity to express my thoughts on this issue. They may be read into the record if desired.

Peter C. Lawrence
7 American Ct.
Cape Charles, VA 23310

From: Sue Pruitt [mailto:essuzyq@verizon.net]
Sent: Wednesday, May 09, 2012 7:27 PM
To: clerk@capecharles.org
Subject: C. C. School

I am writing in regard to the selling of Cape Charles School. It is the most unheard of giving the Cape Charles School to Echelon for \$10.00. I am strongly opposed to this matter. The whole council and others have lost their feeble minds. You are too lazy to try to come up with funding for the school. If it was Mr. Foster or the railroad, I am sure you would find a way to save it. I am totally against Echelon. Here you have a nice Central Park and going to ruin it by putting apartments. I am truly upset by this whole matter. S. Pruitt

-----Original Message-----

From: Bill Neville [mailto:bneville41@comcast.net]
Sent: Wednesday, May 09, 2012 7:59 PM
To: clerk@capecharles.org
Cc: Junius; Frank Wendell
Subject: Cape Charles School

Although I no longer live in Cape Charles, I grew up there and still have a strong attachment to the town. I am a member of the Cape Charles Historical society and do everything I can to support the town. Over my 70 years I have see the town when it thrived with railroad activities, I also watched with sadness as it declined with the moving of the ferries and the railroads decline. As I grow older my memories of the lifestyle I and my family and friend experienced convinces me that while you

can't return to the past, you can strive to return to that way of life in many ways. I believe that the return to that slower, more friendly lifestyle appeals greatly to many people. What I have seen over the past few years convinces me that Cape Charles is moving in that direction and people local and otherwise see that and are strongly attracted to it. They like a small town with a close sense of community. I see many people who have moved to Cape Charles and strongly support our town with their commitment of time and effort. I think of what a great community asset we have in people such as Butch and Nancy Vest and many others and what their impact has been. That support I believe is because of what they see in our town and its potential. I believe the town has begun over the past few years to recognize and start to capitalize on much of our potential with the harbor project and our small town appeal. Sometimes the choices that are before us in promoting our town are not always as obvious as they appear. I think that a very essential part of our appeal is related to connections with the past and a sense of continuity. With all of this said I would like to urge the council to take a longer prospective on what is at stake with the school issue and give the Old Cape Charles School Group a chance to develop and present their proposal. I have witnessed what an inspired and dedicated group is capable of and don't think this group should be denied their chance to show what they are capable of.

I respectfully request that this be read into the public record at the May 10 council meeting.

Sincerely,
Bill Neville

-----Original Message-----

From: pagebrad@aol.com [mailto:pagebrad@aol.com]
Sent: Wednesday, May 09, 2012 9:00 PM
To: clerk@capecharles.org
Subject: School

Clerk of Cape Charles - I am not in favor of the school being sold. Please post my vote in the Town Records and also post that I think more time should be allotted to raise money for its renovation and made a source for community activities. Thank you so much.

C. Page Bradford, Jr.
804-539-2686. Cell

From: B Dalinsky [mailto:bdalinsky@yahoo.com]
Sent: Thursday, May 10, 2012 12:34 AM
To: clerk@capecharles.org
Subject: Comments Re: "Item 6. E. Echelon Sale and Purchase Contract"

I am a citizen of Cape Charles interested in the decision-making process concerning the disposition of the public property known as Cape Charles High School. Apparently, there are two proposals for the future development of this property: the first is to provide the property to a private sector contractor who would develop it into private living quarters for public rental; and the second is to convert the property at public expense into a community center.

Before any decision is rendered, the parties involved should prepare and provide Economic Impact Statements through the Board for public review. The citizenry needs to know for each proposal how development will proceed, how it will be funded, and the short and long term effects for the tax payers. Cape Charles needs projects that will generate revenue for our economy and increase our tax base. My initial reaction to these proposals is that private development of the property at private expense will aid our economy more than the development of the property at public expense.

However, the information provided in Economic Impact Statements should validate the final decision in this matter.

Arnold B. Dalinsky
4 Crystal Lake Court
Cape Charles

From: Heather Banks [mailto:hbanks@baycrk.net]
Sent: Thursday, May 10, 2012 9:44 AM
To: clerk@capecharles.org
Subject: E. Echelon Sale and Purchase Contract

To: Libby Hume, Town Clerk Cape Charles, VA
From: Heather Banks, 1 Moon Court, Cape Charles, VA

Please read the following into the minutes of the Town Council meeting May 10, 2012:

There are some who have a sentimental attachment to the old Cape Charles School building and want to have it saved by the town to be used as a community center. However, unless they have a way to pay for the building to be rehabilitated not using taxpayers' money and also a way to provide a tax basis for the town, it is not in the town's best interest at this time.

I am in favor of having the Echelon company purchase the building and rehabilitate it into something that will provide a tax basis for the town.

From: George Savage [mailto:vgsavage@verizon.net]
Sent: Thursday, May 10, 2012 9:54 AM
To: clerk@capecharles.org
Subject: school

Thru its history and without any question, Cape Charles School and School grounds have had the greatest impact on everyone raised and educated in Cape Charles. We feel every avenue should be explored before destroying and every effort should be made to preserve.

Thank you, Virginia and George Savage, Jr.

From: Wayne Creed [mailto:waynepcreed@yahoo.com]
Sent: Thursday, May 10, 2012 11:12 AM
To: clerk@capecharles.org
Subject: Letter to Mayor and Council

Hi Libby, I can't make the meeting due to previous engagements, yet wanted to send this letter instead.

Thank You,
Wayne Creed

Thursday, May 10, 2012

Honorable Mayor and Town Council:

I am writing this note in hopes that Council will avoid voting on the sale of Cape Charles High School tonight, May 10th. The Mayor and Council should be aware that to do so would be in clear violation of Virginia Code 15.2-1800, in that there has never been a public hearing on the topic of the sale of the old school to Echelon of Richmond, Virginia. The hearing on February 9th only dealt with whether or not negotiations with the developer should continue, and never touched on the terms of the sale. To move forward without this public hearing is in violation of Virginia code. Missing in action is also the terms of the potential contract for members of the public. Virginia code 2.2-3707 requires that at least one copy of all agenda packets must be furnished to the public body for inspection. As of yet, we are unaware of any such materials.

More egregiously, the Town violated the Freedom of Information Act by withholding the contract from the public. It is apparent from this Virginia Supreme Court Ruling that the Town was in violation (improperly invokes contract negotiations clause) when they closed the sessions, see: <http://dls.state.va.us/pubs/briefs/Brief44.pdf>

In regards to the zoning changes needed to move forward with the Echelon deal, the Town failed to provide Improver Notice for Zoning Changes. Virginia code 15.2-2204 requires that if a proposed amendment (in this case the Conditional Use Permit and Zoning Map Amendment) affects 25 or fewer parcels, the planning commission must deliver notice to all property owners adjacent to the school. I am not aware that any of this ever happened.

In an effort to fast track this sale to Echelon, the Town has violated the spirit of the law. By not receiving other bids, the town did not pursue the best possible deal for the taxpayers of the town. Virginia code 2.2-4300 means to insure that procurement should be fair, and above all should avoid the appearance of impropriety. Recent Freedom of Information Requests have revealed a Mayor, Council and Staff that are far too cozy with just one developer, and back room, behind the scenes actions meant to fast track this sale have indeed created an appearance of impropriety.

Given these items, I would respectfully request that Town Council remove the sale of the school to Echelon on May 10, 2012. It is time to crack the shell and open this deal up to the light of day. This is a very important matter, and should not be taken lightly, or rushed into blindly like a fool in love. For the sake of the town, our history, and our future, let us not clutch onto the first unsolicited bid, and instead, really break this project into its component parts, and review the real numbers involved in each specific alternative. This is a project for a new, fresh council, and should not be decided by what for all intents and purposes is a lame duck session. It was the belief of the Mayor, Council and Staff that they could push this deal through in the darkness and cold of winter, and the slumbering dogs of Cape Charles would never notice. Last week's elections confirmed instead that we are awake and our eyes are wide open.

Thank you for your time and consideration,

Wayne Creed
548 Monroe Ave.

From: John W. Burdiss [mailto:johnburdiss@baycrk.net]
Sent: Thursday, May 10, 2012 5:26 PM
To: 'Town Clerk'; clerk2@capecharles.org
Cc: 'Heather Arcos'; 'Dora Sullivan'; 'Steve Bennett'; 'Mike Sullivan'; 'Larry Veber'; 'L. G. "Chris" Bannon'; 'Joan Natali'; stay@capecharleshouse.com
Subject: Comments to be read into the record at tonight's Town Council Meeting (05/10/2012)
Importance: High

Libby,

Cela and I are leaving shortly for MD for business near DC and also Annapolis tomorrow and we cannot attend the meeting tonight.

Thanks,
John

Would you please read the following into the record for me?

Here's why selling the School makes sense

First, who could be opposed to having a "Community Center" – no one? However, all of the arguments for that center and against the possible sale are based on emotion, false assumptions and a lack of logical and responsible financial grounding.

1. So the 7 lots are worth \$100k each; according to whom? And, this is the key, to sell the "lots" you have to first tear the school down.
2. As to operating in the shadows and secrecy. Municipal Governments all make perfectly legal and logical use of closed session meetings. If I want to deal with anyone as a private citizen with another private citizen, our dealings are "private". The Town Council, elected to serve as fiduciaries for all citizens and of the Town's "assets" may choose to consider bids like Echelon's in closed session so as not to allow 3rd parties to take advantage of Echelon's bid; just like dealings between 2 private parties occur.
3. If the Council determines that it is in the best interest of the Town (which is their proverbial gold standard), then the Council can and should approve the sale.
4. Echelon may be able to leverage its investment by obtaining tax credits, however, this is quite common practice and to obtain the credits, Echelon must first complete the project.
5. Those who say we don't need more housing are ignoring Echelon's and everyone's right to build anything that is acceptable and take the economic risks.
6. Others have less politely said they fear the project will turn into low income housing, but you don't see that said out loud as it undermines the mantle purity and equality that the save the school crowd claims.
7. There is no substance and there are no facts to support any ideas that grant or other free funds are available to rehab the structure.
8. It is absurd to think that once rehabbed – even if it cost the Town \$0 that the facility could be self-sustaining based on user fees or County help.
9. As to tax increases. We now pay \$.1828 per hundred dollars of assessed value. Based on current assessments, each \$.01 of R/E taxes raises about \$58k.
10. IF – big IF – the Town could rehab the building for use as a community center for \$2 million; that would cost the Town about \$133k/year to amortize that over 20 years at 3%. Put in higher amounts to rehab or higher interest rates and that amount is larger. That payment equates to about 2.3 cents in new taxes or an increase of 12.5%.

11. NOW let's talk about use and costs. First, this is a school building, not built to be a "community center." The gym is not regulation size and to make it a functional, acoustically useful meeting room would eliminate most "sports" functions – like basketball.
12. IGNORING that the building would be difficult to adapt, what will it cost to run it?
13. Well, in addition to utilities, insurance and maintenance, a reasonable plan would be to build cash reserves to replace/rehab this building in the future, so let's just say those things might total \$60k/year; that's another \$.01 increase or 5.5% more.
14. To be useful and worthy of spending millions to rehab, the facility would need to be open many hours each day, every day of the week. So, let's say it is open 8 to 8 Monday through Saturday and 1 to 8 on Sundays. That's about 80 hours per week when someone must keep up with the sprawling 22,000 SF.
15. I would estimate that the costs of the staff necessary to run all the programs desired, provide onsite supervision, and to schedule and promote the programming would be \$175k to \$200k/year, or another \$.03 to \$.035/cents in taxes, or an increase of 16% to 19%.
16. So, to cover all these costs – debt service, upkeep & operation the total would be nearly \$400k/year; that would require a tax increase of about \$.069, which divided by the current \$.1828 rate is nearly a 38% increase.
17. Moreover, no costs have been added in the above totals for addition public safety issues – Police – or administrative work by Town staff not directly involved in the community center. That could certainly add another \$58k/year or more, or another \$.01, which would be another 5.5% increase, bringing the total to approximately a 43% tax increase.
18. Lastly, it is a forgone conclusion that much of the use of the center would come from residents who don't live in Cape Charles. So if the County wants to help out, let the County build a community center for all County taxpayers to support, not just those of us in Cape Charles who, by the way, pay County taxes just like everyone who lives outside of our Town's limits.

John W. Burdiss, Esq.
117 Mason Ave., Suite E
Cape Charles, VA 23310

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Fax: 757-331-1930
Email: johnburdiss@baycrk.net
Website: www.johnburdiss.com

Licensed in Virginia (Bar # 70851) & West Virginia (Bar # 10352)