

**MINUTES OF TOWN COUNCIL MEETING HELD  
THURSDAY, DECEMBER 11, 2008 – 7:00 P.M.  
COLONIAL BEACH TOWN CENTER**

Mayor Rummage called the regular meeting of Town Council to order on Thursday, December 11, 2008 at 7:00 p.m. at the Colonial Beach Town Center. Those present were Mayor Rummage, Vice Mayor King, Town Council Members Mr. Coombes, Mr. Ridgely, Mr. Lyburn, Mr. Kennedy, and Ms. Payne. Others present were the Town Attorney, Ms. Erard, Town Manager, Ms. Foulds, Chief Financial Officer, Ms. Grant, Chief of Police, Mr. Hawkins, Public Works Director, Mr. Murphy, Building & Zoning Director, Mr. Bird and Town Clerk, Ms. Goff.

The Prayer and Pledge of Allegiance were recited.

**ADDITIONS TO THE AGENDA:**

Ms. King requested a closed meeting to discuss the consideration of the salary, contract and compensation for the Police Chief.

Mayor Rummage stated there are two additions to the agenda - #91-08 – Cancellation of the work session for December 30, 2008 and #92-08 – Approval of the Holiday Reception and Bonus for the Town Employees. With no objections, the items were added as additions to the agenda.

**ADOPTION OF THE AGENDA:**

There were no objections to the Adoption of the Agenda as amended and presented.

**BOARD OF SUPERVISOR'S REPORT:** - Mr. Roberson stated he was pleased to see the Town Manager, Ms. Foulds and Town Council Member, Mr. Kennedy attend our Board meeting in Montross on Monday night. We talked to the State highway department and we found that the Riverside Meadows project funding is not part of the State budget. That funding with all of the other matching grants for that type of a project is lumped together and they sell bonds for it. The State still has an excellent rating for the bonds and they hope to sell them so that project can continue on as soon as the bonds are sold. I also asked about the drilling that you saw the highway department doing at Wilkerson's Restaurant. Those are just core samples to find out how far they have to go to find solid ground and I asked exactly what are they going to do with the bridge. They still did not have a clear answer whether they are going to widen it or replace it. They have several options, but money is always a factor.

Mayor Rummage asked if the proposed bridge at Wilkerson's was going to be elevated?

Mr. Roberson responded the only thing they told me was that it was an option.

Mr. Kennedy stated his understanding was that it was going to be a one for one replacement. All of the other suggestions they have shown are out. It sounded like it was only going to be a bridge replacement.

Mr. Rummage stated unless they raise it, they may as well save their money.

Mr. Roberson stated they said they are not going to disrupt traffic too much. I don't know how you take a bridge out and put a new one in without disrupting traffic. I know there were several Council Members and staff who went to Luray and I am sure they will have a report later on that. They shared their trip with the Board of Supervisor's. We are excited that they are excited about it. The only comment I heard was they hoped it wasn't the flavor of the month and next month something else is great and wonderful and we forget about the Tourism. I hope we can continue to work with the Chamber, tourism with Westmoreland County, Colonial Beach and the Northern Neck Tourism. I know the County has been working hard with the Heritage Trail.

Mr. Kennedy responded it is not the flavor of the month. We have a ton of momentum going right now and we have a lot of people who are excited about this and I will be talking about it a little further. I told Mr. Fisher I would be attending as many meetings as I can. This relationship has to build even further than Montross, it needs to go all the way to the Northern Neck. We have to get everyone on board with this. I appreciate the way we were received when we attended the meeting.

Ms. King stated she would be joining Mr. Kennedy.

Mr. Kennedy stated he was representing the economic development and the Council.

Mayor Rummage stated we are going to deviate from the agenda and have the presentations next.

The first plaque presentation was for Ms. Barbara Palmer. Mr. Coombes and Mayor Rummage presented the plaque. Mr. Coombes stated that Ms. Palmer completed on December 1, 2008, twelve years as a Planning Commissioner. She is one of the longest members that the Planning Commission has ever seen. The plaque read:

**Barbara Palmer, Commendation for your devotion to the Town of Colonial Beach, for your stewardship as a commission member, for your contribution to the Town's future, for your eleven years as participation as a Commission Member, the Mayor and Town Council salute you.**

The next presentation was for Dr. Cunningham. Mr. Lyburn and Mayor Rummage presented the proclamation to Dr. Cunningham stating:

**PROCLAMATION  
CELEBRATING THE 15<sup>th</sup> ANNIVERSARY OF  
SERVICE TO THE TOWN OF COLONIAL BEACH  
REVEREND DAVID A. CUNNINGHAM, D.D.**

**WHEREAS,** This 11<sup>TH</sup> Day of December, 2008 the Town Council wishes to acknowledge the celebration of the 15<sup>th</sup> Anniversary of the service provided to the Town of Colonial Beach by Doctor David A. Cunningham; and

**WHEREAS,** Doctor Cunningham's wife, Evangelist Sylvia Cunningham, and their son Jamile, have stood by him with love and support for his efforts and accomplishments in making this community a better place to live; and

**WHEREAS,** Doctor Cunningham has graciously given his love and prayers to the Town of Colonial Beach by volunteering his time by serving as Chairman on the Concerned Citizen Committee; on the Colonial Beach Foundation Board of Directors; as President of the Community and Family Center, and as Chaplin for the Colonial Beach Police Department; and

**WHEREAS,** Doctor Cunningham was born in Fredericksburg, Virginia and at a very early age knew his destiny would be serving the Lord and touching the lives of others through his ministry, and

**WHEREAS,** Fifteen years ago, Doctor Cunningham realized the great need for his services in our Community and chose to serve at the First Baptist Church in the Town of Colonial Beach; and

**NOW THEREFORE BE IT RESOLVED,** The Town Council and the Town of Colonial Beach wishes to express gratitude to Reverend David A. Cunningham, DD for his service, dedication, and love for the Town of Colonial Beach.

Dr. Cunningham stated he was grateful to God for the privilege, to not only serve the people of First Church, but to serve the Town of Colonial Beach. It has been more than a pleasure serving in the different capacities that I have and I look forward to many, many more.

Mr. Kennedy and Mayor Rummage presented the next certificate of appreciation to Ms. & Mr. Rose for their volunteer efforts for cleaning up the corner of Washington Avenue and Colonial Avenue where the Welcome Sign marquee exists. Green Acres did a lot of planting and there have been two people without being asked during the heat of summer tending to those plants. She and her husband have been down there on days when I wouldn't even go outside making sure those plants were watered and taken care of.

### **CERTIFICATE OF APPRECIATION**

**Wayne and Jeannette Rose**

**We are honored this day to have citizens who graciously give beyond the call of normal service and Volunteer their Time with Love for the beautification of the Town of Colonial Beach.**

**The Mayor and the Town Council Wishes to Thank You**

**For the beautiful landscaping and for maintaining the flowers and shrubs at the Welcome Sign Marquee. We are very proud of this beautiful area and it will be appreciated by all Citizens and Visitors in the Town of Colonial Beach.**

**Presented on this 11<sup>th</sup>, day of December, 2008**

**APPROVAL OF THE MINUTES:** Mayor Rummage asked Council's pleasure regarding the approval of the minutes of the regular meeting of Thursday, November 13, 2008 and the Special Meeting of Friday, October 24, 2008. Motion was made by Ms. King to approve, second by Mr. Coombes. Without objection from Town Council, the minutes were approved as presented. *Motion Carried.*

**COUNCIL REPORTS:**

Budget: Mr. Ridgely reported at the next January Town Council Meeting, there will be a list of items that need to be transferred from one area to another to make the budget a more accurate reflection of how the money is spent and where the money goes. The Chamber of Commerce will be moving to the Tourism Building, Mary Allen Building, by the 15<sup>th</sup> of January. We are going to put in a heat pump for now. We will winterize the Klotz Building and close it down. The remodeling that has to be done at the Tourism Building won't affect Sylvia at all and if it does, they will work around her work schedule.

Mayor Rummage asked how much money will we be saving this year by that one move?

Mr. Ridgely responded it will take a couple of years to recoup the money, but Tourism and the Chamber together is a better mix. It will probably run close to about \$10,000 to have that building redone the way it should be done without covering up rotten walls and fixing the problem. Five thousand two hundred sixty eight dollars was the estimated utilities for the Klotz Building. The oil bill is exorbitant close to \$4,300. It is costing us a fortune. This will be one step forward to having a nice looking Tourism Building. We are getting estimates and figures for the police station for the square footage of the cost if we were to go up two stories with a 5,000 square foot building, 2,500 feet on each floor. It looks like it will be economical to use the cinder block part of the current public works building and the steel gurders, but dismantle and remove everything else. It looks like it will be about half of the cost. You don't get estimates back real quick from people. The figures are coming back in about the same from the different ones quoting as far as the square footage cost is concerned. We are also waiting for a letter from transit. We have asked for a letter from them because there is some discussion on a lease agreement they have for the use of that building. We will cross that obstacle as soon as we get a reply. The Town Manager says that is forthcoming.

Ms. King asked if Council was going to decide on which contractor, what it is going to look like, the color and so forth?

Mr. Ridgely responded right now we have three estimates that have come back and they are all over the gambit, not so much price wise, but how they perceive to do the work and the materials they are going to use. I talked with Rob this afternoon and we are going to get together and draw the best information out of each proposal. The difference in the bids will be the difference in the approach and the way they want to do it. Whether you

go with gray or green, it is the same cost per square foot for siding as far as the color goes. They are using vinyl siding. Two recommended commercial vinyl siding and one recommended a new polar vinyl siding, which has a great R value for the walls, but it is far more expensive than the others. Right now we are bidding materials, not the decorum.

Ms. King asked to be notified when it gets to that point.

Ms. King asked about the roof?

Mr. Ridgely responded we looked at the roof and decided there wasn't anything wrong with it. We checked out the heat pump prices today.

Ms. King asked if there were any problems with the inside plumbing?

Mr. Murphy stated there is an access door in the floor, but that is just going down to where your cutoffs are for the plumbing. As far as we know there aren't any leaks at this point.

Mr. Ridgely stated we are also going to have a small hot water heater. The heat pump is going to cost somewhere between \$1,200 and \$1,300 installed and the cost of the hot water heater is figured in that.

Ms. King stated we are of course going to be energy efficient, correct?

Mr. Ridgely responded as long as it is cost effective. Anything we do, I can assure you, will be more cost effective than what we are dealing with now.

Ms. Payne asked if the Chamber of Commerce was moving in by January 15th? Is the only thing you are looking at right now is the installation of the heat pump?

Mr. Ridgely responded we are looking at a heat pump, a water heater, and maybe a 3 ft wall and one door so that when Sylvia is in there by herself, we can put a door that closes off the front part of it as far as heating and cooling. She will be working out of the back of the building.

Ms. Payne asked where is the money coming from and exactly how much are we looking at to get moved in by the 15<sup>th</sup> of January?

Mr. Ridgely responded we are looking at about \$1,300 – part of the money we can move from the utilities of the Klotz Building. We can transfer it from utilities.

Mr. Kennedy stated some of it will be a wash.

Mr. Ridgely responded I was looking at January 15<sup>th</sup>. If we can do it earlier, we will.

Mayor Rummage stated this is in no way comparable to the cost of the new police department building.

Mr. Kennedy stated he wanted to make sure that whatever we are doing to move forward that we are looking at making it green. Grants and possible dollars may be available for doing some of this.

Mr. Ridgely stated one of the contractors asked why don't you put in single pane windows? I said no, we are not going that route. The Tourism building may need additional insulation and the cost of that needs to be included in the proposal, while we have it open, no more cover up.

**Streets & Roads:** - Mr. Kennedy stated Mr. Roberson touched base on most of the things I was going to say with the exception that I called VDOT and they are supposed to be delivering a pallet of patch.

Mr. Murphy stated he had not received it yet.

Mr. Kennedy stated he was promised that he would get the pallet of patch the other night at the supervisors meeting.

Mr. Rummage stated at our retreat there was quite a discussion about not using any more crushed stone in these potholes and that apparently has gotten through to the people who do the repair. I would like to have you look into that.

Mr. Kennedy stated two have been patched, but there is still a water leak.

Mr. Murphy agreed, and stated we have to get back into it.

Mr. Kennedy stated there are two that stand out like a sore thumb right now.

Mayor Rummage stated it hurts his right arm when he signs checks for crushed stone. Also, is there anything going on yet on the real estate sales in Town, talking about money being available for some of the construction that is going to have to take place within the next year.

Mr. Kennedy stated Mr. Murphy and I have talked. I have looked at most of the stuff that is there and I have talked to a local appraiser. That is an ongoing process. Hopefully by the January meeting I will have some good numbers for you.

Mayor Rummage stated at the request of the Council we are going to have another retreat. I am trying to get it scheduled sometime in February. I would appreciate having some of these things ready so we can move ahead.

**Planning & Zoning:** - Mr. Coombes reported there was one vacancy on the Planning Commission and hopefully around the first of the year, we can get it filled. We have several applications.

Mayor Rummage asked about the status of the High Tides issue?

Mr. Bird responded Ms. Foulds asked me to finish obtaining information from VDOT about a storm water easement that they have. I spoke with Clifton Balderson and Mark Fridenstein yesterday and they were supposed to get me some kind of clarification on any procedural issues that would be involved with DOT. I would like to get this expedited as quickly as I can.

Ms. Erard stated Ms. Foulds and I have been involved with this and I was planning to touch on it in my report. We need to confirm that there are no issues in terms of past financing on the property and coordinate a variety of other issues that I identified in my memo to Council within the last several weeks.

Mr. Coombes asked if that was underway and the timeframe?

Ms. Erard responded it was underway and the timeframe would be about 90 days.

**Water & Sewer:** - Ms. Payne stated we are having extensive rains and we want to let everyone know that a couple of sewer alarms have been going off. Public Works does have people on call and they have already been out. If anyone lives close to the sewer stations and the alarm is going off, the procedure is to call the non-emergency number of 224-0141 and they will contact the appropriate personnel. Secondly the water and sewer fee increases that we discussed at the work session. The Council has come up with the proposed advertising for the newspaper and I would like confirmation from Council that we are ready to go forward with the advertisement. We will have a public hearing at the January 8<sup>th</sup> Town Council Meeting and it will need to go in the paper next week. *Confirmation from Town Council was received.*

Mayor Rummage stated we will start to carry forward all issues that are not covered or taken care of every month.

**Public Safety:** - Mr. Lyburn stated the police department held a DUI check point by Wilkerson's Restaurant and the sheriff's department provided the manpower for this detail. Future operations are being planned. The Chief and sheriff's office are making it a priority to get alcohol and drug counseling made available to citizens when needed. The Chief has telephone numbers for these counselors when the need arises. There were some towns that took an initiative to increase compliance. A few ordinance changes, like in Luray, have been made and compliance has been very effective. The Town may want to consider this to aide us in our ability and effort. We may be able to discuss the details at our next work session.

**Economic Development:** - Ms. King stated we did have a November/December economic development meeting last evening. We had an excellent meeting with Land Studio. The discussion the other night was about land use and what you want your town to look like. That will be appearing on the website. After their approval, the November minutes will be available on the website. I will continue to work with the website people concerning the importance of the website as it is our first impression to the rest of the world. It is critical to tourism, it is critical for our economic development and that was brought forth especially in our visits to Luray. We also discussed the police department and other buildings around Town. It was brought up in the meeting we should consider the overall appearance of the police department at 700 Colonial Avenue because it could be the beginning of a municipal complex and it would set the tone in the market for design. We are going to be looking into the businesses that have come into Town in the last three years. We will consider businesses that have been successful and those that have not been successful to see if we can determine if there is a reason behind their success or failure. We would like to explore what the Town, tourism or Chamber can do in the future to make us a more business friendly community across the board. One of the suggestions is to develop a Welcome to Colonial Beach Booklet to determine what permits you need, a list of telephone numbers, Chamber contacts and so forth, just a business welcome to the beach saying we want you to feel comfortable here and make an easy transition to become a business member of our community. Regarding the letter I received from Mr. Charles B. Smith, Jr., via Mr. Bud Tressler, the committee reports and recommends as follows: 1) the proposal CBD offered was not solicited, therefore the Town would not have any financial obligation; 2) it is not recommended that any exclusivity be given at this time and under these circumstances; 3) on a personal note, the letter asked for my signature. I cannot and would not sign any letter to obligate the Town for any sale of any Town owned property. This is always done by the Council as a body. Mr. Kennedy gave a brief report on our visit to the Town of Luray and his idea to make a history trail to connect Colonial Beach with Luray and sister cities. It is my sincere wish to work with the County and other jurisdictions and I would like to see us use working together for the benefit of everyone. We all have to come together for our own to benefit and when Westmoreland County profits so does Colonial Beach. There are only two Towns in this County and we all need to come together.

At this time Mr. Kennedy stated some of the people from Luray are coming to visit with us after the first of the year and we will put on a presentation. We went for a number of reasons, but the biggest reason was for Tourism. The Virginia State Tourist Board was there to recognize Luray for their efforts they put in for Tourism. Mr. Edwards went with us and so did Chief Hawkins, Bill Seay, Ms. King and Carey Geddes met us there on the following day to meet with the officials. What we took away from there, you can't put a price tag on. There was a joint effort. We started a relationship with them. My vision is a history trail from the mountains to the shore. They have been successful in other places. We met one gentleman with Virginia Tourist Board who established one of these trails and it was based on the theme of bluegrass music in southwest Virginia where the economics are bad and it has been a huge success. It has put millions of dollars back into their economy and created jobs. The Chief has made contacts to share resources and we put our dog and pony show on with the Board of Supervisors in Westmoreland County.

They were very receptive and once again we want to try to work across borders within this County. We want everyone to come on board and sing from the same sheet of music for the same cause. When one benefits, we all benefit. This will be an ongoing process and it won't happen overnight but I think we have a ton of momentum going forward right now and I am going to see this thing through. I am passionate about this and this is something that will much benefit this Town.

Mr. Ridgely was acknowledged and congratulated for being a new Grandfather, a baby boy – 9 lbs., 3 oz.

Mayor Rummage also announced there will be a dedication of the Washington Avenue Park for Sergeant Steven Rice Colby on Saturday, December 13, 2008 at 11:00 a.m.

**TOWN MANAGER'S REPORT:** - Ms. Foulds stated that some of her report would overlap with the Town Attorney's report. I attended a FEMA meeting with the Mayor and other members of staff to determine flood zone designations and maps for the entire country but it will impact our area. The Director of Building and Zoning is the lead person on this project and he is coordinating with FEMA and other agencies. I also met with the team of MetroCast Communications and they are doing a lot of infrastructure upgrades. We will see improvements to the local access channel and there will be certainly a lot of options for our system. Work will get started in January and at that time I will update the Council in more detail. I also met with USDA Rural Development along with Dewberry and Engineer Ryan Moyers. The Rural Development folks will take us through a letter of conditions for the next upcoming sewer project addressing I&I issues. I participated with the Director of Public Works in a personnel management training class sponsored by the Virginia Municipal League. It was a very interactive session with no cost to the Town because we are members. It brought our skills up to speed, and it also showed us that there are recourses when we need to upgrade our employees or enhance their skills. I coordinated with Bay Transit to provide transportation for the holiday Christmas House Tour. We conducted a mini work session to streamline the employee evaluation process. The goal basically was to address issues of consistency between the departments and follow up with ongoing relationships where we talk to each other. It also adds to our development as managers. The wastewater treatment plant – we are about 55% of the way there. We expect to be up and running by next June and the hi-lighted paper I gave you shows the remaining balance that we have to draw down on the loan. It breaks down what we have used of the loan. I also spoke with the project manager at DEQ on Tuesday and reviewed the benchmarks used by DEQ to measure success for the project. We received a passing grade in all categories. Mr. Murphy is working with the staff for off-site locations that we may have to depend on. Ms. Foulds stated traditionally we do a holiday reception for our employees to thank them for a job well done. The reception will cost about \$1,000 and traditionally the money has come out of the contingency fund. I would like to ask the Council's approval to do this. We also realize that in times of financial difficulties some of our employees find it more challenging. I would like to ask the Council to provide a \$100 net Christmas bonus to each employee and would exclude Charter officers, contract employees, the Town Manager and department heads. It would run somewhere around \$5,700. I would

like your approval on that. *The request from the Town Manager was accepted by the Town Council for the reception and bonus for Town employees.*

**CHIEF FINANCIAL OFFICER'S REPORT:** - Ms. Grant reported the November deposits to the checking account - \$1,120,146; balance as of 5 p.m. today - \$1,867,997. We have collected and have on deposit 86% of our real estate revenue and 85% of our personal property revenue. The January utility bills were mailed on December 5<sup>th</sup> and we did have a slight problem due to the overload of our server. The bills are correct but there are some charges stated on the bill that are incorrect and we put a note directly on the bill to notify the customer about it. The bills are correct.

Ms. Payne asked about the 86% you have brought in so far, how does that compare to last year at this time.

Ms. Grant responded they are actually up from this point last year and I have matched this to the budget and for real estate and personal property we are on target based on what we budgeted.

Mr. Ridgely asked if it was too late to report on the Cigarette Tax?

Ms. Grant responded the Cigarette Tax would be implemented January 1<sup>st</sup>. I sent out initial notices and follow up notices to all of the customers and I am working with each customer individually to work out an arrangement. They are going to count the inventory, I am going to witness the counting of the inventory and I am going to cut a check for those cigarettes that are on the shelf so they don't have to go through any labor intensive activity to put the stamp on those. But any new stamps that are delivered, the stamp will be put on by the distributor. I am working on that on an individual basis. It is different for each business. It is moving and we will be there by January 1<sup>st</sup>.

Ms. King asked the status of the auditors?

Ms. Grant responded today I provided them asset management documentation and that was the last item to the best of my knowledge that they had to clean up to get a report on the Town's side. I can't speak to the school side, because they don't report to me the things they are looking for.

Mr. Ridgely stated Joan is getting data requests from the auditors, so they are steadily working on it.

Ms. Grant stated she talks with the auditors at least every other day sometimes multiple times every day.

Ms. King stated she assumed after all of this is cleaned up, we should not have as long a process.

Ms. Grant responded the audit ends August 15<sup>th</sup>. That is your window from July 1<sup>st</sup> to August 15<sup>th</sup>, so we really can't start the hands on audit until August 15<sup>th</sup>. Right now for them to come out during the month of December, it is way earlier than any auditors have ever done here before.

Ms. King stated okay.

Ms. Grant responded not only are they doing more work for the current audit, they had to go back and do the previous audit to validate the balances. You will remember Council voted on some additional funds that were needed to do that, because the previous auditors did not provide the working papers that were necessary for the current auditors to feel comfortable with the numbers they are now reporting on, a starting number. They are basically doing two audits exactly at the same time.

Ms. King stated she assumed the revenue was approximately the same as it was last year. Do you see a big drop or increase?

Ms. Grant stated the place she was seeing the biggest drop in is in interest income. The other monies are about par. We do good collecting real estate. I just got the supplemental bills. I wasn't anticipating a lot of supplemental bills for new construction. I only got about \$30K from that so that was comforting to see.

**TOWN ATTORNEY'S REPORT:** - Ms. Erard reported that she had been coordinating with the Town Manager on a number of ongoing tasks and have worked on several aspects of issues related to Riverwood during the past month. I have also worked on several other matters involving the police department. As Council recalls, I have prepared research related to questions about sign up sheets. I did prepare the Ordinance as well as the caption for the advertisement on the water and sewer fee increase and connection fee Ordinance. Ms. Foulds and I have been working on the Dennison Street project and as indicated earlier, I think that is a 90 day timeframe, provided there are no bumps that are encountered.

Ms. King asked if 90 days is the timeframe for this process?

Ms. Erard responded there are public hearings required and notices. I attended the Planning Commission Meeting last month and made a presentation to them about the Conflict of Interest Act.

**COMMISSION REPORTS:**

**PLANNING COMMISSION** – Mr. Coombes stated we had the second meeting with Land Studio on the Comprehensive Plan and we spent a great deal of time with the consultants and the future land use considerations for Colonial Beach. We took a break and then half of the audience left when they learned there was going to be a work session. There were about a half a dozen citizens remaining for that. We have one more and that will be sometime in February. We are still anticipating a draft of the Comprehensive Plan in April.

**OTHER AGENCIES:**

**BOARD OF SUPERVISORS REPORT:** – report given by Mr. Roberson earlier in the meeting.

**COLONIAL BEACH SCHOOL BOARD:** - Mr. Trivett reported that Mr. Looney is recuperating very well from his operation. Mr. Trivett also stated that the School Board is proceeding with looking into the Bright System as promised. We have our first kick off meeting with the committee on Monday, the 15<sup>th</sup> of December. Ms. Grant has been very helpful to me in many areas. Anytime there is something going on with school finances, she lets me know right away. I commend her for that because you don't always get the information that quick, so I would know about it right away so we can deal with it if there is an issue involving finances. I met with the Commonwealth's Attorney and we talked about the investigation that the State Police is conducting and that investigation is still open and ongoing. What is delaying it at this time is the audit report. There is no reason for the Commonwealth's Attorney to have to spend thousands of dollars like we are already doing to hire an independent auditor when we have someone who is professional doing it. I have been very impressed with Nancy Miller and I have met with her as well. There is no doubt in my mind that she will leave no rock unturned. It is probably not going to be a very pleasant report. I don't think any of us are going to be very pleased when we hear some of the things that she is going to identify that I am sure have been issues in the past. As Ms. Grant said, she had to go back and audit 2007 as well as the current audit. I am going to take whatever she dishes out and a lot of it I think we already know we have issues and she is just going to verify what those issues are. At least we will have concrete evidence that things have occurred involving money and I look forward to getting that report. My understanding from her is that she will have a meeting with the Council as well as the School Board and it will be a joint meeting. It will also be a public meeting because you will probably have questions that we would have and vice versa so that we do it all at one time and get it out in the open. It is my understanding that initially there may be a meeting with just a few people sometime in December.

Mr. Kennedy asked when can you expect the State Police Investigation to be wrapped up?

Mr. Trivett responded after the audit report and I think the Commonwealth's Attorney wants to review that report. She was hoping to get it done sometime in December, but the 2007 audit has delayed that. She is working diligently and she knows we want it as quickly as possible. I did go to the Virginia School Board Association Convention. The reason I am sharing that with you is because I talked with the Executive Director of the Virginia School Board Association because I know we are going to have to try to save some money somewhere and the Governor sent one his aides there, Mr. Timberlake. The Governor will speak on December 17<sup>th</sup> and release some figures but he basically said for us to become very familiar with our RIF policy. They are making no bones about it and asked us to look at a contingency plan for cuts as much as 15%. He thinks the Governor's cuts may be as much as 5% but once it gets to the legislature who knows.

They are hoping it won't be more than 10%, but from everything I've heard it doesn't sound good. They haven't touched the schools in the past, but we all know it is going to happen this time and we are preparing for it. In talking with the executive director, the law requires us to employ a full-time superintendent. We have to have one in place by 180 days after the position has been vacated. As you know we have an interim superintendent right now that is on a part-time basis. He is full time but we only pay him on the days he works. He is a retired superintendent already. I asked the Board for permission to get on the State's School Board agenda to request a waiver to hire a part-time superintendent for our school division, not meaning that we will do that, but we want to look at that option because I learned that a retired superintendent can work 70% of the time without affecting their retirement. If that is the case, we could possibly hire a part-time superintendent and save thousands of dollars. I don't know if that they will give us that waiver, but they actually had another school division make that same request ahead of us. There are people looking at these things and asking for these waivers and I am going to look at everything possible to save us money. The superintendent we have right now is already retired. He is doing an excellent job. He actually has rented a home here as well so he is not traveling back and forth to Urbanna everyday so that is cutting down on our expenses because by law, we would have to provide him a vehicle and fuel. He is a Northern Neck person and knows everybody. I was very impressed with how many people know him and it has really benefited us this year as a school system.

Ms. King asked about Dahlgren and if Mr. Luttrell had followed through with this?

Mr. Trivett responded his understanding was there was a meeting they set and he thought the Town Council was going to be involved.

Ms. King responded that she had not gotten anything on it.

Mr. Trivett stated the meeting could be after the first of the year, I am not certain. They have valuable assets at Dahlgren for learning and we would like to utilize it and we will follow through with that.

Mr. Ridgely stated the Council decided we should have someone to come in and explain a school board budget 101. We will keep you posted if any of your School Board members would like to attend that with us. We are getting a speaker to come in who is completely familiar with Virginia school budgets.

Mr. Trivett responded that is a good idea and you should also contact the Virginia School Board Association, as they have someone on staff doing that. It is very difficult to understand and I still don't understand it.

Mr. Ridgely responded we certainly shouldn't be any more confused afterwards as we are now.

Mr. Trivett stated even though he had been dealing with it for 6 months, the way it is done is nothing like any business you have ever seen. It is very confusing and you really

have to have a lot of knowledge when it comes to all of it. We get money from so many different areas, federal, state, town and grants and there are so many places the money is coming from and it is hard to keep up with. If you let us know, I am sure there will be members who would appreciate attending the meeting.

*A brief recess was taken at this time.*

**PUBLIC HEARINGS:** Mayor Rummage stated that no one had signed up to speak.

**AGENDA - #82-08  
RESOLUTION - REQUEST FOR A BED & BREAKFAST AT 1225 IRVING AVENUE**

There being no public comment, this portion of the public hearing was closed.

**AGENDA - #88-08  
RESOLUTION - ISSUANCE OF BONDS BY THE HARRISONBURG REDEVELOPMENT & HOUSING AUTHORITY FOR THE RIVERWOOD APARTMENTS**

There being no public comment, this portion of the public hearing was closed.

**Public Hearings Closed.**

**PUBLIC PARTICIPATION:** - Mayor Rummage stated there was no one signed up to speak.

**OLD BUSINESS:** - There was no old business to discuss.

**NEW BUSINESS:**

**AGENDA - #82-08  
RESOLUTION – APPROVAL OF A CONDITIONAL USE PERMIT REQUEST FOR A BED & BREAKFAST AT 1225 IRVING AVENUE**

**WHEREAS,** Howard Kang has requested a Conditional Use Permit to operate a Bed & Breakfast as defined in Article 20 of the Colonial Beach Zoning Ordinance; and

**WHEREAS,** a Conditional Use Permit is required to operate the Proposed Use; and

**WHEREAS,** the Planning Commission of the Town of Colonial Beach, after a duly advertised public hearing on November 6, 2008 recommended that the request be approved.

**NOW, THEREFORE BE IT RESOLVED,** that the Planning Commission hereby finds the Proposed Use:

- 1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use; and
- 2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- 3) Will not be in conflict with the purposes of the Comprehensive Plan of the Town of Colonial Beach.

**BE IT FURTHER RESOLVED**, that the Conditional Use Permit is recommended subject to the following conditions:

- 1) All applicable Federal, State or Local laws or ordinances shall be followed.
- 2) A detailed floor plan of the existing structure be provided to the building and zoning office to include room dimensions
- 3) A site plan to include any proposed parking be provided to the building and zoning office
- 4) New certificate of occupancy is required; building permits must be obtained and inspections performed to assure compliance with the regulations
- 5) Maximum number of guest rooms to be not more than two. Maximum number of occupants shall be in accordance with building code regulations
- 6) Parking shall be off street and applicant shall obtain all required VDOT permits
- 7) All conditions required to be completed prior to commencement of use
- 8) The deck in violation of Building and Zoning regulations shall be removed

**BE IT FINALLY RESOLVED**, that the Town Council meeting in regular session, Thursday, December 11, 2008 after a duly advertised public hearing hereby agrees with the Planning Commission's recommendation and approves the request and conditions for a Conditional Use Permit for a Bed & Breakfast at 1225 Irving Avenue.

Motion was made by Mr. Coombes to approve, second by Mr. Mr. Kennedy.

Mr. Kennedy stated that he asked Mr. Bird during the Planning Commission Meeting when Mr. & Mrs. Kang were present and there was some discussion about the parking issue. My question keeps coming up because it appears there is ample parking but I want to know definitely one way or the other. Without causing blockages of streets down there, is there ample parking to accommodate this request? My concern is that the side streets are so narrow, if we start using them as parking lots we will have a traffic issue.

Mr. Bird responded yes there is, especially since the staff recommended in the Planning Commission Meeting that the number of guest rooms would not be more than 2 and the maximum number of occupants and will be in accordance with building code regulations. That actually reduced the potential amount of parking that could have been required. That being said, yes, they do have enough parking. One of the conditions is the parking shall be off-street.

Mr. Kennedy asked if that would affect the impervious cover or the Chesapeake Bay Act?

Mr. Bird responded it will, but they have enough room. They are going to increase their impervious cover, but they have plenty of room.

Mr. Kennedy asked will it exceed the 36 feet?

Mr. Bird responded no.

With no further questions on Resolution - #82-08, Mayor Rummage called for a vote. Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor Rummage **aye**, motion carried and the **Approval of a Conditional**

**Use Permit Request for a Bed & Breakfast for 1225 Irving Avenue was Approved. Motion Carried.**

**AGENDA - #83-08**

**RESOLUTION – APPROVAL OF UPDATE AND MAINTENANCE OF E-911 MAPS – *postponed to January 2009 work session***

Mr. Ridgely stated he would like to take into consideration the budget for these maps and the ramifications if we don't do it, as part of your presentation.

**AGENDA - #84-08**

**RESOLUTION – ADOPTION OF FISCAL YEAR 2009 THIRD QUARTER APPROPRIATIONS**

**BE IT RESOLVED**, that the Town Council meeting in regular session, Thursday, December 11, 2008 hereby approves the Fiscal Year 2009 Third Quarter Appropriations as follows:

	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter
General Fund	1,416,246	1,414,371
Utilities Fund	599,107	450,570
Utility Fund Capital Projects WWTP	2,000,000	3,500,000
School Operating Fund	6,850,618	1,661,623
Instruction	1,400,000	1,350,000
Administration	74,000	75,304
Pupil Transportation	70,000	84,000
Operation/Maintenance	120,000	152,319
Cafeteria Fund	80,000	80,000
School Construction Fund	40,000	68,023
Debt Service		92,134
State Transfer Amount	60,000	50,000

Motion was made by Mr. Ridgely to approve, second by Ms. Payne.

Ms. King asked if this appropriation will meet our expenditure needs?

Ms. Grant responded yes.

With no further discussion on Resolution - #84-08, Mayor Rummage called for a vote. Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Adoption of the Fiscal Year 2009 Third Quarter Appropriations was Approved. Motion Carried.**

**AGENDA - #85-08**

**RESOLUTION – APPROVAL OF PURCHASE OF IBM SERVER UPGRADE**

**WHEREAS**, the Town Council of the Town of Colonial Beach previously approved the Town Manager to enter into a lease purchase agreement for financing the acquisition of an IBM Model 515 Express 3800CPW Server with a five-year IBM Hardware and Software Warranty by way of a sixty (60) month lease purchase agreement; and

**WHEREAS**, the Town Attorney has negotiated in good faith with IBM Global Financing and the vendor to establish lease terms and language that are in accordance with state law and acceptable to the Town of Colonial Beach; and

**WHEREAS**, IBM Global Financing has refused to make any modifications whatsoever to the lease purchase agreement; and

**WHEREAS**, the capacity of the current server has considerably diminished since the negotiations started in August 2008; and

**WHEREAS**, the Town of Colonial Beach has been served notice that as of January 1, 2009, the price of the IBM Model 515 Express 3800CPW Server with a five-year IBM Hardware and Software Warranty will considerably increase.

**NOW THEREFORE, BE IT RESOLVED**, that the Town Council meeting in regular session Thursday, December 11, 2008 hereby approves the purchase of IBM Model 515 Express 3800CPW Server with a five-year IBM Hardware and Software Warranty from CAS Server for \$ 24,852.27.

**BE IT FURTHER RESOLVED THAT** the Town Manager is authorized to execute any and all documents related to this transaction, provided that the documents are approved as to form by the Town Attorney; and

**BE IT FINALLY RESOLVED THAT** this purchase shall be funded from the Computer Processing category, budget account number 12510.

Motion by Mr. Ridgely to approve, second by Mr. Lyburn.

Ms. Payne asked what kind of timeframe are we looking at before you would actually have this?

Ms. Foulds responded the plan is to have it installed before the end of January. Time is of the essence.

With no further discussion on Resolution - #85-08, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Ms. King **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Mayor **aye**, motion carried and the **Approval of the Purchase of IBM Server Upgrade was Adopted. Motion Carried.**

#### **AGENDA - #86-08**

#### **RESOLUTION – INTER-JURISDICTIONAL LAW ENFORCEMENT AGREEMENT BETWEEN KING GEORGE COUNTY AND THE TOWN OF COLONIAL BEACH**

**WHEREAS**, local law enforcement agencies are authorized by Virginia Code sections 15.2-1724, 15.2-1730, 15.2-1730.1 and 15.2-1736 to enter into mutual aid agreements; and

**WHEREAS**, the King George County Sheriff's Office and the Colonial Beach Police Department wish to use their joint law enforcement forces, both regular and auxiliary, their equipment and materials to provide law enforcement and to maintain peace and good order; and

**NOW THEREFORE BE IT RESOLVED THAT** the Town of Colonial Beach hereby approves the Inter-jurisdictional Law Enforcement Assistance Agreement between King

George County and the Town of Colonial Beach and authorizes the Town Manager to sign the Agreement on behalf of the Town.

Motion was made by Ms. Payne to approve, second by Mr. Lyburn.

With no discussion on Resolution - #86-08, Mayor Rummage called for a vote. Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mayor **aye**, motion carried and the **Inter-jurisdictional Law Enforcement Agreement between King George County and the Town of Colonial Beach was Approved. Motion Carried.**

**AGENDA – #87-08**

**RESOLUTION – REPRESENTATION BY THE COLONIAL BEACH TOWN ATTORNEY IN CHESAPEAKE TOWNHOME DEVELOPMENT, INC. V. BOARD OF ZONING APPEALS OF THE TOWN OF COLONIAL BEACH**

**WHEREAS** on November 19, 2008 Chesapeake Townhome Development, Inc. has filed a Petition for a Writ of Certiorari in the Westmoreland County Circuit Court, regarding the October 21, 2008 decision of the Colonial Beach Board of Zoning Appeals; and

**WHEREAS** the Town Council wishes to provide legal counsel to the Colonial Beach Board of Zoning Appeals with respect to the matter of *Chesapeake Townhome Development, Inc. v. Board of Zoning Appeals of the Town of Colonial Beach*.

**NOW THEREFORE BE IT RESOLVED** by the Colonial Beach Town Council, meeting in a work session on December 2, 2008 that the services of Andrea G. Erard, Esq. are hereby retained, on an hourly basis, to represent the Colonial Beach Board of Zoning Appeals in *Chesapeake Townhome Development, Inc. v. Board of Zoning Appeals of the Town of Colonial Beach*.

Motion was made by Ms. King to approve, second by Mr. Kennedy.

Mr. Kennedy asked if there was any other way to resolve this issue other than going to court?

Ms. Erard responded the BZA has had an appeal filed and they are required to respond to the court.

Mayor Rummage stated he and the Town Attorney had made an effort to reach a resolve and we found that because of the number of violations that happened in the past, the State Department was not willing to move on this particular issue. I regret that but they presented a pretty strong argument.

Ms. Foulds stated the Mayor made a gallant effort to help us resolve this.

Ms. Erard stated it is a common sentiment that the issues in this matter are not an indication of a lack of support for the project as a whole.

With no further discussion on Resolution - #87-08, Mayor Rummage called for a vote. Mr. Lyburn aye, Ms. Payne aye, Mr. Ridgely aye, Mr. Coombes aye, Mr. Kennedy aye, Ms. King aye, Mayor aye, motion carried and the **Representation by the Colonial Beach Town Attorney in Chesapeake Town Home Development, Inc. v. Board of Zoning Appeals of the Town of Colonial Beach was Approved. Motion Carried.**

Mr. Coombes recommended that we deal with Resolution #89-08 before Resolution - #88-08.

Mayor Rummage stated there being no objection from the Town Council, we will take the resolutions out of sequence and consider Resolution - #89-08 first.

#### **AGENDA - #89-08**

#### **RESOLUTION – APPROVAL OF AGREEMENT BETWEEN THE TOWN OF COLONIAL BEACH AND RELATED APARTMENT PRESERVATION LLC**

##### **AGREEMENT**

**THIS AGREEMENT**, dated as of December \_\_, 2008, is by and between Related Apartment Preservation LLC, or its wholly-owned subsidiary (the “Owner”) and the Town of Colonial Beach, Virginia (the “Town”), recites and provides as follows:

##### **RECITALS**

**WHEREAS**, the Owner has contracted to purchase that certain multifamily apartment complex known as Riverwood Apartments, consisting of 83 units located at 368 Riverwood Avenue, Colonial Beach, Virginia 22443 (the “Project”); and

**WHEREAS**, the Owner is seeking the Town’s consent to and approval of the issuance of tax exempt multifamily housing revenue bonds (“Bonds”) by the Harrisonburg Redevelopment and Housing Authority (the “Issuer”) to assist in the financing of the acquisition and rehabilitation of the Project; and

**WHEREAS**, the Town has considered the Owner’s request and its submissions in this regard and the Owner has agreed to undertake certain activities at the Project, provided the Owner is successful in the acquiring the Project; and

**WHEREAS**, this Agreement is intended to memorialize the commitments of the Owner in respect of the Project;

**NOW THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the Town hereby agrees as follows:

##### **AGREEMENT**

1. **Agreements of the Owner.** The Owner hereby agrees and commits to the Town that, in connection with its rehabilitation plans for and subsequent management of the Project, it shall:

- (A) File and maintain a “No Trespassing” letter to enable the Town’s Police Department and Westmoreland County Sheriff’s Office to have access to the Project for purposes of removing trespassers from the premises at any time;
- (B) Enter into a written agreement for a term of 3 years (or assume any such written agreement in place between the current owner and the Town) by which the Owner will agree to utilize off-duty police

- officers of the Town or to reimburse the Town for the cost of a dedicated police officer for purposes of patrolling and monitoring of the Project, on terms that are acceptable to the Town and the Owner;
- (C) Enforce a “zero tolerance” policy with respect to criminal conduct and unlawful behavior by tenants, subject to compliance with applicable laws regarding eviction of any such tenants;
  - (D) Conduct criminal background checks on all tenants seeking to reside at the Project prior to entering into a lease with any such tenant;
  - (E) Require that all management staff promptly report all crime and suspicious activity of which staff is aware to the Town’s Police Department;
  - (F) Utilize only trained management personnel (at a minimum trained in the Owner’s standard policies and procedures with respect to tenant selection and, where necessary, eviction) to operate the Project, with a focus on maintaining open lines of communication with the Town Council through provision of periodic reports describing generally the operational status of the Project to the Town’s Vice Mayor or another representative designated by the Town Council;
  - (G) Utilize trained maintenance personnel to ensure that the Project is professionally maintained on a consistent basis;
  - (H) Include in the scope of its rehabilitation plans an assessment of all items described in the Preliminary Construction Budget – Riverwood Apartments attached hereto as Exhibit A; and
  - (I) Cause those improvements described in Exhibit A relating to security and safety of tenants to be included in the rehabilitation plan as ultimately implemented, *to wit*: (1) hard wired smoke detectors for all units, (2) security upgrades for the common areas, (3) breezeway repairs, (4) exterior site lighting, (5) site fencing, (6) site landscaping, (7) parking lot repairs and top coating, and (8) repairs to damaged concrete walkways and curbs.

2. Agreements of the Town. The Town agrees and commits that it shall support the Owner’s request for the Town’s support of the financing of the Project through the issuance of Bonds by the Issuer, and that it shall recommend to the Colonial Beach Redevelopment and Housing Authority that it consent to such issuance, which is required for the issuance of the Bonds.

3. Conditions. The agreements of the Owner set forth in Section 1 of this Agreement are subject to the condition that the Owner shall acquire title to the Project, and that such acquisition is effected with the proceeds of Bonds issued by the Issuer. Issuance of the Bonds can only be undertaken with the prior approval of the Town and the prior consent of the Town’s housing authority. If the Owner shall be unable for any reason to acquire title to the Project through issuance of Bonds by the Issuer, this Agreement shall be null and void and of no further force and effect.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to conflict of law principles.

5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

6. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Owner and the Town and their respective successors and assigns.

**IN WITNESS WHEREOF**, each of the Owner and the Town have caused these presents to be signed in its name and on its behalf by its duly authorized officer and to evidence its acceptance of the terms and conditions set forth herein, all of as of the day and year first above written.

RELATED APARTMENT  
PRESERVATION, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

TOWN OF COLONIAL BEACH

By: \_\_\_\_\_

**EXHIBIT A**

**Preliminary Construction Budget – Riverwood Apartments**

<u>Item</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Sub-Total</u>
<b>Apartments</b>			
<b>Building Interiors</b>			
<b>Bathrooms</b>			
Vanity	83	\$425	\$35,275
Lighting upgrade	83	\$100	\$8,300
Painting	83	\$250	\$20,750
New VCT/ Linoleum Floor	83	\$250	\$20,750
<b>Kitchens</b>			
Cabinet Replacements	83	\$2,400	\$199,200
Counters	83	\$300	\$24,900
Refrigerators-EnergyStar	83	\$425	\$35,275
Stoves-EnergyStar	83	\$400	\$33,200
Range Hood	83	\$125	\$10,375
Dishwashers	83	\$700	\$58,100
Lighting Replacement	83	\$100	\$8,300
New GFI Outlet	83	\$85	\$7,055
Sinks-stainless steel sink	83	\$150	\$12,450
Faucets-single lever	83	\$125	\$10,375
New VCT flooring w/reducer strip	83	\$250	\$20,750
Painting	83	\$125	\$10,375



Mr. Coombes stated he wasn't at the work session but in looking at this I just don't have a good feeling about this agreement. I have been through two other projects like this albeit new projects for affordable housing, but in reading this agreement it looks like we have received a bunch of real teasers.

Mr. Coombes asked Mr. Hurlbert if he was general counsel to the New York City firm or are you bond counsel to the New York City firm or both? Can you answer management questions?

Mr. Hurlbert responded he was bond counsel and no, he could not answer management questions. I could give you my insight on those issues, but I am not their general counsel. They have counsel in every state that they work in that represents them, they don't have a general counsel per say. They work different lawyers in different states.

Mr. Coombes stated the contract entity under number one, I see nothing here of long lasting substance. It seems like your firm has established a chum line in fishing and you've sent out these teasers as bait hoping to capture at least four votes of this school of seven fish up here. In so doing, the agreement would pass and we would move onto the bond. I don't see anything here and the thing that concerns me is there that is "no teeth" in this for this Town. You've thrown out some things like a police officer for three years, 8 hours a day for \$40,000. If I were going to do something illegal, I would do it in the 16 hours a day that the police officer isn't there or the two days a week that the police officer isn't there. It only lasts for three years, which means we either have to pick it up or renegotiate with your firm. I find that unacceptable. It is a teaser. It is here now, but gone tomorrow. I am offering my observation, he can respond to what he wants to later. The business of enforcing a no tolerance zone and having that as a policy that should be without say. It should not be something that comes out of the blue and is new. Criminal background checks on all tenants seeking to reside - the question is what do you do with the 83 tenants up there now some of whom have been a problem, are you going to do a criminal background check on the people who are already there?

Mayor Rummage asked if Mr. Coombes wanted an answer to his question?

Mr. Coombes responded these are rhetorical questions.

Mayor Rummage stated then why is the gentleman standing here?

Mr. Coombes responded because I want him to respond when I get through. On the business of utilizing trained management, is that going to be a Certified Property Manager who is trained or is it going to be somebody that you hire and train accordingly. What happens if you don't perform on these items? What recourse does the Town have? There is nothing in the agreement at the moment and if it wasn't bad enough, the only recourse as it now stands, is we would have to take your firm to court. I think you should give us more if we are going to agree to your easy way of going to get the bond. We get nothing of long-term substance out of this in my judgment and I think you baited us. I think you put these teasers out here. In the 90's when I was involved with affordable

housing, the companies did exactly the same thing. I don't like it because it is not in the interest of the Town. We have to protect the Town. I understand we have our backs against the wall because if you don't get this agreement tonight, then you have to go someplace else to find the funding and I don't think that is altogether bad under the circumstances.

Mr. Hurlbert responded just as a general manner, I completely disagree with you relative to the notion that we have somehow baited this Council or anyone that we have dealt with in the Town. That is a mischaracterization. This company submitted paperwork back in July expressing their intent to try to make this property a better place and laid out preliminary plans as to how they might do that. Nothing has changed. Those plans remain exactly the same as they were in July. Any characterization to the contrary is false. Be that as it may, perceptions are what they are and we will try to manage. The notion that there are "no teeth" in this agreement, this is a binding contract. The way you enforce a contract is to sue the breaching party. There are plenty of teeth here. If you feel like we violated any of these provisions in this contract you have plenty of recourse. As far as the notion that what we are offering is temporary, here today, gone tomorrow, as far as the police force is concerned, you are correct. That is a three-year window and it closes at the end of three years. We have had extensive discussion with Chief Hawkins, Mayor Rummage and with other members of Council and we are responding to the issues that were identified in those discussions. We are offering these various concessions. In an effort to try to address these issues that were raised by the individuals that we have spoken with, we have tried to do so in a comprehensive way. There are limits that we have to place on what we can do. This is an 83-unit, low-end capacity project. It doesn't throw off hundreds of thousands of dollars worth of cash every month to invest through an indefinite period in an unlimited way. These items that we have listed here are good faith efforts. We have really worked very hard and I believe the folks in the Town have invested a lot of time as well to try and find a ground where both sides can position the property to do well without hamstringing it so that it can't do well. As a general manner, those are my observations. If there are specific questions now that I haven't addressed, I would ask that you do so now.

Mr. Coombes stated in your negotiations with the Town, have you negotiated this contract with anybody other than the Mayor?

Mr. Hurlbert responded the discussions that we have had and the nine items that you see on this sheet of paper were the topic of discussion between the Mayor, myself representatives of Related Apartment Preservation Company, Chief Hawkins and Vice Mayor King.

Mr. Coombes stated there is a typo in the agreement regarding the Colonial Beach Housing Authority.

Mr. Hurlbert responded the reason for that is while the Harrisonburg Housing Authority is going to actually issue the bonds, and that was done only after the Colonial Beach Housing Authority gave us indication that they elected not to do that, notwithstanding,

we still need the Colonial Beach Housing Authority to consent. They don't have to do anything. There is no paperwork to sign under the statute for the legal requirements. That is why it is in there. It simply says that you all will recommend to the Housing Authority that they consent. They indicated that they wouldn't participate in the financing but we can't go forward unless they consent.

Mr. Coombes stated did they indicate they would consent?

Mr. Hurlbert responded that he had not had any discussion with them about this, I guess I find it hard to believe if they refused to do it they would also refuse to consent so that we couldn't get it done somewhere else, but I have not had any discussions with them on that.

Mr. Ridgely stated like I said at the last meeting, I am extremely worried about one police officer patrolling Riverwood Apartments at night by themselves. That is my feeling. I run Riverwood as much as anybody else. It also makes reference to the agreement in Section 1 (b). I don't think this agreement has any bite in it. Anything we do is no degree of what you are going to do. Do we have a draft of that section?

Mr. Hurlbert responded he thought the current owner had prepared a draft agreement. I don't know if it has been reviewed, I don't know if it has been executed or finalized at this point.

Mr. Ridgely wanted to know who has reviewed the draft?

Ms. Erard stated at the request of the Mayor and the Chief several months ago, prior to the end of October, I prepared an agreement for security at Riverwood for the current owner because we were told that the current security was going to expire as of October 31<sup>st</sup>. We sent them the agreement and we received a response on December 2<sup>nd</sup> from them. They have substantially revised the agreement, so there has been no agreement to date but there are drafts.

Mr. Coombes asked which agreement is Ms. Erard talking about?

Ms. Erard responded a separate agreement for security.

Mr. Ridgely stated under agreement, Section 1 (b) it says enter into an agreement for a term of 3 years between the current owner and the Town. They are referring to something that doesn't exist. Is that right Counsel?

Ms. Erard responded no, it does exist, it just hasn't been executed.

Mr. Ridgely responded if it hasn't been executed, then it really doesn't exist, but the paper has been written, is that accurate?

Ms. Erard agreed.

Mr. Coombes stated someone has a written agreement that I haven't seen. Has anybody else seen it? I find this totally unacceptable. I don't care where this came from. It is totally unacceptable to be operating this way.

Mr. Ridgely stated is there a draft floating around or the agreement that we haven't seen that is referring to what we are voting on tonight. If it refers to it then it is just wrong. If there is a draft, I truly believe that we have the right to see the draft if there is action to be taken.

Ms. King, the Vice Mayor chaired the meeting at this point.

Mayor Rummage stated it has been stated pretty emphatically that I am the one who negotiated this agreement. Let me tell you how this all came about. We have an apartment complex of 83 apartments that are right now not available to our police department. They can't enter on the premises and execute anything without a warrant. When I found out that an outside group was going to purchase this I had my own ideas about going elsewhere. That idea fell through and I figured what we should do is meet with the representatives and we did from the New York group and Mr. Hurlbert is one of them. We negotiated the best kind of contract that we could and it is far superior to what we have available to us now. Right now we are persona non grata as far as the current owner is concerned. We have no access there. They do what they want. They absolutely have ignored all of the rules and regulations on the leases. Here you have something that is going to be available and you say there are "no teeth" in it. There is a lot more teeth in this document than we have now. We don't even have a document now. What I tried to do before we even considered going the route of the bond purchase approach was to extract everything that we could, primarily from it, primarily the security. We have everything that we outlined to them which is stated here in this agreement. As a matter of fact, this agreement was agreed to by our new Council and Mr. Hurlbert when this was raised the last time. I am a little bit disturbed to hear that we have absolutely nothing that we are being led down that primrose path. Let me tell you something. We are down the primrose path right now. We don't have anything. We have nothing to say about what goes on out there. Here we do have it in this agreement. It is also not only about the security which is non-existent at this time, it also covers the maintenance and the maintenance management people. That is not available at all right now. I am telling you that if these people are forced to go another route you are going to wind up with those 83 units just as they are right now and we have no assets, we have no control. It is like a federal island in our Town that we have no right to even look at. With this document, you will have. There was another agreement that was reached between the police department and the current owners before the new group takes over which I presume the new group would accept and I don't see anything wrong with it. I would certainly urge the people on the Council to give this some serious consideration before we move to the next item which is the bond issue.

Mr. Kennedy asked if you have to have a warrant to go on the property?

Chief Hawkins responded not to go on the property. I think what the Mayor is referring to is in the past when we have gone in there in with a warrant and the proper protocol wasn't followed on behalf of the management to go through the process of eviction and we found out later on they were still there.

Mr. Kennedy stated but you as a law enforcement agent are not prohibited by going on the property to patrol it and executing arrest warrants.

Chief Hawkins responded we can patrol it.

Mr. Kennedy asked if you have to get special permission because it is prohibited for you and your law enforcement agent to go on there.

Chief Hawkins stated we can patrol in the area. The only thing we've been battling is we don't have authority to enforce trespassing on that property. We did have a letter giving us authority as an agent of the company and that has since been rectified. A letter has been issued to us as an agent of that company of the existing company. The existing company has given us a letter that allows us to act as their agent for enforcement authority.

Mr. Coombes stated then that has been taken care of heretofore.

Ms. King stated that has only been recent, correct?

Mr. Kennedy stated he didn't care if it was yesterday. We are not prohibited of going on that piece of property to execute law enforcement duties.

Chief Hawkins stated when we get calls for service, we go in there like anywhere else.

Mr. Kennedy asked if that area is patrolled on a normal schedule?

Chief Hawkins responded yes.

Mayor Rummage asked since when?

Chief Hawkins stated things have gotten a little bit better recently. Some of this is when we had the meeting with Mr. Hurlbert and there has been some reaction to that. They have since hired a new manager who is very adamant about evictions when there is criminal activity so that decision has been deterred. The contract aspect of having a police officer in that facility, the current owners came to me and said the cost to provide authority is cost prohibitive. They asked me what the probability was if the Town would provide a salary to put an officer in there. I told them that we could look at pursuing an agreement but the Council would have to approve it. They went through the motions. It took awhile because they in turn dealt with Related to see if that is something they would pick up when it happened. They didn't want to commit to something they couldn't fulfill. Just within the past week, that copy finally came back. The Town Attorney wrote

the original agreement and they wrote another one back changing some things in it. She has had to compare the two and wait in the interest of the Town to see whether it would require a signature and move forward with it.

Mr. Kennedy asked why didn't we get a copy of this before tonight?

Mr. Ridgely stated in the *(inaudible)*

Ms. Erard responded it came back different.

Mr. Ridgely responded that is a polite way of putting it.

Mr. Kennedy asked what do we do at the end of this three year timeframe? Are we prepared to pick up the wages and the salary of that police officer or turn around and tell him we are going to let you go, it was only a three year job?

Chief Hawkins responded the thing Council is going to have to take very seriously when they decide whether they will go into that agreement or not, is if they are going to absorb that position when the time comes because you hire a police officer and they are going to pay the salary, they are going to pay some of the fringe benefits, but there still is an investment by the Town. We will have an investment in it even outside of that cost, we are going to have something to deal with. I hate to see it go away. At the end of the three years, yes are you asking if I will be in here begging you to hold that position, yes I will because it is not fair for me to hire an officer and tell them you are just here for three years. It doesn't work too well in law enforcement to do that.

Mr. Ridgely responded the problem is our budget in the next three years. We don't have a crystal ball.

Chief Hawkins stated the other downside is the current owner, they are doing month to month with the security right now because it has become cost prohibitive. They could lose that and not have us in there.

Mr. Lyburn stated within that three year period, say five months into the three years, if they decide they can't afford it, what happens?

Chief Hawkins responded then the Town has to either absorb that position or I would have to get with the Town Manager, but I don't know if we can tell an employee after that you are gone. I am under the impression if we hire them as a contract employee we may be able to, but if we hire them as a normal employee. . .

Ms. Erard responded they sent it back with a five day termination.

Mr. Ridgely stated under Section 6, it states, subject of this agreement shall be three years and any early termination forced by either party to the other party would violate the

agreement, such termination for cause shall not occur until five days after the written (*inaudible*). It would be a breach of contract.

Ms. Erard stated this is their draft.

Ms. King asked what would be a breach of contract or a material breach of contract?

Ms. Erard responded it would be a failure to significantly perform under the agreement.

Mr. Ridgely stated we could be without an officer.

Ms. Erard stated with all due respect to Mayor Rummage, I just want to clarify that I have not agreed to anything on behalf of the Town. I have talked with Mr. Hurlbert, but I have not agreed with anything. I don't want there to be any perception that I have somehow engaged in any acts that have committed the Council. The other point that I would like to make is that the security agreement can still be ironed out. You can adopt Resolution - #89-08 and we can still finalize that agreement. You are not agreeing to the terms that have been sent to us.

Mr. Ridgely asked what happens if we don't reach an agreement on the police protection?

Ms. Erard felt that we would but if we didn't then we would perhaps have to execute an addendum eliminating that as a requirement from this agreement by mutual agreement of the parties because we were unable to reach an agreement as to the terms of the security.

Mr. Kennedy stated let me understand – we can agree on Resolution - #88-08 which is the approval of the issuance of the bond and hold in abeyance Resolution - #89-08 until we can work out these details. Does one supersede the other?

Ms. Erard responded in her opinion I think you have a stronger negotiating position on Resolution - #89-08 prior to approving the bonds.

Mr. Coombes stated the reason we are here is for us to approve the bonds and that is why I asked the Mayor to place the agreement in front of the bonds because the agreement is as I see it is the peak of the whole thing for the Town. If you can't agree on that you are not going to agree on the bonds. That is the basic question.

Ms. King stated Mr. Hurlbert did want to answer some of the questions specifically. My background is in this and I would like to put forth some information. I have worked with Dean Atkins, our Commonwealth's Attorney and he and I put together some wording to approach the company about being in violation of nuisance laws and that is how we got them to get here. The security company heretofore, they weren't doing anything. The attitude was that was a management company and it wasn't the Council's business to go over and manage the property. Working with the new owners from the get go, that you say you are the new guys in Town and this is what we are expecting from you to get to know these people and have a working relationship with them. As far as I can tell we

have not had a working relationship over there. There is also a handbook of HUD and it includes the rules and regulations of owning and managing a HUD property. There is already a zero tolerance policy that you are not to accept people with criminal backgrounds. It is also required that you do a background check. You find out everything you need to know about the people and verify they have proper identification. There is a whole process. What I am seeing is an absentee landlord situation. Chief Hawkins has said the manager is very pro-active in evicting people out of the property who have not followed the rules. I understand this and I know everyone doesn't, but every tenant over there must recertify. You can verify every single thing that they do. You have ways of keeping good tenants and removing tenants who are not acting properly and not making it a good project and good place to have in Town. As far as the security agreement, if it is three years, then it is like it would be up for renegotiation. I don't know what is going to happen in three years. I don't know whether it is going to be needed or not. Whether or not you still keep the same officer or some arrangements have to be made for the officer to stay within the force, I think it can be decided at that time. You can't tell what will happen in three years, but at least they are on board. The Chief seems to think it is okay and could handle it with the one officer over there for 8 hours.

Chief Hawkins responded right now we have security 5 days a week, 8 hours a day and the private security, most of the time, sometimes it is just one. Also, when that officer is working we will always have a set officer on the evening shift for the rest of the Town so they are just a call away if they needed anything. In my opinion they are going to have the same risks that we have now when we go in there. It is no different if we went in there for a domestic call or a fight call.

Mr. Hurlbert stated when we talked there was some discussion about rotating the times at which the officer would be on duty so the notion that you would be able to look at your watch, he's off now, I don't think that really works if you set it up the way I thought we were talking about. I have not seen this contract. I did not prepare that contract. I don't even know what that contract says, the contract that the current owner and the Chief and Andrea worked on. We were going to assume it if the transaction passes. We have agreed to do that in this document.

Mr. Rummage stated that contract you are talking about I had nothing to do with. That is an agreement that is between the police department and the current owners out there. That is not the same as what we are talking about here. The agreement that we are talking about here is what we extracted from the new owners that we don't have now. It might not be all of the teeth that you would like, but it gives us a lot more than what we have right now. For some reason the Chief gave me the impression that without this sort of an agreement he lacked a lot of authority out there. I don't know what I misunderstood.

Chief Hawkins responded right now we do have difficulty.

Mr. Coombes stated with all due respect to the untouchable federal island, I am hearing that he patrols in there and goes in there when he is called. There are only one or two

kinds of things where you have problems and one is trespassing, but if he is called for trespassing, he goes in there and locks them up. I just think it is over-characterized.

Mr. Hurlbert stated the point is he could have gone in there had there not been an authorization to do so and that happened recently. I have not been privy to the discussions that happened between the current owner and my client. I dare say that the notion that people are paying attention to the current owner to wit my client and you during these discussions have encouraged them to take some steps that haven't been taken in the past.

Mr. Kennedy stated I will ask once again and I don't think I got the answer I really asked for. The agreement that you worked out, is it a part of this #89-08 and if it is, why wasn't it in there and why didn't we see it before tonight? Mr. Hurlbert stated you are going to assume that, but we haven't seen it and we don't know what it says. That is the first I have heard about the contract. I thought this was all apart of this agreement, now I am finding out there are two different agreements, one that you two have worked out with the existing management and will transfer with this. We haven't seen it. I want to know if it is all part of the same package? The security agreement and that the contract you two worked out with the existing management, does it go along with this agreement?

Ms. Erard responded shortly before the end of October within the last week to 10 days, the Mayor asked me as a priority item if I would prepare a security agreement with Riverwood because they have given notice that they were terminating their security. He identified the essential terms. I followed up with Chief Hawkins. He confirmed those terms. I prepared an agreement and we sent it to them. That was long before this agreement was in any type of form. That was to have ongoing security. As this evolved there were sessions with Mr. Hurlbert, as I understand it, that Related would assume the obligations under this agreement. That was one of the topics of discussion from my understanding.

Mr. Hurlbert responded there was no agreement at that time and that is why our contract was drafted that we would enter into one or we would assume one because we didn't know what the status was going to be at the time we might sign this agreement.

Mr. Kennedy stated I will ask the question again, how come we didn't see the agreement before tonight or a draft of it? The Mayor just said he wasn't apart of that now I hear you telling me that the Mayor asked you to prepare it. I am hearing two different things.

Chief Hawkins stated it was just received about a week ago.

Mr. Kennedy stated if I have to vote on something, I want to see it first.

Mr. Rummage stated he would state again I did not have anything to do with the contract that was negotiated between the police department and the current owners.

Mr. Coombes stated he didn't think negotiating a contract with an outside entity, is legal sir unless it is directed by you or Council.

Mr. Rummage stated it would have to be accepted by the Council obviously. That is not related to these people.

Mr. Kennedy asked the Town Attorney who directed her to prepare the contract that we are talking about?

Mr. Rummage responded he did. I asked her to negotiate a contract between the police department and the current owners, because the current owners really are not enforcing the agreement whatsoever.

Mr. Kennedy asked shouldn't Council have been aware of this?

Mr. Ridgely stated some of this agreement is enforcement of the HUD handbook. A lot of the key elements pointed out that have agreed to for the enforcement of federal regulations. That is the impression I get.

Ms. King stated also understand if you have a problem a lot of you didn't know that they could call Richmond, that they could call HUD. You can call on a property that is not being run correctly. There are people you can talk to. I don't think that was done with this current management as much as it should have been.

Mr. Rummage stated since this is referred to as a draft and it has absolutely nothing to do with what is before us this evening, Resolution #89-08 and #88-08, it is something that they are going to assume at some point in time, but it is unrelated and it should be divorced from this topic and discussion tonight.

Ms. Erard stated if you approve Resolution - #89-08, you are not agreeing to a separate security agreement because Section 1 (b) does as Mr. Hurlbert pointed out contemplates either adopting an existing agreement which there is none, or entering into a written agreement. Let's say Related buys this in April and between now and April we have not been able to reach an agreement with the current owners, Related would then be obligated to reach some agreement with us as to security. We would have to at that point come to some agreement.

Mr. Ridgely stated he saw no change since the work session when we were negotiating this deal. Were there changes?

Ms. Erard stated Mr. Hurlbert did make changes to the agreement.

Mr. Hurlbert stated at the last work session, Councilmen Kennedy raised a concern that we were not committed to make improvements in this agreement. I added the exhibit and pulled directly from the initial position that we made to the Town in July. It was Exhibit A preliminary schedule of all of the improvements and estimated the cost. We went

through in response to the concern that at a minimum that you all do the security and safety improvements that are the greatest concern to us and that is what we did. We went through the budget and the scope of the rehabilitation that is contemplated and we identified those items that are related to security and safety. Some of them after you look at them may say it doesn't seem like security and safety. We identified those and we committed to do those things in this document regardless of what the cost is. We are also committing that the scope of Exhibit A, the scope of the rehabilitation which was the first thing we submitted to you in July, that is the same scope that we contemplate now. Our intention has not waived one bit.

Mr. Coombes stated a lot of times intentions never come to fruition and that is my worry about this contract. A lot of the contract is out of the HUD manual so it is nothing new. Whoever owns the place would be doing this anyway. My document is dated December 5<sup>th</sup> from the Town Clerk which all of us on Council received and the revised agreement from Related Preservation was attached. My question to you is, did you and our Council negotiate this document after the work session or after the last meeting of Council when we asked for more information?

Mr. Hurlbert responded yes, the Town Council and I had three discussions and we talked about the issues that were raised during the work session. We talked about how we could address those issues and the conclusions that were reached from those discussions were to take a whole look at the exhibit of the proposed rehabilitation budget and identify those things that would be responsive to the security and safety priority that this Council has and commit to do them.

Mr. Coombes stated we will get a lot of folks in here when the economy is good stirring up a lot of things with their best of intentions and I have come to the conclusion that unless the intentions in some way are put into stone by an agreement or contract you cannot be held accountable. Yet right now the only way we can hold you accountable for these things which you intend to do is that if you don't perform we sue you. We go to court. I don't like that. I would rather see a signed document from your firm that you represent saying we are going to do this and then as a last resort if you don't we go to court.

Mr. Hurlbert felt this document is that and it does say that we are going to do this. It says we are going to do these things that were identified as the priorities from the work session.

Mr. Coombes stated that is your interpretation, not mine. This is convoluted.

Ms. King stated Section 6 says its binding affect, this agreement shall incur to the benefit of and shall be binding upon the owner of respected successors and assigned.

Mr. Coombes stated so if they do it we have to sue them.

Ms. Erard responded it is binding upon the owner and anybody who may be a successor in interest in either party under the agreement.

Ms. King stated so whatever it says in the agreement both parties have to live up to it or we go to court.

Ms. Erard agreed.

Mr. Kennedy stated he didn't want to prolong this and I am satisfied with that, but this other issue about this contract for security still needs to be either attached to this or they are going to create a new document. Is that what I hear? Do we have a binding contract with the existing management?

Chief Hawkins responded no.

Mr. Rummage stated we never did have.

Mr. Kennedy stated we have an agreement apparently because you are saying things are being handled differently but we have nothing in concrete that says . . .Where is this other document that is being prepared by you two? The one we have has not been signed by anybody so it is not a part of this and we just got this tonight and what are we doing with this?

Chief Hawkins responded it is something the Town Attorney and I were going to discuss tonight and she was going let you know tonight that we did receive it and it is being matched up with the one she originally wrote to see if you wanted to approve it.

Ms. Erard responded the agreement has been in existence for a while and at the time that I prepared the initial agreement because I understood it to be time sensitive, so I also prepared a draft resolution. Why that was not distributed I am not able to explain. I think that agreement has to be nailed down in order to approve this one.

Mr. Kennedy stated he wanted to deal with this one. I am hearing a couple of different stories about . . . who started the whole process, who asked you to do it and why are we negotiating with somebody without Council's knowledge of it. I am concerned about that.

Ms. Erard responded there really is no negotiating. I prepared a document with certain essential terms that the Mayor conveyed to me. I confirmed those with the Chief and that is what I prepared. They sent something back that was different.

Mr. Kennedy asked who is they?

Ms. Erard responded the current owners.

Mr. Kennedy stated isn't that negotiating?

Ms. Erard responded she had not talked with anyone from there.

Chief Hawkins explaining what occurred stated, the current owners, F&W came in to the police department and said we are finding that the current security is cost prohibitive. At some point, they wanted to try to reach an agreement with the Town to provide police service in the apartment and we pay the salary and benefits. I walked over to see if that was even possible and if it was, to see if we needed to draft a document or they did to bring it to Council to see if it is something they wanted to do.

Mr. Kennedy stated that is not what I heard a minute ago. I don't want to muck the water up over this issue. I think we need to resolve this issue first. We can resolve the other issue. If there is a three year commitment either by the existing management or the new management, we are going to have to either absorb that after three years or renegotiate with the new management. If they see fit and can financially handle it, which I don't see that happening, because if I had a way out, I would certainly take it if it was going to save me \$40,000 a year. That is something we will have to address in thirty six months as to whether we can absorb that cost.

Ms. Erard stated if she understood the discussion, there was not really an indication of a renegotiation of that at the end of three years. At the end of the three years, we have to take it or find a way to fund him.

Mr. Kennedy stated we have to either let the officer go or find a way to fund it. Am I correct?

Mr. Rummage stated that is a very erroneous way to state it. The Chief said or someone here said that in three years how do we know how many police officers we are going to need? Between now and the end of three years how many of them will leave. I don't think three years from now is any problem with what we are addressing. The thing you are doing Mr. Kennedy is confusing an agreement that doesn't exist with the agreement you have before you which is #89-08 and eventually we are going to get to #88-08 which is what Mr. Hurlbert is here about this evening.

Mr. Ridgely stated this refers to a non-existing agreement.

Mr. Kennedy agreed.

Ms. Erard stated it contemplates . . .

Mr. Kennedy stated he didn't know if he was the only one who was a little mixed up on this and I may be flying alone, but I am still mixed up as far as who authorized that agreement. Let's stick with #89-08 first and deal with the other one in a minute.

Ms. Payne stated she came into the meeting tonight prepared to back this and I have had the discussion with the Mayor to that affect yesterday, but I have to say I am very

disturbed with this security agreement that we are seeing for the first time tonight. If we approve #89-08 we would be approving something with negotiations to go forward and we don't know if the negotiations are suitable for the Town. It is an open book at this point of how that negotiation will turn out and binding us to something for three years from now and one of the things that hasn't been mentioned is the potential cost of training a police officer. All of that would fall on the Town and they are only paying the salary and benefits. There is another hidden cost there I am afraid of as well. Like I said, I was prepared to go along with this but after seeing this security draft tonight, I am not comfortable at all with that draft.

Ms. Erard asked if Council would be willing for me to fax the original draft that I prepared with Mr. Hurlbert? It is pretty straight forward and he could indicate whether or not his company would agree to those terms in the event we are not able to reach an agreement with the current owner.

Ms. Payne stated she thought Mr. Hurlbert was bond counsel, not general counsel and does he have the ability to give that kind of a go ahead.

Mr. Hurlbert responded I don't know what the level of communication has been at this point in time. I haven't seen this and I didn't prepare the contract and I don't even know what it says. I can't sit here and say whether they would agree with me or not. What I can say is that we sat in a conference room with Chief Hawkins and the Mayor Rummage and they agreed they would enter into a three year contract to provide security at Riverwood. If there wasn't one in place by the time we closed, they would enter into one. I don't know they have seen this contract that F&W is working on. I don't know the degree to which they are comfortable with it. I feel very confident, in fact I know, they are going to enter into a three year agreement if we get this deal closed through the issuance of bonds by Harrisonburg Housing Authority. If there is an agreement in place at that time, they are going to assume it.

Mr. Lyburn asked Mr. Hurlbert how much time he had to do what he had to do?

Mr. Hurlbert responded the process from here assuming we were to go forward and get approval tonight would involve going to the State next year to seek an allocation of bonds which is a finite resource.

Mr. Lyburn stated the reason I am asking is since tonight we just got this, is there any way we can wait until the next session and let us go through this. Right now, no one is comfortable with what is going on. We need some time and instead of going back and forth all night tonight, I think we need some time.

Mr. Kennedy asked if waiting 30 days would hurt?

Ms. Erard responded January 8<sup>th</sup>, is the next regularly scheduled meeting.

Mr. Hurlbert responded the drive to the finish for this year is motivated in some part by a need for the new owners . . .

Mr. Lyburn stated but to get everyone on board, tonight is not the night.

Mr. Hurlbert stated I can't sit here and say what they will say, but if that is the answer, then that is the answer and there really isn't much I can do about it.

Ms. Erard stated another option might be to continue this meeting either to December the 18<sup>th</sup>, a week from now to allow time to reach resolution on the security agreement or to continue it to December 30<sup>th</sup> which is the date we would normally have had a work session but we are planning to cancel that work session.

Mr. Hurlbert stated my goal in trying to get through the process tonight was to be ready to submit our paperwork on January 2, 2009 because there will be line outside the office of the Department of Housing and Community Development to give this allocation. I don't know how many people are going to be in that line, there is no way to know, but if there are enough people in that line to consume all of that resource, we are looking at 2010. I can't tell you what the outcome is and I know there is no way to know.

It was decided by the Mayor and Town Council that this meeting would be recessed until Wednesday, December 17, 2008 at 5:30 p.m.

Ms. Erard asked Mr. Hurlbert if he was the appropriate contract and offered to fax the agreements to him.

Mr. Hurlbert responded either to him or Jay way would be fine.

Mayor Rummage asked if this is the wish of the Council to continue Resolution #89-08 and Resolution - #88-08 and the other agreement which unfortunately shouldn't have been here to confuse things, as a package?

Ms. Erard stated there is currently a motion and a second however to approve Resolution #89-08, so there will need to be an action to table.

Mayor Rummage asked if Ms. King and Mr. Lyburn would agree to withdraw their motion.?

Ms. King and Mr. Lyburn agreed.

Mayor Rummage called for a motion to table Resolution - #89-08 until December 17, 2008 at 5:30 p.m.

Motion was made by Mr. Kennedy to table Resolution - #89-08, second by Mr. Lyburn.

Mr. Hurlbert stated with the public hearing, we need to adopt the resolution on the bond side according to the State statute.

Ms. Erard agreed and recommended that the meeting be continued.

With no objection from the Town Council, Resolution - #89-08 was tabled and would be voted on Wednesday, December 17, 2008 at 5:30 p.m. **Motion Carried.**

Mayor Rummage called for a motion to table Resolution - #88-08 until December 17, 2008 at 5:30 p.m.

Motion was made by Ms. Payne to table, second by Mr. Lyburn. With no objection from the Town Council Resolution - #88-08 was tabled until Wednesday, December 17, 2008 at 5:30 p.m. **Motion Carried.**

Mayor Rummage stated whatever that contract is between the police department and the current owners, whatever you are going to do with it if anything, do it. I would suggest that it be incorporated in some way with Resolution - #89-08.

Ms. Erard stated she would fax a copy of what she prepared as well as what she received to Mr. Hurlbert in the morning and share with him my concerns about the changes in the draft.

Mr. Kennedy asked if the draft had to be approved by Town Council?

Ms. Erard responded yes, it did.

Ms. King asked if it could be approved between the Chief and the new owners?

Ms. Erard responded her concerns were that the agreement they prepared shifted the responsibility and makes us more responsible for the security. It eliminates the indemnification and hold harmless section. My agreement was phrased more this is your responsibility and you are going to give us this money to assist you and the agreement they provided in response stated you are going to do this, this is your obligations. They eliminated some of the legal provisions that I thought were favorable to the Town and they said we will pay you "x" amount of money and there is also a termination provision.

Mr. Ridgely stated then it was watered down as far as the protection of the Town is concerned based on what you just told me. It took our assurance out of it and we are liable for the whole nine yards basically. So it was a watered down draft.

Ms. Erard agreed.

**AGENDA - #90-08**  
**RESOLUTION – APPOINTMENT OF AD HOC COMMITTEE TO CONDUCT**  
**INTERVIEWS FOR PLANNING COMMISSION APPLICANTS**

**BE IT RESOLVED**, that the Town Council meeting in regular session, Thursday, December 11, 2008 hereby appoints the following people to an Ad hoc Committee specifically to participate in interviews for Planning Commission applicants:

Mayor Fred Rummage  
Vice Mayor Ms. King  
Council Member Mr. Coombes  
Council Member Mr. Ridgely  
Planning Commission Representative Mr. Grant

Motion was made by Ms. Payne to approve, second by Mr. Lyburn.

With no further discussion on Resolution - #90-08, Mayor Rummage called for a vote. Mr. Coombes **aye**, Mr. Kennedy **aye**, Ms. King **aye**, Mr. Lyburn **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and **the Appointment of an Ad Hoc Committee to Conduct Interviews for the Planning Commission Applicants was Approved. Motion Carried.**

**AGENDA #91-08**

**RESOLUTION – CANCELLATION OF DECEMBER 30, 2008 TOWN COUNCIL WORK SESSION**

**BE IT RESOLVED**, that the Town Council meeting in regular session Thursday, December 11, 2008 hereby cancels the December 30, 2008 Town Council work session.

Motion was made by Ms. Payne to approve, second by Ms. King.

With no further discussion on Resolution - #91-08, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Ms. King **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mayor **aye**, motion carried and the Cancellation of the December 30, 2008 Town Council Work Session was Approved. **Motion Carried.**

**AGENDA #92-08**

**RESOLUTION – REQUEST FOR AN EMPLOYEE HOLIDAY BONUS AND HOLIDAY RECEPTION FUNDING**

**WHEREAS**, the Town Council of the Town of Colonial Beach wishes to use the Holiday Season as an opportunity to thank all Town employees for their dedication this past year; and **WHEREAS**, the Town Council has asked the Town Manager to organize an event to bring all employees together around the Holidays to provide the opportunity to say “Thank You”; and

**WHEREAS**, such an event will cost the Town an amount equal to \$1,000.00 (One Thousand dollars); and

**WHEREAS**, the Town Council recognizes that the economic climate has made it financially challenging for most of our Town employees; and

**WHEREAS**, the Town Council wishes to assist Town employees whenever possible.

**NOW THEREFORE BE IT RESOLVED**, that the Town Council meeting in regular session Thursday, December 11, 2008 hereby authorizes a cash bonus of \$100 net to each employee with the exception of contract employees and department heads with said funds coming from line item 012100-1514 in the amount of \$5,720.00 (Five thousand, seven hundred and twenty dollars).

**BE IT FINALLY RESOLVED**, that the Town Council also authorizes the use of funds in the amount of \$1,000.00 (One thousand dollars) for the Holiday luncheon for Town employees from Town Council Contingency line item #11010-5836.

Motion was made by Ms. Payne to approve, second by Mr. Lyburn.

Mr. Kennedy asked about the \$100 net and the \$5,270.00 total is that before taxes?

Ms. Foulds responded yes.

Mr. Kennedy asked if that also included the \$1,000.00?

Ms. Foulds responded the \$1,000 is coming out of Town Council Contingency and the employee bonus funding will be coming out of the Town Manager's line item.

Mr. Kennedy stated then it is coming out of two different line item funds.

Ms. Foulds agreed.

Mr. Ridgely stated we are going to be putting line item numbers on the resolutions. It will help clarify things.

With no further discussion on Resolution - #92-08, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Mr. Coombes **aye**, Ms. Payne **aye**, Ms. King **aye**, Mayor **aye**, motion carried and the Request for a Holiday Bonus and Reception was Approved. **Motion Carried.**

**CLOSED MEETING:**

Mayor Rummage called for a motion to convene to closed meeting pursuant to Virginia Code Section 2.2-3711 (A) (1) for the discussion or consideration of the salary, contract and compensation of the Police Chief.

Motion was made by Ms. King, second by Mr. Lyburn. With no objection from Town Council, the closed meeting was approved pursuant to the appropriate Virginia State Codes. **Motion Carried.**

Mayor Rummage called for a motion to reconvene to open meeting?

Motion was made by Mr. Ridgely, second by Ms. Payne. With no objection from Town Council the meeting was reconvened to open session pursuant to the appropriate Virginia Codes. **Motion Carried.**

Mayor Rummage asked if there was motion to certify that only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Council?

Motion was made by Ms. Payne, second by Mr. Lyburn.

Mayor Rummage called for a vote. Ms. King **aye**, Mr. Lyburn **aye**, Mr. Ridgely **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Mayor **aye**. **Motion Carried.**

**OTHER MATTERS:**

There were no other matters to discuss.

Mayor Rummage called for a motion to recess the meeting of Thursday, December 11, 2008 until Wednesday, December 17, 2008.

Motion was made by Mr. Lyburn, second by Ms. Payne. With no objection from Town Council the meeting of Thursday, December 11, 2008 was recessed until Wednesday, December 17, 2008 at 5:30 p.m. **Motion Carried.**

This meeting was recessed at 10:00 p.m.

Respectfully submitted:

Barbara A. Goff,  
Town Clerk

Frederick C. Rummage,  
Mayor





