

**MINUTES OF TOWN COUNCIL MEETING HELD
WEDNESDAY, DECEMBER 17, 2008 – 5:30 P.M.
COLONIAL BEACH TOWN CENTER**

Mayor Rummage called the regular meeting of Town Council to order on Wednesday, December 17, 2008 at 5:30 p.m. at the Colonial Beach Town Center stating this is a continuation of the previous meeting held Thursday, December 11, 2008. 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 Manager, Ms. Foulds, Town Attorney, Ms. Erard, Chief Financial Officer Ms. Grant, Chief of Police, Mr. Hawkins and Town Clerk, Ms. Goff.

Mayor Rummage stated there were three items on the agenda which were listed in numerical order. A request was made by Mr. Coombes to act on Resolution - #89-08 first. Resolution - #88-08 is the basic reason why Mr. Hurlbert is here and needs to come in my opinion, as the last item on the agenda. With no objection from the Town Council Resolution - #89-08 would be considered first. Mayor Rummage also stated that he hoped a lot of the comments and discussion beforehand would not be repeated, as it is before you now.

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: _____
Its: _____

EXHIBIT A

Preliminary Construction Budget – Riverwood Apartments

<u>Item</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Sub-Total</u>
Apartments			
Building Interiors			
Bathrooms			

Vanity	83	\$425	\$35,275
Lighting upgrade	83	\$100	\$8,300
Painting	83	\$250	\$20,750
New VCT/ Linoleum Floor	83	\$250	\$20,750
Kitchens			
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
General Interior (BR/LR/DR)			
Hot Water Heaters	70	\$500	\$35,000
Replace Unit Lighting-Hallway	166	\$100	\$16,600
Hard Wire Smoke Detectors	270	\$120	\$32,400
1BR-SEER 14	27	\$3,000	\$81,000
2BR-SEER 14	32	\$3,200	\$102,400
3BR-SEER 14	24	\$3,400	\$81,600
Common Areas			
Office Upgrade-Paint, Furniture-ADA Ramps	1	\$20,000	\$20,000
Security	1	\$25,000	\$25,000
Laundry Room upgrades	1	\$5,000	\$5,000
Building Envelope			
Breezeway Repairs	7	\$3,500	\$24,500
Blow in insulation	14	\$3,000	\$42,000
Extend Roof Lines	7	\$3,000	\$21,000
Roofs	8	\$7,500	\$60,000
Exterior Lighting	1	\$25,000	\$25,000
Siding	140	\$250	\$35,000
Item			
Quantity			
Unit Cost			
Sub-Total			
Site Improvements			
Site Fencing	Lump Sum	\$15,000	\$15,000
Landscaping	Lump Sum	\$25,000	\$25,000
Playground	Lump Sum	\$65,000	\$65,000
Parking Lot-Repair Fill Pot Holes-Top Coat	Lump Sum	\$125,000	\$125,000
Window Replacement	329	\$400	\$131,600
Concrete-repair damaged walks and curbs	Lump Sum	\$35,000	\$35,000

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Cost Breakdown	per unit (83)		
Building Interiors	\$11,571	\$864,430	
Common Areas	\$315	\$50,000	
Site Improvements	\$2,581	\$396,600	
Building Envelope	\$4,981	\$207,500	
	\$18,296	\$1,518,530	
General Conditions (6%)			\$91,112
Overhead (6%)			\$91,112
Profit (2%)			\$30,371
Total			\$1,731,124

Motion was made by Ms. King, second by Mr. Coombes

Mr. Coombes asked what is this motion on?

Ms. King responded to change the order of the resolutions.

Mayor Rummage stated that is incorrect, there were no objections to changing the resolutions. He then asked if there was a motion to approve and bring the matter before Council.

Ms. Erard stated the motion is to approve Resolution - #89-08, right?

Mayor Rummage agreed and stated if we don't have it before us, then we can't act on it.

Mr. Ridgely stated then the resolution fails for a lack of a motion.

With no second, no action was taken.

Mayor Rummage called a recess for 10 minutes.

Ms. King made a motion to return to open session.

Mayor Rummage asked what is the purpose of returning to open session?

Ms. King stated she wanted to move on with the agenda for the evening.

Mayor Rummage stated we tried for a motion on Resolution - #89-08 and we didn't get it before us.

AGENDA – #93-08

RESOLUTION –APPROVAL OF AGREEMENT BETWEEN THE TOWN OF COLONIAL BEACH AND RIVERWOOD LIMITED PARTNERSHIP

WHEREAS, Riverwood Limited Partnership has notified the Town of Colonial Beach that it will no longer provide security at the Riverwood Apartment Complex after October 31, 2008; and

WHEREAS, the Colonial Beach Town Council finds that the continuation of security at the Riverwood Apartment Complex is in the best interests of the citizens of the Town of Colonial Beach; and

WHEREAS, Riverwood Limited Partnership has agreed to pay for the provision of security at the Riverwood Apartment Complex for five days a week, eight hours a day, by the Colonial Beach Police Department.

NOW THEREFORE BE IT RESOLVED, that the Colonial Beach Council hereby approves the enclosed agreement between the Town of Colonial Beach and the Riverwood Limited Partnership for the provision of security at the Riverwood Apartment Complex for the next three years and authorizes the Mayor to sign the agreement on behalf of the Town.

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

Mr. Ridgely asked if this motion was to accept the agreement?

Mr. Kennedy stated no, this is to put the resolution before us.

Mayor Rummage stated no it is for acceptance.

Mr. Kennedy withdrew the second.

There being no second, no action was taken.

Mr. Coombes stated neither motion came before us, does that mean they failed?

Ms. Erard responded it means no action has been taken.

Mayor Rummage stated it is a continuing resolution and it can be brought up at any time. I would guess that it would be the parliamentary recommendation.

Ms. Erard stated the current status is that there has been no successful motion either to approve or disapprove any of the actions on tonight's agenda.

Mayor Rummage stated we have a third one.

AGENDA - #88-08

RESOLUTION – APPROVAL OF ISSUANCE OF BONDS BY THE HARRISONBURG REDEVELOPMENT & HOUSING AUTHORITY FOR THE RIVERWOOD APARTMENTS

WHEREAS, the Town Council of the Town of Colonial Beach, Virginia (the “Town Council”) is the governing body of the Town of Colonial Beach, Virginia (the “Town”); and

WHEREAS, Riverwood Apartments (the “Apartments”), located in the Town, is an approximately 83-unit, multifamily residential rental housing development which qualifies as a “qualified residential rental project” within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the proposed purchaser of the Apartments, Riverwood Preservation, L.P., a Delaware limited partnership (the “Purchaser”), has a contract pursuant to which it will acquire and rehabilitate the Apartments; and

WHEREAS, the Purchaser will spend approximately \$19,000 per unit on labor and materials to improve the safety and the living conditions at the Apartments with playgrounds, lighting, security, fencing, and other property improvements; and

WHEREAS, in accordance with federal tax law which fosters private investments in affordable housing, the Purchaser wishes to access private funds from the capital markets through the sale of tax-exempt bonds in an aggregate amount not to exceed \$4,200,000 (the “Bonds”) to finance the purchase and rehabilitation of the Apartments, including the costs of the aforementioned improvements; and

WHEREAS, in order to accomplish this, the Purchaser has sought assistance from the Harrisonburg Redevelopment and Housing Authority (the “Authority”), as the Town’s redevelopment and housing authority organized pursuant to the Virginia Housing Authorities Law, Chapter 1, Title 36 of the Code of Virginia of 1950, as amended (the “Act”), has declined to participate in the financing of the Apartments; and

WHEREAS, Section 36-23 of the Act authorizes the Authority to provide financing assistance for multifamily residential housing developments in the Town, provided the Town Council, after holding an advertised public hearing on the matter, adopts a resolution which declares a need for the Authority to exercise its powers within the Town and the Town’s housing authority provides its consent to such issuance; and

WHEREAS, the Town Council has held an advertised public hearing on December 11, 2008 regarding the need for the Authority to exercise its powers in the Town as required by Section 36-23 of the Act following notice of such hearing in the form attached hereto as Exhibit A, published in a newspaper of general circulation within the Town (there being no newspaper published in the Town) at least ten (10) days prior to the date set for such hearing as required by Section 36-23 of the Act; and

WHEREAS, the Town Council has held an additional, concurrent public hearing on December 11, 2008 on the Apartments and the issuance of the Bonds as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the “Virginia Code”), and Section 147(f) of the Code, following notice of such hearing in the form attached hereto as Exhibit B, published in a newspaper of general circulation within the Town (i) at least thirteen (13) days prior to the date set for such hearing as required by applicable public hearing requirements of the Code and (ii) once a week for two successive weeks with the second advertisement published at least six (6) but not more than twenty (21) days before the date set for such hearing, as required by Section 15.2-4906 of the Virginia Code; and

WHEREAS, a Fiscal Impact Statement has been filed with the Town Council; and

WHEREAS, the advertised public hearings provided opportunities for interested persons to be heard, for the expressions of opinion, for arguments on the merits, and for the introduction of documentary materials pertinent to the proposed issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Colonial Beach, Virginia, as follows:

1. The Town Council acknowledges that with the assistance of the Authority through the issuance of its tax-exempt bonds, the financing would enable the aforementioned safety improvements to be implemented and the safety of the tenants at the Apartments and the surrounding environs of the Town would consequently be improved insofar as the improvements would be made with the proceeds of the Bonds, and therefore the Town Council hereby declares that there is a need for the Authority to exercise its powers within the Town.

2. The Town Council finds, as required by Section 36-23 of the Act, that the dwelling accommodations available to the persons in the Apartments could be significantly improved and made substantially safer if the Authority exercises its powers within the territorial boundaries of the Town.

3. The Town Council makes the appropriate findings as required by Section 36-23 of the Act and approves the issuance of the Bonds by the Authority for the Apartments, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code.

4. The Town Council recommends that the Colonial Beach Redevelopment and Housing Authority promptly provide its consent to the issuance of the Bonds by the Authority.

5. This approval does not constitute an endorsement to prospective purchasers of the Bonds or of the creditworthiness of the Apartments or the Purchaser.

6. The issuance of the Bonds shall not create a debt or pledge of the full faith and credit of the Town.

7. This resolution applies exclusively to the Riverwood Apartments financing only. Nothing contained herein shall be construed to authorize or permit the Authority to exercise its powers or engage in any other project financing except as authorized by this resolution.

8. This resolution will take effect immediately upon its adoption and will remain in effect for a period of one year from the date of its adoption.

Motion was made by Ms. King to approve.

There being no second, no action was taken.

MOTION TO ADJOURN:

Motion was made by Mr. Kennedy to adjourn the regular meeting of Wednesday, December 17, 2008, second by Ms. King. With no objection, the meeting of Wednesday, December 17, 2008 was adjourned at 5:40 p.m. at the Colonial Beach Town Center. **Motion Carried.**

Respectfully submitted:

Barbara A. Goff,
Town Clerk

Frederick C. Rummage,
Mayor

