

REGULAR MEETING

November 25, 2008

At a regular meeting of Council held this evening at 7:00 p.m., there were present: Mayor Rodney Eagle; City Manager Kurt Hodgen; Assistant City Manager Evan Vass; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor George W. Pace; Council Members Charles R. Chenault, Carolyn W. Frank, and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, MMC; and Chief of Police Donald Harper.

Vice-Mayor Pace gave the invocation, and Mayor Eagle led everyone in the Pledge of Allegiance.

Bucky Berry said that the Salvation Army will be accepting donations for a food drive on Saturday, December 6th from 4:00 p.m. until 8:00 p.m., in the downtown Court Square area.

Wanda Willis of the Harrisonburg Fire Department, Barbara Emswiler of Rockingham Group Insurance, and the “Safe Kids” program displayed “Fire Prevention Week” contest posters.

Vice-Mayor Pace offered a motion to approve the consent agenda, including approval of the minutes and the second reading of supplemental appropriations for the Police Department and Fire Department and making modifications to the Zoning Ordinance. The motion also included amending and re-enacting Section 10-3-42 and 13-1-60.01 of the Harrisonburg City Code. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Mayor Eagle presented the following resolution for Council’s consideration of approval.

RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY OF ITS TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS FOR THE ACQUISITION AND REHABILITATION OF THE APPROXIMATELY 83-UNIT RIVERWOOD APARTMENTS MULTIFAMILY RESIDENTIAL RENTAL HOUSING PROJECT LOCATED IN THE TOWN OF COLONIAL BEACH, VIRGINIA

WHEREAS, the Harrisonburg Redevelopment and Housing Authority (the “Authority”) is authorized to advertise and hold public hearings relative to the issuance of private activity bonds; and,

WHEREAS, the Authority previously considered and approved the request of Riverwood Preservation, L.P., a Delaware limited partnership, (the “Company”), whose address is c/o Related Apartment Preservation, LLC, a Delaware limited liability company, 60 Columbus Circle, New York, New York 10023, for the issuance by the Authority of its tax-exempt multifamily housing revenue bonds in the maximum principal amount not to exceed \$4,200,000, upon the terms and conditions to be mutually agreed upon between the Authority and the Company (the “Bonds”), to finance a portion of the cost of acquiring and rehabilitating an approximately 83-unit multifamily residential rental housing apartment project known as Riverwood Apartments (the “Project”), located in Town of Colonial Beach, Virginia at 368 Riverwood Drive, Colonial Beach, Virginia 22443 (the “Town”); and,

WHEREAS, pursuant to Section 36-23 of the Code of Virginia of 1950, as amended (the “Virginia Code”), the Authority may exercise its powers in the territorial boundaries of the Town by issuing the Bonds (as hereinafter defined) for the Project provided the governing body of the Town adopts a resolution (the “Section 36-23 Resolution”) declaring there is a need for the Authority to exercise its powers within the Town and the Town’s redevelopment and housing authority consents to such issuance; and,

WHEREAS, the Company has requested, and the Town has begun the process necessary for, the adoption of a Section 36-23 Resolution authorizing the Authority to exercise its powers in the Town with respect to the Project and the Town’s housing authority to consent to the issuance of the Bonds; and

WHEREAS, on November 19, 2008, the Authority conducted a public hearing on the issuance of the Bonds and, by adoption of a resolution (the “Inducement Resolution”), declared its official intent to issue the Bonds to finance the Project, and recommended that the City Council of the City of Harrisonburg (the “City Council”) approve the issuance of the Bonds; and,

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), provides that the applicable elected representatives of the governmental unit issuing private activity bonds and the applicable representatives of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, shall approve the issuance of such bonds; and,

WHEREAS, the Authority, as the issuing governmental unit with respect to the Bonds, has no applicable elected representative and the City Council is the next highest governmental unit with such a representative; and,

WHEREAS, the members of the City Council constitute the applicable elected representatives of the City of Harrisonburg (the “City”); and,

WHEREAS, Chapter 514 of the 1983 Acts of the General Assembly of Virginia requires that any government entity established by or pursuant to an Act of the General Assembly that proposes to issue bonds that are industrial development bonds within the meaning of Section 103(b) of the Internal Revenue Code of 1954, as amended, shall, with respect to such bonds, comply with the procedures set forth in Virginia Code Sections 15.2-4906 and 15.2-4907; and,

WHEREAS, Section 15.2-4906 of the Virginia Code requires that, within sixty (60) calendar days after the public hearing, the City Council either approve or disapprove the financing of any facility recommended by the Authority; and,

WHEREAS, the Authority has adopted the Inducement Resolution recommending that the City Council approve the issuance of the Bonds and a copy of such Inducement Resolution, a reasonably detailed summary of the comments, if any, expressed at the public hearing described in the foregoing Recitals and the Fiscal Impact Statement required by Virginia Code Section 15.2-4907, have been filed with the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harrisonburg, Virginia, that:

1. The City Council approves the foregoing recitals, which are incorporated in, and deemed a part of, this Resolution as if fully set forth herein.

2. The City Council approves the issuance of the Bonds by the Authority in an amount not to exceed \$4,200,000 for the benefit of the Company and approves the Authority's taking all actions necessary in the discretion of the Authority to the extent of and as required by Section 147(f) of the Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly and Virginia Code Sections 15.2-4906 and 15.2-4907 to permit the Authority to assist in the financing of the Project.

3. The approval of the issuance of the Bonds as required by Section 147(f) of the Code, Chapter 514 of the 1983 Acts of the Virginia General Assembly, and Virginia Code Sections 15.2-4906 and 15.2-4907, does not constitute an endorsement to the prospective owners of the Bonds of the creditworthiness of the Project or the Company and the Bonds shall provide that neither the City nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto, and that neither the faith and credit nor the taxing power of the City or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.

4. In approving this resolution, the City, including its elected representatives, officers, employees and agents, shall not be liable, and hereby disclaims all liability for any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

5. The approvals evidenced by this Resolution are contingent upon the satisfaction of all legal requirements applicable to the issuance of the Bonds, including the

adoption by the Town Council of the Town of the Section 36-23 Resolution and the Company obtaining any other approvals, including but not limited to obtaining any required consent of the Town's housing authority as required by Section 36-23 of the Virginia Code.

6. This resolution shall take effect immediately upon its adoption.

READ AND ADOPTED: November 25, 2008

CERTIFICATE

Record of the roll-call vote by the City Council of the City of Harrisonburg, Virginia, upon reading on a resolution titled "RESOLUTION APPROVING THE ISSUANCE BY THE HARRISONBURG REDEVELOPMENT AND HOUSING AUTHORITY OF ITS TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS FOR THE ACQUISITION AND REHABILITATION OF THE APPROXIMATELY 83-UNIT RIVERWOOD APARTMENTS MULTIFAMILY RESIDENTIAL RENTAL HOUSING PROJECT LOCATED IN THE TOWN OF COLONIAL BEACH, VIRGINIA," taken at a regular meeting of the City Council held on November 25, 2008:

	AYE	NAY	ABSTAIN	ABSENT
Rodney L. Eagle, Mayor	X			
George W. Pace, Vice-Mayor	X			
Carolyn W. Frank	X			
Charles R. Chenault			X	
Ted Byrd	X			

Dated: November 25, 2008

[SEAL]

Mayor, City of Harrisonburg, Virginia

ATTEST: _____
Clerk, City Council of City of
Harrisonburg, Virginia

Steve Heitz, an attorney representing the Harrisonburg Redevelopment and Housing Authority, explained that this financing would be through the Harrisonburg Redevelopment and Housing Authority, to authorize the sale of tax exempt bonds for a project in Colonial Beach. The HRHA Executive Board has held a public hearing and reviewed and approved the resolution. The bonds will not be a debt or obligation of the City. Vice-Mayor Pace offered a motion to approve this resolution. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Byrd
 Council Member Frank
 Vice-Mayor Pace
 Mayor Eagle

Abstained - Council Member Chenault

Absent – None

The next item of business was a presentation by Eddie Bumbaugh, Executive Director of Harrisonburg Downtown Renaissance (HDR), who gave an update of the progress and accomplishments of HDR. Mr. Bumbaugh announced that approximately 20 people from the Town of Martinsville will be visiting Harrisonburg on January 26th to see the City's revitalization progress. HDR, Virginia Main Street Monitor, and the Virginia Downtown Development Association will be hosting a conference in Harrisonburg in May 2009. Mr. Bumbaugh reviewed projects receiving Façade Enhancements grants, several new businesses and restaurants, and renovation projects in the downtown area. The Merchants of Historic Downtown Harrisonburg thanked Council for its support for the streetscape project. Mr. Bumbaugh suggested that the "grassy area across from the Daily News-Record building" should have an official name for the park.

Kris Ludwig, Special Events Manager of HDR, reviewed information regarding events that occurred during the last several months. Vice-Mayor Pace offered a motion to approve a request from First Night Harrisonburg for street closure and fire works on December 31, 2008. The motion was seconded by Council Member Frank and approved with a unanimous vote of Council.

Jessica Chase, Program Manager/Downtown Parking Services of HDR, reviewed information regarding downtown parking and adding approximately 50 parking spaces to the roof of the Water Street Parking Deck.

Josie Showalter, Manager of the Harrisonburg Farmers Market and representing the board, expressed deep gratitude for the amazing support from the City for the Turner Pavilion project.

The next item of business was a request for approval of a Dance Hall at 2241 South Main Street. Assistant City Manager Vass said that this request was originally tabled during a regular council meeting held on July 22, 2008 until two issues (adequate seating provided and delineation of dancing area) were satisfactorily addressed and a re-inspection was completed by the Harrisonburg Police Department. A re-inspection by HPD found the two issues to have been addressed by the applicant. Vice-Mayor Pace offered a motion to approve a Dance Hall permit for Pupuseria y Restaurant Sonia located at 2241 South Main Street. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Fire Chief Shifflett presented a request for the Fire Department. Chief Shifflett reviewed the breakdown of the funds from last year's budget, grant funds, and funds for the Community Alerting System study into the Fire Department budget. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$ 2,086.00 chge. to: 1000-32512 Fire Programs Fund
164,807.70 chge. to: 1000-31010 Amount from Fund Balance
50,000.00 chge. to: 1000-33534 Haz Mat Grant

\$ 68,784.75 approp. to: 1000-320232-48203 Fire Programs Fund
50,784.75 approp. to: 1000-350532-48113 Equipment
45,820.04 approp. to: 1000-320132-48151 Motor Vehicles & Equipment
44,288.91 approp. to: 1000-320532-46155 Two for Life
8,000.00 approp. to: 1000-320132-43100 Professional Services

The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Police Chief Harper presented a request for a supplemental appropriation for the Police Department. These funds were reimbursed by a Division of Motor Vehicles Grant (Click it or Ticket) and will be used for overtime. Council Member Chenault offered a motion to approve this request for a first reading, and that:

\$3,723.30 chge. to: 1000-33524 DMV Federal grant

\$3,723.30 approp. to: 1000-310631-41020 Salaries/wages OT

The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

City Manager Hodgen presented the following resolution for Council's consideration of approval.

**A Resolution for Drinking Water Resource Management
for the George Washington Forest Management Plan**

WHEREAS, the U.S. Forest Service is in the process of revising its 1993 Land and Resource Management Plan for the George Washington National Forest; and

WHEREAS, the U.S. Forest Service's agency-wide strategic plan seeks to achieve six goals, including "Improve watershed condition"; and

WHEREAS, the provision of clean, safe drinking water is one of the primary benefits that the George Washington National Forest provides to the communities that surround it; and

WHEREAS, approximately 44 percent of the land in the George Washington National Forest lies within watersheds that provide public drinking water to more than 260,000 Virginia residents in 22 adjacent communities, by means of reservoirs and surface waters; and

WHEREAS, drinking water sources within the George Washington National Forest serve an estimated 52,635 residents in the City of Harrisonburg and Rockingham County; and

WHEREAS, the watersheds of the five reservoirs in the George Washington National Forest include the Switzer Lake Reservoir, which serves the City of Harrisonburg and some Rockingham County residents; and

WHEREAS, the greatest threats to water quality within the George Washington National Forest are ground disturbing activities, such as timber harvesting and road construction, which result in erosion and sedimentation; and

WHEREAS, under the 1993 George Washington National Forest Management Plan most of the land in drinking water reservoirs watersheds (72 percent) is managed without ground disturbing activities and the U.S. Forest Service reports that water quality in the reservoir watersheds is substantially better than in surface watersheds in other parts of the George Washington National Forest; and

WHEREAS, the 1993 George Washington National Forest Management Plan permits ground disturbing activities on most of the land (64 percent) in surface watersheds that provide drinking water through river intakes.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Harrisonburg, Virginia does hereby support the following revisions to the George Washington National Forest Management Plan to ensure the quality and quantity of drinking water sources within the forest boundaries:

1. The U.S. Forest Service shall formally identify all the drinking watersheds serving reservoir and surface water resources within the George Washington National Forest.
2. The U.S. Forest Service shall establish management objectives that encompass the health of the entire drinking watershed, in order to ensure that conditions within the watershed will maintain, protect and enhance drinking water quality.
3. The U.S. Forest Service shall gather more information to describe and assess watershed conditions; develop a plan to systematically monitor water resource programs and obtain all data pertinent to water quality and watershed conditions, in cooperation with other agencies, organizations, local communities and volunteers.
4. The U.S. Forest Service shall seek to communicate more effectively with the localities that obtain drinking water from sources within the George Washington National Forest in order to ensure that the drinking watersheds are managed effectively, appropriately and for the public good.
5. The U.S. Forest Service shall work with local communities, agencies and the larger public to establish policies and develop management plans for the drinking watersheds to permanently maintain, protect and enhance drinking water quality.

ADOPTED THIS 25th DAY OF NOVEMBER, 2008.

BY: _____
Rodney L. Eagle, Mayor

ATTEST: _____
Yvonne H. Ryan, MMC, City Clerk

City Manager Hodgen said that the U.S. Forest Service is currently in the process of revising its 1993 Land and Resource Management Plan for the George Washington National Forest. The City has been asked to consider supporting a resolution that emphasizes the identification and protection of all drinking watersheds within the George Washington National Forest area and the maintenance of open communications between localities, the general public and the Forest Service throughout the revision process. Council Member Chenault offered a motion to adopt the resolution. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Council Member Chenault offered a motion to cancel the December 23rd Council meeting. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Council Member Frank offered a motion to approve a temporary modification of Section 13-1-60.01 of the Harrisonburg City Code by adding November 29, December 6 and December 13 to the days that are exempt from the provisions of residential permit parking. December 6 and December 13 are contingent upon JMU winning the playoff games. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Council Member Chenault offered a motion that Morgan McComas be re-appointed to a term on the Central Shenandoah Emergency Medical Services Council to expire November 22, 2011. The motion was seconded by Vice-Mayor Pace and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

At 8:06 p.m., Council Member Chenault offered a motion that Council enter into a closed session for discussion and consideration of the acquisition and disposition of real estate to be used for public purposes, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault

Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

At 9:00 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirement pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed, or considered in the closed session by the City Council.

Council Member Frank offered a motion that Alan P. Finks, 1133 Bluebird Court, be re-appointed to a second term on the Harrisonburg Planning Commission to expire on December 31, 2012. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

Council Member Frank offered a motion that William L. Jones, Jr., 94 Laurel Street, be re-appointed to a second term on the Harrisonburg Planning Commission to expire on December 31, 2012. The motion was seconded by Council Member Chenault and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault
Council Member Frank
Vice-Mayor Pace
Council Member Byrd
Mayor Eagle

Absent – None

At 9:04 p.m., there being no further business and on motion adopted, the meeting was adjourned.

CITY CLERK

MAYOR

