

**MINUTES
CITY OF FORT COLLINS
AFFORDABLE HOUSING BOARD**

Date: Thursday, January 7, 2016
Location: CIC Room, City Hall, 300 Laporte Ave.
Time: 4:00–6:00pm

For Reference

Troy Jones, Chair
Ray Martinez, Council Liaison
Sue Beck-Ferkiss, Staff Liaison 970-221-6753

Board Members Present

Jeffrey Johnson
Diane Cohn
Terence Hoaglund
Curt Lyons
Jennifer Bray
Kristin Fritz

Board Members Absent

Eloise Emery

Staff Present

Sue Beck-Ferkiss, Social Sustainability Specialist
Dianne Tjalkens, Administrative Clerk/Board Support
Ginny Sawyer, Policy & Project Manager
Ingrid Decker, Senior Assistant City Attorney
Beth Rosen, Affordable Housing Program Administrator

Guests

Marilyn Heller, League of Women Voters
Chadrick Martinez, Fort Collins Housing Authority

Call to order: Diane Cohn called to order at 4:03pm.

New Member Introductions: Jen Bray is a lender for Cornerstone Home Lending. She works with affordable housing programs and has a background in HOA management. Kristin Fritz is with Fort Collins Housing Authority and does project management for the development department. She has a background in city planning.

Agenda Review: Ingrid Decker will address conflict of interest issues for board members. FCHA will discuss a property that has covenants they would like released.

Ingrid Decker: Ingrid works with Real Estate and Social Sustainability departments. Thought that board members would like to discuss potential for conflict of interest with having a member who is an employee of FCHA. She provided copies of section of boards and commissions manual that has checklist to consider and copy of disclosure statement if a member feels s/he has a conflict of interest. City Charter section was provided as well. Board members are selected to represent all members of the city, not personal, business, or nonprofit interests—same ethical obligations as councilmembers. Charter provisions say anyone with financial or personal interest shall disclose such interest and will refrain from voting or participating in decisions on that issue. Ingrid provided

definitions for financial interest. An exception is when there is a financial benefit for a business the board member works for, but s/he will not personally benefit as a result. Another exception is when member serves on board of a nonprofit or other organization and will not directly receive a financial benefit. Personal interest is more complicated—interests other than financial. Will a board member get a benefit or detriment that is different than how it will affect the community? Examples: project will block the view of your home, employer will treat you differently as a result of a decision your board made, you live close to the new project and will have personal benefit, etc. Ingrid provided City Code provisions on ethics regarding this topic. Board members are encouraged to call Ingrid with questions. Ethics Committee can also consider hypothetical situations and provide recommendations.

- Jeff: If you recuse yourself, can you stay in the room or make comment?
 - Ingrid: Because asked not to have any influence, typically asked to leave the room.
- Kristin: Should there be discussion in advance?
 - Ingrid: Fill out conflict of interest disclosure statement and file with City Clerk in advance. If realize conflict during meeting, recuse self and file form after the fact.
- Terence: CDBG rankings have had a conflict. Usually skip that meeting.
 - Sue: That one is clear because you work for them.
 - Terence: But if they have a new project not working on, still recuse self?
 - Ingrid: Only if feel have a personal conflict. Sometimes people will recuse selves without formal conflict of interest to avoid perception of impropriety.
 - Diane: Kristin will not get personal financial gain from CDBG rankings.
 - Kristin: If awarded project, don't receive any personal benefit. Would recuse herself from rankings anyway.
 - Ingrid: Professional benefit is a personal benefit.
 - Terence: This board does not have final say on funding. Does that change the outcome?
 - Ingrid: Giving recommendation to Council and has potential to sway Council's vote.
 - Kristin: Perception of conflict is almost as powerful as actual conflict.
 - Ingrid: As long as disclose, be transparent, should work well.
- Jeff: Sometimes the board chooses to write a recommendation after a discussion, such as Rental Licensing. Own rental units, so unsure about contributing to conversation.
 - Ingrid: Tough call. Potential to influence the discussion in a way that would influence Council and have a personal benefit or detriment.
 - Ginny: But for staff it is important to have input from owners.
 - Ingrid: Be clear with disclosure. And recuse self from the vote and all discussion that influences the vote.
 - Sue: if there is an issue like that, can ask the presenter whether they will be requesting a recommendation.
 - Kristin: Value in hearing the discussion.
 - Diane: Want people who represent that constituency if we are truly a board that represents the people.
 - Ingrid: If know this public body will be asked to take a position, don't influence that. Different if getting information and having a discussion.

Public Comment: Marilyn Heller, League of Women Voters—April 11 tentative date for Thinking Outside the Box—Affordable Housing Options conversation to include tiny homes, shared housing, and Village to Village model.

Review and Approval of Minutes

Jeff moved to approve the December minutes as presented. Terence seconded.
Motion passed, 4-0-2. Kristin and Jennifer abstained.

AGENDA ITEM 1: Rental Licensing—Ginny Sawyer

In upcoming Work Session will determine desired outcomes for Rental Licensing. Rentals represent about 45% of housing unit inventory. Looking at peer cities with optional rental licensing programs. Programs have been designed to address substandard housing. Most programs have gone through changes since implementation. Have rental housing standards and one dedicated inspector for complaints. Any tenant can call to request an inspection at any time. Inspector will contact landlord and may or may not do an onsite inspection. Also looked at code compliance such as weeds, trash, etc. Slightly higher complaints against rental units. Public nuisance (mostly noise complaints) are higher for rentals. Rental housing mediations make up a large percentage of mediation cases. Showed a map of concentration of owner-occupied units across city. Also showed map of code compliance violations (nuisance) and have large concentration of violations at rentals near the university, but city-wide not a large difference between owner occupied and rental. Public nuisance ordinance cases are mostly rentals and concentrated around the university. Staff is using a matrix that includes staffing resources required for programming, fee structures, inspection cycles, and other components for comparing peer city programs.

Comments/Q&A

- Diane: Rental Licensing came out of Council?
 - Ginny: Came up at their retreat last year. Couched in a neighborhood livability piece. May have been an idea to use the fees to fund affordable housing, but that would have to be a tax and go to voters. Fees from this program would go to pay for the program. An occupation tax is actually a fee. We have an alcohol occupation tax. Attorneys have provided memos to Council on this topic.
 - Terence: what is Council trying to achieve with this program?
 - Ginny: Uncertain. Would guess housing safety.
 - Terence: Wouldn't solve problems that are already there.
 - Ginny: Over ten year period since it first came up have developed programs to create neighborhood livability for all.
- Kristin: Can see this being used as a tool for developers to fight NIMBY. Also the City could say, "We license all our rentals," but what does it actually achieve?
- Diane: Would not encourage it being a fee for affordable housing. Cost will be passed on to tenant and defeats affordability.
- Jeff: Some other existing program could be tweaked to be more effective than developing a new one. Someone must have something they want to accomplish with this. There may be another way to achieve the same goal through an existing program.
 - Ginny: Will be doing public outreach.
- Do some cities exempt affordable housing providers from fees?
 - Ginny: Yes.
 - Jeff: If exempt from licensing, are there still inspections?
 - Ginny: Relying on that HUD approved or inspected through other methods.
- Jeff: Work Session agenda item says Rental Licensing Fee versus Tax.
 - Curt: What is difference?
 - Ginny: Tax has to be approved by voters. Can be held for a particular purpose. A fee goes into general fund and covers staff time.

Short Term Rentals/Airbnb

Will have public open house February 4. Looking at types of housing and potential regulations. One type is owner occupied and renting extra space such as a room, carriage house, or adjacent property. Would only have to pay tax. Because on site, owner can address issues. Talking to Airbnb and they may be willing to collect the taxes. If not primary residence, would have a registration system. May include off-street parking requirements. Addressing concerns of not having local contact, buying up of property by investors, and concentration in downtown. Permits would be revocable upon validated complaint. Could limit by zones. Many different scenarios. Will be seeking public input.

Comments/Q&A

- Kristin: This presumes no change in zoning, such as for carriage houses?
 - Ginny: Only potential change would be prohibiting in low density residential.
- Jeff: Concern is health, safety and nuisance?
 - Ginny: Concerns about safety, not knowing who is next door, and not appropriate in a residential neighborhood; also tax collection considerations. Can set parameters should it continue to grow. Best estimate is 0.5% of total housing stock between BRBO and Airbnb. Examples: People might do one-time rental for special events that bring in a lot of visitors, or may do it once and decide its too much trouble.
 - Jeff: State uses 30 day lease term for licensing.
 - Ginny: Using 30 days to determine whether need to pay taxes.
 - Jeff: Look into state licensing.

ACTION ITEMS: Ginny will return with updates. Press release for open house will be forthcoming.

AGENDA ITEM 2: 2016 Planning

Elections

Jeff Johnson was nominated for chair and Diane Cohn was nominated for Vice Chair in December meeting.

Jeffrey Johnson was elected as Chair of the Affordable Housing Board for 2016. Motion passed unanimously, 6-0-0.

Diane Cohn was elected as Vice Chair of the Affordable Housing Board for 2016. Motion passed unanimously, 6-0-0.

AGENDA ITEM 3: 2016 Work Plan for the Affordable Housing Board

Jeff made some edits to the Work Plan, including writing out the strategies, adding mobile homes, moving advocating funding to another section, and adding citations back to the AHSP.

Comments/Q&A

- Diane: Clarifies some things. Doesn't add too much bulk.
- Terence: Do not like exploring remedies to state level construction defects law.
 - Sue: Council is considering a local ordinance to create pressure for changes at state level.
 - Jeff: Can take out of the Work Plan. It is in strategy.
 - Kristin: Exploring remedies may not be correct term, but perhaps making recommendations to Council on remedies presented.
 - Jeff: Change verbiage to "monitor." Changes level of responsibility.

- Board agreed to changes.
- Sue: Liaison assignments are generally recorded in the Work Plan, but have new members. Should begin thinking about who will liaison.
 - Diane: Do not have to attend all meetings.
 - Sue: Monitor minutes and bring pertinent information to the board.

Terence moved to approve the 2016 Work Plan minutes as amended. Curt seconded.
Motion passed unanimously, 6-0-0.

ACTION ITEMS: Sue will submit Work Plan to City Clerk's Office

AGENDA ITEM 4: 2015 Annual Report

Annual Report summarizes what happened throughout 2015. Sue drafted based on minutes, recommendations and memos from the year.

ACTION ITEMS: Board agreed to vote on this document at February meeting.

AGENDA ITEM 6: Other Business

Council Comments Planning

- February or March: Fee Rebalancing/Recalibration—Curt

Chadrick Martinez—Request to release restrictions on units.

(Note: Kristin Fritz recused herself from this discussion)

- Sue: Two units with \$31K investment of CDBG, covenant expires in 2023.
- Chadrick: Looking for support from board as move forward on the sale of this property.
- Beth: Would be an ordinance to release the covenant. Board's support would be to Council regarding the ordinance.

Chadrick showed the house and duplex on the property. Great location, but challenging layout. Have been looking to liquidate the house for some time. Near Whitcomb and Cherry. Considered redeveloping property, but couldn't get much density. Adjacent property subdivided. The house has sold and the owner wants to gather property that is currently used as a garden. Behind house is a tree lot City uses to grow trees for distribution throughout city. Looking to bundle properties to sell. Buyer has gone through conceptual review for detached garage and leaving units for rentals. If keeping as rental property, could continue to manage until end of covenant. However, now moving forward under assumption that if sold would have to return proceeds to the City and get the restricted covenant removed. Requesting support of release of covenant. Would replenish City investment in property.

- Sue: City requires 20 years on any investment. Property has 8 years left. Invested CDBG dollars into renovation of duplex.
- Jeff: Does replenishment come into general fund?
 - Beth: It was a grant in exchange for 20 years of affordability.
- Curt: So sell at market rate and give City \$31K?
 - Chadrick: Yes. Would remove aging property. Lacks economy of scale. High cost to manage. Dollars would be reinvested into affordable housing in the community. Anticipate, based on leveraging, would get \$6 for every \$1 of sale proceeds. Have seven years left on covenant. If money reused for affordable housing, new property would have 20 year deed restriction.

- Diane: Do people live in these units?
 - Chadrick: Two are vacant. One has a housing choice voucher. Would leave this person in until lease expires.
- Curt: Owner on Whitcomb who is proposing to buy lot?
 - Chadrick: Yes.
 - Beth: Was part of a larger rehab grant that went to multiple properties. \$30,100 went into this property.
- Jeff: Money back to city? Earmarked?
 - Beth: Back to CDBG.
 - Diane: Other proceeds from sale will go into housing?
 - Chadrick: Yes. Could go into Horsetooth or another project that is on the drawing board, such as VOCC.
 - Diane: VOCC is not additional units. That is rehab.
 - Chadrick: VOCC would be maintaining units as it was in danger of being sold off.
- Jen: Precedent for this type of sale?
 - Beth: Long complicated history. Under City code only way to release is through City Council. FCHA must request to repay grant in exchange for release. For property at Linden, \$8K grant repayment and property was in River District Redevelopment Plan.
 - Sue: Staff has not had time to make a recommendation.
 - Chadrick: Initially thought best way to go was to protect covenant. But purchaser does not want to take on covenant.
 - Sue: This is request of private property owner to purchase units in the Villages portfolio.
- Jeff: FCHA went through process with HUD to look at properties to divest. This property was not included.
 - Chadrick: That was public housing units portfolio. Proceeds of those sales are going into Villages and earmarked for Horsetooth.
 - Curt: FCHA wants to get out of single family units.
 - Chadrick: Inefficient. Density is best for economy of scale. Have made that move on the Housing Authority side. Don't receive enough benefit from HUD to keep operational. HUD was giving \$1000 per year for improvements to a single family home.
- Curt: City gets its money back.
 - Diane: But the city loses 3 units.
 - Chadrick: One could be sold market rate. So city loses two.
 - Sue: All three counted in affordable housing total units.
- Diane: Going to lose more money if keep for seven years?
 - Chadrick: one is being subsidized by other projects. Duplex breaks even due to housing choice voucher.
- Terence: Concern is about losing affordable single family homes. No one else is picking them up. All going into multifamily.
 - Curt: That is a bigger issue to discuss later.
- Sue: Board can decide to make a recommendation or not.
- Beth: Council should hear this and make a decision. They will expect that a presentation was given to AHB. Staff will meet to determine staff position. Beth has questions about alignment to AHSP. Looking from a different lens. Can take an ordinance request to Council even if staff does not recommend. Ordinances take two readings: February 2 and 16. Then 10 days to take effect.

- Chadrick: Currently bound by covenant. If Council decision doesn't go in their favor, will retain asset. Hard to sustain these types of properties.
 - Jen: Underperforming because of deterioration?
 - Chadrick: House has odd layout so hard to keep leased. Duplex lease can be maintained but subsidized.
- Diane: Why not wait?
 - Chadrick: Have opportunity with a buyer now. Market is good. In long term will happen anyway.
 - Curt: And two of three are vacant now.
- Diane: Does the board want to make a recommendation?
 - Jeff: Uncomfortable making a recommendation without staff recommendation. Could present recommendation to Council in February.
- Terence: Inclined to support request. Bigger issue need to start tackling.
 - Jen: If all we have to offer for single family homes is deteriorating old homes, sad state.
 - Curt: Bigger issue is affordability for single family residential. Don't feel have enough information to make a recommendation.
 - Jeff: Hesitation. From business judgment perspective, respect FCHA. Apprehensive of vacating a covenant by ordinance, even when City has received 13 years of value and gets all its money back, seems good/solid. But bigger issue is that ordinance is giving up affordability. Reluctant to do that without more information. Want a staff report.
- Curt: \$31,100 is full amount, not prorated.
 - Beth: Correct. Similar to violation of contract.
 - Jeff: Contract buy-out. Happens all the time. Value is given when return 100%, and value was received in 13 years. Precedent for accepting a buy-out on grant funded property.
 - Sue: Price?
 - Chadrick: \$550K. The house can be sold now. It is a problematic property.
 - Jen: What happens to single family home if duplex covenant not released?
 - Chadrick: Will be sold.
- Terence: How many of this type left in the portfolio?
 - Chadrick: Not familiar enough with Villages portfolio. Not many. A lot of deferred maintenance.

Terence moved to approve the FCHA request to support the ordinance to Council to vacate the covenant on these properties in exchange for return of the grant funds, based on the unique circumstances of this deal. Jen seconded.

Terence tabled the motion until the February meeting.

Discussion Regarding Motion

- Sue: Can say based on unique circumstances of this deal, support the release of the covenant.
- Jeff: No projects in dire need of this financing?
 - Chadrick: Could have decline in equity of Horsetooth property, so could use it for that development.
 - Curt: \$1M based on leveraging?

- Chadrick: Yes. Deferred developer fees, CDBG, HOME, etc. Usually a leverage of \$10-11 in deals with City. Take a nonperforming asset and make perform in another venue and increase units.
- Diane: Only objection is timing. Don't feel we have time to vet properly.
 - Beth: Alternate timeline is pushing everything back a month, taking it to Council in March.
 - Diane: Would that affect the sale?
 - Chadrick: That is always the risk.
 - Sue: Closing date has to move anyway because was planned for January.
 - Chadrick: Have been going through this process for some time so not really pressurized.
 - Beth: Buyer already owns home on Whitcomb. Delays taking ownership.
- Jeff: Support FCHA in general. But cannot support motion now.
- Curt: FCHA is going to sell these properties either now or in seven years. The outcome will not change, just buying time.

ACTION ITEMS: Beth Rosen to present at February meeting.
 Board requests staff recommendation.
 Board requests additional information from FCHA.

Open Board Discussion

- None.

Liaison Reports

- None.

Announcements

City cosponsoring regional conversation on affordable housing February 26, 8:00-10:30am, at The Ranch. Hoping board members can attend and help with programming.

Review of City Council 6 Month Agenda Planning Calendar/Future Agenda Items

- Request update on the mall housing agreement in February.
 - Sue: There is no affordable housing and will be no payments. No citywide fee was imposed.
 - Curt: Would like to hear more about the decision process.

ACTION ITEM: Sue will ask EHO for a memo, or draft one herself.

Meeting Adjourned: 6:16pm

Next Meeting: February 4