

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

Date: Thursday, March 3, 2016
Location: CIC Room, City Hall, 300 Laporte Ave.
Time: 4:00–6:00pm

For Reference

Jeff Johnson, Chair
Ray Martinez, Council Liaison
Sue Beck-Ferkiss, Staff Liaison 970-221-6753

Board Members Present

Jeffrey Johnson, Chair
Eloise Emery
Diane Cohn
Terence Hoaglund
Curt Lyons
Jennifer Bray
Kristin Fritz

Board Members Absent

Staff Present

Sue Beck-Ferkiss, Social Sustainability Specialist
Dianne Tjalkens, Administrative Clerk/Board Support

Staff Absent

Guests

Marilyn Heller, League of Women Voters

Call to order: Jeffrey Johnson called to order at 4:02pm.

Agenda Review: Jeff proposed adding new business item to discuss construction defect ordinance. First reading passed Tuesday night. Second reading is March 15.

Public Comment: Marilyn Heller provided flyers for the League of Women Voters forum on affordable housing. Would like City Council, staff, and board members to attend.

Review and Approval of Minutes

Curt moved to approve the February minutes as amended. Diane seconded.
Motion passed, 6-0-1. Eloise abstained as she was not in attendance in February.
Corrections: Last page, remove line on discussing liaison assignments at next meeting.
Action Item under Agenda Item 4, change to Kristin will present the spreadsheet at a future meeting.

AGENDA ITEM 1: Land Bank Program AMI Change Request

Ordinance passed in 2001 and language has not yet been changed. Original language has served well in acquiring properties, but haven't had chance to test disposition language until now. Staff will do

holistic review of entire program this year. Looking at one provision right now: to provide housing for households at or below 50% AMI. Staff is considering asking Council to consider changing this section. Would amend language to add up to 60% AMI so long as development has overall average of 50% AMI. This section is related to rental only. Learned through Horsetooth RFP process that AMI level makes a difference in how the property can be deployed. FCHA provided three options and City has agreed third is best option. Land cost varies dramatically between three options. Target AMI in first 2 options complied with language in ordinance. Going up to 60% increases equity, amount that can be paid for the land, and reduces gap financing needed. Purpose of land bank is to recycle funds into future acquisition. This option would allow \$1M going back into land bank program. With a little flexibility, can get a deal that is better for the overall program. Staff is recommending the ordinance be passed for three reasons: mixed income is a better way to provide housing, 60% aligns to Low Income Tax Credit program funding, and stays true to purpose of the program.

Comments/Q&A

- Jeff: Why not 80% AMI? Code for affordable housing goes to 80%.
 - Sue: Land bank program designed to serve lowest wage earners. Heard complaints that 60% for ownership may not be appropriate.
- Kristin: Does not preclude from getting more flexible in the future?
 - Sue: Learned that this income range is too tight. Believe if good for this deal, will be better for future developments as well. May or may not deploy another small parcel before look at holistic change. If deployed another parcel, would like this change to apply to it as well. In holistic view will look at larger parcels—would like more creativity, to allow for mixed use and mixed income.
 - Kristin: 60% AMI is so far below market that still serving greatest need.
 - Sue: In 2001 market rate and affordable matched up at about 60%. Now meeting at 80% AMI.
- Jen: How do you ensure overall stays below 60%?
- Sue: Due to regulations, developer must disclose mix. Proposing 43 units at 0-30% AMI and 52 units 60% AMI, with one managers units, totaling 96 units.
- Kristin: Why not change ordinance to just be up to 60%?
 - Sue: This would not change the standard set in the original ordinance, just how it is interpreted. First step.
- Diane: Makes sense to revisit this language. Different time and market. No problem looking at entire ordinance to completely revisit. Maybe should look at proposals differently as they come through the competitive process? Land bank has to be considered differently than other affordable housing projects.
 - Sue: Affordable housing program (AHP) is designed for up to 80%. Land bank is a subset of the AHP, with stricter parameters. Usually developer has to do market study to see if funders will approve. This project may not come through the competitive process.
 - Kristin: There is benefit to a project being built without the use of CDBG funds, means there is more funding available for other projects.
- Diane: Land dollars going back to land bank makes a big difference in how the deal breaks out.
 - Sue: In option 2 there is no payment for the land. Will consider the gap between purchase price and appraised value as City contribution.
- Diane: What is RAD?
 - Kristin: HUD's rental assistance demonstration program. Across country housing authorities are moving away from "public housing"—the funding for those assets has gone down while the ongoing maintenance has gone up. Federal government is

looking at millions in deferred maintenance costs. For a while the federal government plan was to sell the units and replace with vouchers. But that had challenges so came out with RAD. FCHA has single family homes, historic homes, and duplexes in public housing stock. RAD allows FCHA to sell units and move families to specific units, while the public housing subsidy is converted to a voucher. Once a unit has a RAD voucher in it is designated RAD forever. Family's rent does not change and all moving costs are paid for. Payment standard of RAD voucher is less than 30% AMI unit. Offset with proceeds of sale of units to pay down debt to reduce costs. Extremely complicated program. Every community is doing it differently, so review process is long and complicated. Moving people into newer, healthier, more efficient units.

- Diane: Can RAD money go into existing units?
 - Kristin: Yes. FCHA public housing portfolio is almost all people at or below 30% AMI.
 - Sue: Good program. Deploying vouchers is hard right now. Within portfolio, FCHA makes sure residents are housed. After two years voucher becomes portable so if don't like the unit they can move.
 - Kristin: Beneficial to resident because portable vouchers have a long wait list.
- Kristin: Don't feel that just changing to 60% AMI is a significant change to the ordinance. May still be challenges for future deployment at 60% with 50% average. Serving 30% is very difficult.
 - Sue: Need additional process before asking Council to make deeper changes to the ordinance.
 - Jeff: Proposed ordinance applies to more than Horsetooth property and is consistent with Horsetooth agreement.
- Jen: What happens if we make changes to the ordinance today and the market changes to be more similar to 2001?
 - Sue: New ordinance would have effective date and be in effect until it is changed.
 - Diane: Don't want to pick it apart and make one change at a time. Comfortable supporting proposal, so long as don't have more changes coming along soon.
 - Sue: Don't anticipate that. Revisiting the land bank program has been on the board work plan for a long time. First time using the criteria for a development and finding constrictions.
- Kristin: Timeline?
 - Sue: Going to Council March 15. If board wants to make recommendation can be added.
 - Eloise: What if Council brings up same question as Diane?
 - Sue: It is on consent right now. Staff is committed to reviewing the whole program this year, but does not want to hold up this development in the meantime. This is a positive change that could impact Kechter if it is deployed.
 - Eloise: How does this relate to HAPS?
 - Sue: This and AHSP speak to land bank, but don't address specific AMI levels. Public input did, though, especially on ownership.
- Terence: Agree with what is being done. If move to 60% across the board, it requires more vetting and input.
 - Curt: And this allows option 3, which is the best option financially.
 - Sue: Part of timeline is to give the developer more certainty.

Eloise moved to approve the recommended changes to the Land Bank Program ordinance, to allow rental up to 60% AMI, so long as development remains at an average of 50% AMI. Diane seconded. Motion passed unanimously, 7-0-0.

AGENDA ITEM 2: Competitive Process

Members received login credentials via email today. March 24 is scheduled ranking meeting. Jeff cannot attend the ranking meeting—he intends to submit written comments to the AHB. Kristin will recuse herself from the ranking process. Jeff and/or Diane will attend the meeting to provide AHB rankings to the CDBG Commission.

Comments/Q&A

- Jeff: Opportunities to ask questions?
 - Sue: Members can send questions to Sue or Sharon. Sharon will send to applicant and feed out written responses to the AHB and CDBG Commission.
- Jen: Recommended to attend CDBG meeting on 22nd?
 - Sue: There will be video available as well. Not mandatory to see the presentations, but it is very helpful.
- Jeff: Recommend consolidating questions, rather than sending multiple emails.
 - Diane: Would make sense to share questions with AHB members as well.
- Sue: AHSP should give guidance.
 - Diane: Note that objectives are not prioritized

AGENDA ITEM 3: Construction Defects—Jeff Johnson

Construction defects law has been in front of state legislature for last 2 years. Many municipalities are adopting own ordinances. Was brought before Council Tuesday night on first reading. White paper included in Council packet, as well as complete ordinance. Passed 4-2. Second reading is March 15. Was brought to Council without board or public input. AHB has been discussing and supportive of relief of construction defect legislation. Those in development feel the current state law is allowing associations to bring lawsuit quickly against builders.

Components of ordinance:

- Violation of building code does not establish construction defect.
- Requirement that before an action is brought against developer must give notice to home owners about cost and implications, and be approved by majority of owners.
- Provision to make it improper to amend a covenant that includes ADR without consent of the declarant.

Comments/Q&A

- Jen: Sticking point is not the ordinance but the number of people required to approve litigation. Some Councilmembers wanted to lower to 33% from simple majority, while one Councilman wanted it raised to 67%.
- Sue: Board has been pushing for resolution of this problem. Many cities are applying pressure to state legislators by passing local laws.
- Kristin: What was impetus to bring to Council outside of typical City process?
 - Sue: She had requested that the staff member who presented keep the board appraised.
 - Jeff: Have been other fast-tracked items. Appropriate for AHB to send a memo.
 - Sue: Can email to City leaders or put in packet.

- Eloise: Support 33% because more realistic.
 - Jeff: Prefer 50% because negative impacts on entire community when have litigation. If can't get that many people to agree, prevents unnecessary lawsuits.
 - Sue: Right now only 2 can form a class action lawsuit, then other owners can't sell.
 - Kristin: Wonder what percent is the tipping point where developers will feel safe doing construction of this product type?
- Terence: Wonder at impact on cost of insurance of this ordinance. Currently cost of insurance is prohibitive.
 - Sue: Current work-around is WRAP insurance—expensive and administratively difficult.
- Eloise: problem should be so egregious that affecting everyone.
 - Jeff: If minority creates issue that prevents you from selling your home, is that fair?
 - Diane: Original intent was to protect buyers from poor product.
 - Jen: When you need majority, encourages alternative dispute resolution. With current code, should be built correctly.
 - Sue: Ex: shifting soils.
 - Kristin: This market is getting known for that issue, so more mitigation being put in place.
 - Sue: Engineering around that.
 - Terence: becoming more expensive to build due to this.
- Jeff presented draft language for a board motion.

Discussion Regarding Motion:

- Curt: Suggest this ordinance addresses increasing inventory through condominium units.
 - Diane: This is specific to first time homebuyers. Part of the problem is move-up property.
 - Sue: Heard that new condos in Old Town are \$1M.
- Curt: Insurance costs are prohibitive for builders. Will costs come down if this passes?
 - Jeff: WRAP products are very expensive. Needs to be a statewide solution.
 - Kristin: No harm in making it better for Fort Collins with this ordinance.
 - Jeff: Housing prices will continue to rise in areas with a GMA.
- Kristin: Is this similar to ones other communities have adopted?
 - Jen: Modelled on Denver.
- Diane: AHSP says goal is improving affordable homeownership opportunities. Implementing actions that address our strategic plan. Would also like to convey that AHB has been discussing this issue, and has acknowledged this as a barrier to affordable housing, for a long time.
- Jen: Volunteer to attend Council meeting to give public comment.
- Diane: Include GMA discussion?
 - Jeff: Addresses possible home rule issues and uses language from the white paper.

Jeff moved the following:

The AHB support Ordinance No. 030, Regarding Adoption of a New Article VIII of Chapter 5 of the Code of the City of Fort Collins Involving the Establishment and Resolution of Construction Defects Claims, as in the best interest of the community since, in the option of the Board, the ordinance is calculated to increase the supply of housing inventory through the construction of condominium units, and other attached housing, as an affordable home ownership option. Affordable home ownership provides move up housing reducing the pressure on the home rental market. The City of Fort Collins has a limited growth management area so infill development with more density if appropriate to continue the supply of housing stock for our unique community. The Board also notes

that the Ordinance is consistent with the Affordable Housing Strategic Plan, and that the Board has monitored this issue for several years.
Jen seconded. Motion passed unanimously, 7-0-0.

ACTION ITEMS: Sue will provide Jen additional information on agenda for Council meeting.

AGENDA ITEM 4: Planning for 2016—Topics and Speakers

Cover memo has calendar. Next month will discuss Old Town plan and ADUs. Have many unscheduled items.

Comments/Q&A

- Diane: Request fee rebalancing be added to schedule.
 - Kristin: Board said that before we can make recommendations on fee rebalancing, members want to have a better understanding of what the fees are and how they work. There is no centralized way to access that information. The board may want to make a request to resolve that issue. A first step could be to look at what FCHA has compiled for its own use.
 - Sue: Certainty, timing, and equity issues. In past have had educational speakers interspersed with departments that need to present and request recommendations. Schedule as items come up? Sometimes get last minute requests.
- Diane: Agenda items should be based on action that moves strategic plan forward.
 - Eloise: Encourage more education.
 - Jeff: Suggest each board member bring one agenda item idea to next meeting.
- Jen: Attended last super board meeting. Downtown Plan—heard that residential is not being considered in plans, but focused on commercial and retail. Would like planners to present to have opportunity to help them keep loft spaces/units front of mind. Planners discussed mixed use—live/work/shop.
 - Sue: Have Old Town Plan on schedule.
- Jeff: Land Bank—is there someone from another community who could come speak on best practices?
 - Sue: Fort Collins uses land bank very differently from other communities. Others acquire brown field or other challenged properties, clean them up, and sell for development.
 - Jeff: We are buying land without available infrastructure.
 - Eloise: San Diego's land bank was similar. She will research.
 - Kristin: Denver had successful land bank done through a conservation.
 - Jeff: If doing comprehensive review of land bank this year, would like speakers on this topic.
 - Sue: Have a good land trust speaker. Will think about it more.
- Curt: Habitat and Neighbor to Neighbor. Have new members. Good to have providers present.

ACTION ITEMS: Eloise will research San Diego land bank program. Sue will look into speakers for this topic.

AGENDA ITEM 4: Other Business

Council Comments Planning

- March: Construction Defects—Jen

Update: Regional Conversation on Housing

Went very well. Had representatives from neighboring communities. Was a little heavy on speakers. Good news is Fort Collins seems to be turning a corner on income—trending up. Got many ideas from attendees. Have momentum. Starting the conversation and getting networking going. Had panel on success stories—Fort Collins said land bank and Loveland said fee waivers. Longmont talked about permanent supportive housing. Greeley had progressive ideas through URA and interest in innovative housing types. Water came up as universal issue. Construction defect as well. Interest in exploring a regional land trust.

- Curt: Woman from Colorado Springs was shocked at Fort Collins housing market. Also, housing affordability index is confusing.
 - Sue: Can ask Clint or Natalie to explain more.
- Sue: Greeley is a little lower in rent and sales, while Loveland and Longmont are closer to Fort Collins prices. Sales price won't make decision since basically the same—choices will be based on other issues. Getting people to see housing as a regional issue.
 - Kristin: FCHA representative said mayor commented that getting landlords to participate in voucher program was an issue. FCHA has hundreds of landlords.
 - Sue: Front Range Continuum of Care has project to get more landlords to accept housing choice vouchers. Is seen as a statewide problem. Michele from FCHA is in that group.
 - Kristin: Not one of the biggest issues, though.
 - Sue: Have heard from Greeley and Loveland that having trouble deploying vouchers. Some are close to market, but some are not.
 - Kristin: Many benefits to landlords who accept vouchers.

Liaison Reports

- Jen: Attended Board of Realtors meeting. They are against landlord licensing. They wondered at differences between short- and long-term rentals. Long-term is already addressed through lodging taxes.
 - Curt: How can you justify doing something for short-term rentals that you don't do for long-term?
 - Kristin: There is very little screening. For long-term you get to choose who you rent to. Neighborhoods are scared of short-term rentals.
 - Jen: Revolving door and mentality of get-away weekend.
- Terence: Building Code Review Board will start meeting soon. Will bring up issues of code creep and building permit timelines.

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

- Rental licensing
- Construction defects

Meeting Adjourned: 6:13pm

Next Meeting: April 7