

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

**Date:** Thursday, September 7, 2017  
**Location:** Community Room, 215 North Mason Street  
**Time:** 4:00-6:00pm

**For Reference**

Diane Cohn, Chair  
Ray Martinez, Council Liaison  
Sue Beck-Ferkiss, Staff Liaison 970-221-6753

**Board Members Present**

Eloise Emery  
Diane Cohn  
Jennifer Bray  
Curt Lyons  
Kristin Fritz

**Board Members Absent**

Jeffrey Johnson  
Catherine Costlow

**Staff Present**

Sue Beck-Ferkiss, Social Sustainability Specialist  
Beth Rosen, Affordable Housing Program Administrator  
Brittany Depew, Administrative Assistant/Board Support

**Guests**

Frank Lans

**Call to order:** 4:01

**Agenda Review:**

Diane: Add update about meeting with Taylor at CDBG commission Open Board Discussion.  
Sue: Hired new Grants Administrator, Adam Molzer, who previously worked at United Way, Ottercares and CSU. Starts September 25. There is a competitive process brainstorm already scheduled.

**Public Comment: Frank Lans**—Fort Collins resident for 12 years, recently became Community Manager at Legacy Senior Residences. Familiarizing self with various agencies dealing with housing and/or seniors.

Review and Approval of Minutes

Jennifer moved to approve the August minutes. Eloise seconded. Motion passed, 4-0-1. Kristin abstained.
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**AGENDA ITEM 1: Homebuyers Assistance and Deed Restrictions, Beth Rosen**

Beth is the Affordable Housing Administrator, oversees administration of HUD grants and affordable housing funds. All affordable housing restricted to 80% median gross annual income; income based on household size and includes all income sources.

**Programs:**

Homebuyer Assistance Program

The HBA program provides down payment and closing cost assistance to first time homebuyers—new homeowners or have not owned in 3+ years or going through separation/divorce. Maximum assistance is 6% of purchase price (up to \$15k). New maximum purchase price \$313k goes into effect October 1. Beth rarely works with households purchasing up to this price point, many looking in the \$250k range. Loan is deferred “due on sale” loan, not due until homeowner moves out, sells or seeks to remove equity from house. Property must remain primary residence. Deed of trust signed and notarized, goes into public record. Any transfer of title/sale will show loan against property. Pulling equity from home requires payback, refinancing to lower payment does not. Some people will refinance to pay off city debt and convert to rental property.

### Comments/Q&A

- Diane: What if they want to make upgrades to the home?
  - Beth: We refer them to the Larimer Homeownership Program, which may provide a third mortgage to be used for making repairs and upgrades. Anything that changes the value and affordability of the home can put the “affordable housing” status at risk.
- Diane: What does someone get out of this that is different than a loan from a bank?
  - Beth: They don’t pay on the loan amount, so it doesn’t factor into debt load. Does not compound interest, flat 5% rate. Would only be \$750 on \$15k loan. Biggest barrier for most first time homebuyers is saving the down payment up front. Closing costs and processing fees add up—waiting to save up a down payment often leads to people being priced out before they can afford anything.
- Beth: The Larimer Homeownership Program is different.
  - Jen: They do up to \$15k, 2% 10-year loan. If you max that out, it adds \$100/month to your payment. That can reduce someone’s purchasing power by about \$20k.
  - Diane: But that’s not available to Fort Collins residents?
    - Beth: It’s available within Larimer County but not within city of Fort Collins.
- Kristin: The HBA program is nice because it helps someone get into the market; they build equity and get a chance in the market they wouldn’t otherwise be in. A downside of the restricted covenant properties is not receiving the full benefit of appreciation.
  - Jen: With HBA, we’re often working with people on FHA loans. I work with many people who qualify but struggle to find properties they can afford. The 38% debt to income ratio is challenging.
- Diane: Median house price right now is about \$340k?
  - Beth: Which would require over \$10k down for a 3.5% loan.
  - Diane: That’s just not affordable for many people.
- Jen: I did 90 loans this year and only 13 were in Fort Collins. I saw a lot of benefit for people taking the homebuyer classes: lower interest rates and mortgage insurance, and can have lower credit scores without suffering rate hits.
  - Diane: Why are they not buying in Fort Collins?
  - Jen: They can’t afford it. Seller can choose not to accept FHA loans or low down payments.
  - Beth: There are many properties being bought by investors paying cash.
  - Sue: Sellers are getting so many offers that buyers will put in 6-8 offers and not have an offer accepted.

### Provincetowne

Only property where city has this type of ownership interest in the development of an affordable housing neighborhood. KB Home got land at discount from City in exchange for developing affordable units, to remain affordable for low-income homebuyers for 25 years from date of first occupancy. KB Home conveyed some of the land to CARE housing to comply with those requirements, also developed

affordable housing on same piece of land. No upfront financial assistance and each individual unit has a signed master covenant with KB Home. Covenant outlines terms for 25 years: Limited to owner occupancy, resale conditions 1) Must be resold to income eligible household at affordable purchase price and 2) Eligible buyer must have mortgage loan estimate from their lender. Shows full housing costs (principle, interest, insurance and HOA) and must not exceed 38% of income. Purchase price calculated based on bedrooms and current income level. Main challenge happens when realtors/lenders don't notice master covenant in chain of title.

### **Comments/Q&A**

- Diane: People who buy Provincetowne properties agree to these terms?
  - Beth: Yes, by purchasing a property, they are agreeing. Signed master covenant shows awareness of conditions.
- Diane: A lot of people pay more than 38% of their income for housing and can handle it.
  - Beth: The way we look at qualification is a little different. People can receive support with down payment from a family member and still qualify.
  - Diane: Do you think that system works with our current housing situation?
  - Beth: I do. We do not allow for co-signers, and we do income verify that people living in the home can afford to pay property taxes, the \$195 HOA fee, and maintain the unit. I haven't seen any situations with this level of vetting that give me much concern.

### Habitat for Humanity

Hybrid of two other programs: HH usually gets large development subsidy from city for the land, and at the time they convey the home to the first buyer, that becomes "silent second" or "due on sale" loan that is equity in the property that that first buyer owes to the city if they ever decide to sell. First homebuyer has a due on sale loan for the amount of subsidy that went into the property, and they are signing a 20-year agreement of restricted covenant. Resale conditions: Income eligible household, affordable purchase price and fair return to owner—the city covers any amount into the negative, not the seller.

### **Comments/Q&A**

- Jen: Who determines the purchase price and what is considered affordable?
  - Beth: Probably similar to max purchase price at Provincetowne. They also have to get verified through the City.
- Sue: Does Habitat do a pre-screening on their buyers?
  - Beth: On the first buyer only.
- Jen: Does the second owner inherit the balance of the 20 year restrictive covenant?
  - Beth: Yes, the balance.
- Jen: Twenty years in the housing market goes really fast. Is there a long-term approach?
  - Beth: Even large scale projects through CDBG are only 20 years.
  - Diane: Habitat tries to keep properties as long as possible.
  - Sue: Habitat usually has first right of refusal to buy back and control resale. One of the reasons we use 20 years is because it's about the useful life without additional investment being made. This is where a Land Trust can be helpful because they can really manage the resale.
  - Jen: I see a lot of houses at 20<sup>th</sup> year, no incentive not to sell at market value.
  - Diane: It feels like a bad deal for the first owner.
  - Sue: I think Habitat originally meant for the first owner to be the last owner. Trying to look at these homes more like first time homebuyers and less like lifetime homebuyers.
  - Beth: Prior to this, Habitat saw homeowners flip the property and convert back to the market right away. It wasn't within their planned mission to have that happen.

### Land Use Restriction Agreement (LURA) Housing

Multifamily housing that gets funding through tax credit program—Land Use Restriction Agreement. For example, if it requires a 15-year compliance period, the administrative body can say 15 years is too short and can add an extended-use period for an additional 15 or 20 years. Some properties in FC have 40-50 year restrictive properties.

### Comments/Q&A

- Diane: This is rental property, not homeownership?
    - Beth: Yes, this is specific to affordable rentals. These are Housing Catalyst and CARE Housing projects.
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### **AGENDA ITEM 2: Update on Provincetowne, Sue Beck-Ferkiss**

Provincetowne Condominium Project is the only affordable housing development the city retains an interest in. Restricted master covenant allows us to be involved in buying and selling; units can't be bought or sold without going through the City. Deed restrictions may be a better way to go in the future. These covenants run 25 years from first purchase (most around 2001). Before 2013, there were various staff tasked with monitoring this and it was inconsistent. Around 2013, went to council and asked for a fresh start since program had not been properly managed. Council did not want to give up any affordable housing projects since affordability is an ongoing community issue, and they tasked Social Sustainability with getting these units into compliance. 121 condos developed originally with the idea of all being restricted, though not all were properly restricted. The recession removed restrictions and we lost approximately 30 more units. Now down to 63 units. Restricted owner didn't get full benefit, no price advantage. In the future, the use of a trust would be really useful. Sue started sending annual courtesy reminders with information about restrictions and also to see if any bounce back—meaning the homeowner has sold without doing so properly. Some out of compliance will call, or Sue will follow up with a letter that they're out of compliance and need to find a remedy. Provincetowne is in good shape today and we have less than 10 years left monitoring. Having them owner occupied is critical, but it does require monitoring and more administrative burden. We would want to come up with a different approach next time, although we would probably still absorb a lot of monitoring work.

### Comments/Q&A

- Jen: Foreclosure wipes out any deed restriction?
  - Sue: It typically does, unless you structure your paperwork otherwise
- Curt: Does the master covenant only apply to first owner?
  - Sue: No, applies to the property regardless of owner.
- Curt: Were they selling below market?
  - Sue: No, not really. In one case, the title company did not properly restrict.
  - Diane: It's different than a deed restriction.
  - Sue: Deed restriction would have been more direct information to title company.
- Sue: Annually, not only do I remind homeowners, but also realtors and lenders.
  - Jen: Are renters displaced if homeowner's are forced to sell?
  - Sue: Technically, but I try not to end leases early. Sometimes I'll give leeway, talk through solutions, the outcome depends on the specific situation. Over the last year, it looks like only one may be out of compliance. The HOA is also helping now by putting our brochure in the welcome basket for restricted units.
- Sue: In 2016 and 2017, we had 8 units sell. At the beginning of 2016, one sold for \$150k and the most recent sold for \$208k. The current formula has the ceiling set at \$250k, which we thought would be high enough to go until the end of the 25 year covenant.

- Curt: These aren't deed restricted and buyers have to be income qualified. But they buy at market rate?
- Beth: They are sold at market rate to begin with and the covenant is executed. But then during the downturn, that was the exact issue. Unrestricted units were selling for more than restricted units. Any appraisal now is comparing restricted and non-restricted.
- Jen: I just had a client sell there for \$244k cash, non-restricted.
- Curt: They're not deed restricted, so does that mean their value is restricted by potential buyers?
  - Jen: They are deed restricted through the covenant.
  - Sue: A deed and covenant do the same basic thing. Most formulas are written with an equity split—for example, a buyer may retain up to 3% of the equity and the rest remains in the house, but this is not the case at Provincetowne, where buyers are gaining appreciation. People are making a lot of money in a short amount of time because condos are so limited in inventory.
    - Curt: Until insurance rates come down for builders, we're not likely to see an increase in inventory.
- Curt: If you want to sell a restricted unit, who dictates what they sell for?
  - Beth: I give realtors the qualification requirements and they set a price that could allow a low-income buyer to purchase the unit. The realtor inclination is to push the market, but if the eligible buyer market narrows, they won't get enough offers.
- Curt: If this is your principal dwelling, can you have a roommate?
  - Beth: Yes.
  - Jen: But you would have to qualify on your own, roommate income is not considered in eligibility.
  - Sue: If both are on the lease, then both incomes do have to be considered.
- Diane: After the end of the 25 years, then they go to market?
  - Jen: Yes, and my concern is them getting bought by cash investors and converted to rentals.
  - Sue: We haven't thought too much beyond the restrictions because the units will likely need rehab by then anyway. And that's the agreement we made with KB Home. With some of our Land Bank programs we are saying we do want them to be affordable forever.
  - Diane: Ownership and affordability is more complicated than rental properties.
  - Sue: Yes, and we want it affordable for subsequent buyers too.
  - Curt: It seems like restricting appreciation would keep investors from buying.
- Jen: Have we considered putting the Habitat homes in a trust?
  - Sue: I do think they've considered that.
- Beth: With Habitat, the first buyer is paying a 0% interest mortgage, where a subsequent buyer is likely getting a traditional mortgage.
  - Kristin: I think people just think about the first buyer when talking about affordability
  - Jen: We're running out of inventory
  - Sue: People traditionally stay in a home for 5-7 years, but in this market people are staying longer and creating bottlenecks.
  - Curt: And we have mostly low density housing.
  - Beth: People are thankful there's something they're not competing for against investors.
- Curt: Are the units randomly distributed throughout the development?
  - Sue: Yes, there's no difference between units.

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## **AGENDA ITEM 3: Other Business**

### **Fee Waivers—Sue Update**

Last month, AHB voted to support an ordinance change that would allow developers of units targeting 30% AMI to request fee waivers. The Council discussion is being pushed back by City Attorney's Office until after the October backfill discussion with Council Finance Committee about the Affordable Housing Capital Fund. CAO has said backfill is connecting point between policy and legal theory and has to be addressed case-by-case, which is difficult for both staff and developers. CFC has asked us to bring information related to backfill when we talk about the AHCF. Everyone is welcome to come to CFC discussion.

### **Council Comments**

- Since the fee waiver conversation is getting moved to November, not much to discuss today.

### **Review 2017 Work Plan—not discussed**

### **Open Board Discussion**

- Kristin: What is the right point in the Land Bank process to interject ideas and how can the AHB get involved in that?
  - Sue: The certification idea is for all Affordable Housing projects, not just Land Bank. There is a project in the works to streamline the development process. Land Bank policy recommendations going into discussion at super board meeting October 9. These are changes to ordinance we will be recommending based on our analysis and outreach. Will bring those recommendations to AHB meeting in October. At that point, we may have to do more industry outreach. Most recommended changes coming from workshop and focus groups.
  - Kristin: Are we late to have input in this discussion?
  - Diane: I think we wanted to have more flexibility and input about what projects might be appropriate for Land Bank.
  - Sue: We're trying to change the ordinance to reflect policy updates. People are not comfortable using the Land Bank for market-rate housing. People want more range in what is considered affordable. There was an openness to use Land Bank property for mixed use where appropriate. All welcome to attend Super Board meeting.
  - Diane: I would encourage this board to attend that meeting.
- Diane: Conversation with Taylor at CDBG Commission about how our boards might work together on the Competitive Process, specifically around the housing requests. A 5-minute review of our discussion wasn't sufficient for them. There's been a lot of change on that board and they're open to collaboration and reconsidering the process.
  - Sue: Bring Adam (Molzer) into that conversation as he'll be the new manager of the Competitive Process. Adam will be reviewing the whole process, so bring recommendations and suggestions to him. Some of the process is codified and may require code changes.
  - Diane: Any specific requests to bring into that discussion?
  - Curt: Maybe CDBG gets the presenters and we observe only.
  - Kristin: Does the commission get more than our scoring? A short summary?
  - Diane: Yes, they do.

- Kristin: An in-depth memo would be more helpful.
  - Sue: They've previously asked for our rankings on a timeline that requires squeezing a meeting in between presentations and deliberation, which is a challenge.
  - Eloise: Could they come and observe our ranking process? They could listen to our discussion to better understand our reasoning.
- Eloise: Redwood opening was great.
    - Diane: Kristin got accolades for all the work she's done on this project.

**Liaison Reports**—not discussed

**Fee Work Group Discussion—Diane**

In general, what the work group wants is to share presentations and minutes, but not formulated ideas or opinions. Majority of the conversation about Parks because they have so much money tied to the fees; solely get money from Capital Expansion Fees (CEF). Future discussion around how structures are in place and why, and some discussion around Affordable Housing fees.

- Kristin: Changing where fee waivers get used shouldn't affect the level of service.
- Sue: Mike feels strongly that methodology in setting fee amounts is different than mitigation strategies to help with certain public needs like affordable housing.
- Diane: Fees is a different conversation with market-rate developers than fee waivers and affordable housing, but it should all be tied together and not seen as separate.
- Kristin: Maybe it's time to revisit the possibly-outdated opinion that put these things in place. Redwood was a \$17 million project, only paid \$100k in fee waivers for 72 new units of affordable housing. Horsetooth project was \$21 million for 96 units.
- Sue: The good thing about 30% units triggering waiver system is to say clearly that these units can't be built without subsidy.
- Kristin: There should be sliding scale; 30% units are great but 60% units are also needed in our community.

**Future AHB Meetings Agenda**—not discussed

**City Council Six-Month Planning Calendar**—not discussed

**Meeting Adjourned:** 6:06

**Next Meeting:** October 5, 2017