

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

Date: Thursday, October 5, 2017
Location: Community Room, 215 North Mason Street
Time: 4:00–6:00pm

For Reference

Diane Cohn, Chair
Ken Summers, Council Liaison
Sue Beck-Ferkiss, Staff Liaison 970-221-6753

Board Members Present

Catherine Costlow
Kristin Fritz
Diane Cohn
Jen Bray
Curt Lyons

Board Members Absent

Jeffrey Johnson
Eloise Emery

Staff Present

Sue Beck-Ferkiss, Social Sustainability Specialist
Ginny Sawyer, City Manager’s Office
Eric Keselburg, Neighborhood Services
Justin Moore, Neighborhood Services
Brittany Depew, Admin Assistant/Board Support

Guests

Marilyn Heller

Call to order: 4:05

Agenda Review: No changes

Public Comment: Marilyn Heller—League of Women Voters, hosting tour of Sister Mary Alice Murphy Center on Monday, November 13 at 1:30. For League members but others welcome by invite.

Review and Approval of Minutes

Jen moved to approve the September minutes. Kristin seconded. Motion passed unanimously.

AGENDA ITEM 1: Discussion on You + Two Occupancy Rules—Ginny Sawyer, City Manager’s Office; Eric Keselburg, Compliance Supervisor, Neighborhood Services; Justin Moore, Code Inspector, Neighborhood Services

Occupancy ordinance drafted in 1963 in Building Inspection department, difficult to enforce because started as criminal ordinance and burden of proof was a challenge. Originally focused on parking issues. In 2005, ordinance was decriminalized and in 2007, active enforcement (complaint-based)

began. Shifted to Neighborhood Services in 2008. Make every effort to balance neighborhood livability while trying to support affordability and predict all possible ramifications and combinations. There is an affordability problem in Fort Collins, so this has to be balanced and is bound to be nuanced. Studies done in 2005 and 2007 looked at rental vacancy rates, rental prices and home values. It was predicted that enforcement would decrease neighborhood problems with minor increase in property value. Estimated that 1070 violator households and 5003 renters would be impacted. Studied neighborhood ratings by proximity to violator households—showed higher sense of calm and community when further from violating household. Violator households dropped by 46% (1070 to 579)—20 % by active enforcement and the remainder by voluntary compliance. Vacancy rate declined, largely due to recession and not ordinance (1/6 to 1/5 decline due to ordinance), rental prices increased but not disproportionate to other communities. Neighborhood problems declined, 41% believe enforcement at right level. In 2005, 70% respondents reported no neighbors in violation and in 2009, respondents reported 84% to same question. Over 85% aware of ordinance. First visit is not to give ticket, it's to give education about behavior, impacts and neighborhood livability. Previously 86-100 cases/year, last year over 200 cases on reactive bases. 135 cases initiated so far in 2017. Proposed new study to see how ordinance has impacted neighborhood livability in the past 10 years. If this study gets funded, it will focus more on affordability and neighborhood quality.

Comments/Q&A

- Jen: Is this for renters and homeowners?
 - Eric: Yes.
- Diane: People have different definitions of the word family.
 - Eric: We have our definition on our website (fcgov.com/neighborhoodservices/occupancy)
 - Diane: Is common law in the language of family?
 - Eric: Under Colorado law, that's included in the definition of "family."
 - Justin: Anyone who calls themselves a married couple, common law or not, we wouldn't push back against that.
 - Eric: But if we find people with two different addresses, vehicles, bank accounts, no apparent tie, we might look further into that.
 - Justin: Common Law doesn't come up very often.
- Eric: The definition excludes two married couples from living together unless they have a familial tie—that's considered one family unit.
 - Curt: The amount of people in a house seems somewhat irrelevant to the number of vehicles and parking problems. One family unit could have 1 car or 8.
- Kristin: What if there's a single mom who needs to rent to another single mom to pay rent?
 - Eric: That's allowed.
- Sue: Can you have two married couples with kids?
 - Justin: No, because that would be two family units, unless there is a familial tie.
- Jen: Did this ever run into any Fair Housing challenges?
 - Justin: I used to be an investigator for fair housing, so I'm very aware of that when I'm interacting with these occupants.
- Curt: If the intent was to go after cars, that's not mentioned in here.
 - Eric: That was the original intent but it has changed since then.
 - Ginny: In 2005, we heard a lot that folks were feeling overcapacity in their neighborhoods (housing, parking, noise) and it was so profitable that renting every bedroom in every home was pricing out first-time homeowners.
 - Curt: That hasn't changed much.
- Eric: A lot of new housing permits allow higher occupancy.
 - Curt: Occupancy requirements are based on the zone you're in?
 - Eric: Yes. This ordinance applies to 15 zones that are highest density.

- Ginny: The property owner has to go through a process to get extra occupancy permit.
- Justin: We also have a host family permit. This is much quicker than the extra occupancy permit, which must go through Zoning.
- Curt: We have people every day getting priced out of the market, and if they could get help with extra tenants they might be able to afford it. But I can see both sides.
- Diane: And there are fees associated with filing an extra occupancy permit.
- Sue: It's about \$200.
- Eric: And we don't displace people immediately. We work with them.
- Diane: I'm thinking of the upcoming shared housing project through Neighbor to Neighbor.
 - Ginny: If you're in a program managed through a housing agency, that might exempt you from this ordinance.
 - Justin: We focus our investigations only on situations that have impacts on the neighborhood. Our intent is to mitigate these negative impacts.
- Kristin: Code Compliance is not complaint-driven, so it's interesting this is different.
 - Sue: I thought you were actively enforcing in Avery Park.
 - Eric: We did pilot proactive enforcement. 51 properties based on previous offenders, got narrowed down to 1 in violation and it was self-corrected before we did an official inspection.
 - Justin: It was a lot work to find 1 violation.
- Jen: I've seen people filling out forms and disclosure statements at closing, so there is some proactive education.
 - Justin: There should be. The Occupancy Limits Disclosure must be included in any lease or purchase agreement for any property in city limits.
 - Eric: This does not need to be re-filed when a lease is re-signed unless tenants change.
- Diane: What percentage of houses are out of compliance?
 - Justin: That's hard to say. One estimate said over 1,000 properties seemed to be in violation, which means about 5,000 individuals.
- Jen: Do you enforce with the tenants or landlord?
 - Eric: Part of the investigation is to establish culpability.
- Jen: Based on level of education and outreach, people in violation know they're in violation?
 - Eric: Yes, people know. The largest fine we ever issued was \$1000/week for 38 weeks, but the city did not collect this amount after working with city attorney's office. The fine collected was still significant.
 - Justin: Fines like those are an anomaly.
 - Eric: And we try to be reasonable based on specifics of the situation.
- Diane: If someone does have to leave because of violation, how do you allow for timing?
 - Eric: We give them 20 days to correct, but if they call on 20th day and show they have been actively looking, we will work with them as long as they're communicating. If they have a signed lease beyond the 20 days, that's fine, as long as something is in place.
 - Justin: We rarely get requests for an extension.
- Curt: I'd assume people violating are doing it because they can't afford otherwise. So once in violation, where do they go? They still can't afford to live with fewer people.
 - Justin: 82% of violators are under 25.
 - Eric: It's not always financial; some people do it because they want to live with lots of friends.
- Kristin: Are complaints usually in single family neighborhoods?
 - Justin: Almost exclusively.

- Eric: Although we do get some apartment complaints. About 20% of our cases are in Campus West area.
- Diane: What percent are renters?
 - Justin: Most, but we do have cases that are homeowners. Sometimes we have students who are on the deed for the property.
- Sue: Like they do in Boulder, have you ever considered having different occupancy rules in different areas of town?
 - Eric: We want to be fair and equitable city-wide.
 - Diane: But we know we have different areas with different populations, so the same standard across the city doesn't really fit.
 - Ginny: Diversity is important at all levels. Part of the study we're proposing is looking at Poudre School District enrollments. If we create a whole neighborhood area that's only college students, we don't have families feeding schools. We want to keep our neighborhoods diverse and welcoming and available to every family type.
 - Diane: I agree with that concept, but the students are where they are.
 - Eric: Other impacts from noise and parties could come out of that as well.
 - Justin: And we see the property quality go down when percentage of student renters goes up.
 - Ginny: If all the housing is renters 22 and under, no one is going to call in complaints.
 - Diane: In some ways, I think enforcement by complaint is a good model.
 - Eric: We got a complaint from someone who saw many cars at a house many miles from his house. We didn't investigate because it didn't impact his neighborhood or neighbors.
- Jen: Was familial connection only category considered, or did they consider people per square footage etc.?
 - Ginny: The last two studies have shown sense of place, peace and quiet are greater when density is lower.
 - Diane: There is not necessarily a causal relationship between nuisance level and density.
 - Curt: Old Town North has higher density but probably not higher nuisance complaint level.
 - Ginny: Also depends on type of housing.
- Diane: As a board, we are not against this idea in general, we are just concerned about affordability and density. Every little thing can have a big impact.
 - Jen: And we're becoming a more collaborative society and that's not something to be discouraged.
- Jen: If you have two family units, can they add everyone to the deed to be in compliance?
 - Ginny: The deed does not factor into this. Two unrelated couples can buy a house together but still not live there at the same time.
- Kristin: How to deal with student housing is a very common question in a college town. It has many consequences, some unintended.
 - Ginny: And students bring in investors.
- Ginny: There may be something in the future to keep seniors who want to live together in compliance.
 - Kristin: Similar to the host family exemption.

Land Bank policy work going strong and people are happy this program exists. Looking at possible changes and improvements, as it used to be a more passive program. Since sale of Horsetooth, have been looking at purchasing options and assessing next steps. There was a Council priority issued to see an RFP released on parcel for homeownership—no specific time frame yet, will look into after policy work is completed. Areas to look at are mostly mixed-use, mixed-income, we wanted to look at triggers for AMI levels. We've heard the reverter language is problematic—meaning, if we sell a parcel and building doesn't begin on time, we can take the property back. Will make recommendation to add notice and opportunity to cure provision. CHFA questioned whether or not we were giving enough site control and they're happy with opportunity to cure language. Code changes recommended to allow mixed-use when requested by the City. Mixed-income discussion was interesting—most of the Land Bank feedback said don't dilute program by subsidizing market rate. Landed on recommended increase in ownership range to 80% AMI (or below). For rentals, staff recommends leaving tweak we made for Horsetooth in place—original ordinance requires no more than 50% AMI, which conflicts with tax credit opportunities that require 60%—at Horsetooth, we allowed some 60% units but they cannot all be, the average has to be 50%. The lowest AMI levels are the hardest to build for. The outreach encouraged us to focus on affordable elements and to ensure this stays an affordable housing program. Another recommended change: Need permission to sell or trade—at market value—when part or whole parcel is no longer appropriate for program. Currently, can't sell for anything over 90% of market value. Recommendation: specific land use code modifications for Land Bank parcels. For example, could we have 16 units instead of 12 in LMN district? We also talked about possibly tying it to the AHSP.

Comments/Q&A

- Diane: Is the RFP for a specific piece of land?
 - Sue: No, we have to decide which parcel it would be. At this point we're just analyzing so we can make the best decision.
- Curt: If land is reverted back because not developed quickly enough, do they get the purchase price back?
 - Kristin: No. It's to encourage that property actually get developed.
 - Curt: What if the developer is struggling with a part of development but is trying?
 - Kristin: That's why there needs to be an option to cure. It's a worst case scenario that rarely happens but it does need to be considered.
- Curt: The higher AMI percentages help level out the lower percentages?
 - Kristin: Yes. At Horsetooth, the way we absorbed the lowest AMI levels was to have higher level units as well.
- Kristin: The reality in affordable housing development is you have to be open to changing, flexible specifics based on where resources come from. Housing Catalyst board officially likes to see flexibility in income levels.
 - Curt: In urban planning, having all low-income properties together is not best practice.
 - Sue: It depends. Sometimes if there's a parcel surrounded by estates, all low-income housing might be best practice.
- Diane: The community is beginning to understand more about the Land Bank and its purpose, but it may be difficult to understand market-rate housing being developed on these parcels.
 - Kristin: These are going to be RFP, and any developers competing will have to include low-income units in their proposals.
- Catherine: If a parcel is sold, where would the money go?
 - Sue: It would go back into the Land Bank program for future property purchases.

- Kristin: As a board, I would like to give more input and feedback to the LB program. Maybe we should be used to help form these recommendations. Can we plan a meeting to focus on Land Bank recommendations?
 - Sue: Let’s have chair and vice chair decide when this discussion can go on the agenda.
 - Kristin: We’ve previously been very involved in the Land Bank, and a specific recommendation from this board as a whole would be valuable.

AGENDA ITEM 3: Update on Affordable Housing Capital Fund and Fee Backfill Discussion:
Sue Beck-Ferkiss—Social Sustainability Department

Affordable Housing Capital Fund (AHCF)—passed by voters, \$4 million over 10 years. Could be used for Land Bank, fee waiver process or affordable housing. Capital costs of development or rehab of properties for low-income residents. Scheduled work session in November for direction on what staff should pursue and to help council make decision. Seven departments on task force from all different angles in the city. Non-financial incentives might be the best. Talked about putting these funds directly into Competitive Process, but that would be putting these funds to normal use and not doing something special with it.

Six ideas to consider:

1. Mentioned in Affordable Housing Strategic Plan (AHSP). Fee waiver backfill. City Attorney’s Office says there is risk to City if we do not continue to backfill at traditional high rate. Council could decide not to backfill but typical practice to assume otherwise.
2. Mentioned in AHSP. Land Bank parcel purchase.
3. Direct or flexible subsidy. Two parts: 1) code based provision—subsidy per unit based on % of affordable units. 2) could ask from Council and be discretionary
4. Social innovation grant. Direct subsidy as closing the gap to support innovation—largely green building ideas but not all.
5. Land demonstration project. Affordable housing with other City goals met as well.
6. Adaptive reuse demonstration project. Same as above but with reuse component.

Going to Council Finance Committee in October: Fee waiver Horsetooth, Affordable Housing Capital fund, new procedures for private activities bond (on agenda for November AHB)

Comments/Q&A

- Diane: Is there an option to do part of two different ideas?
 - Sue: This question will be posed to Council. We will see what direction they give us.

AGENDA ITEM 4: Request from Housing Catalyst for Fee Waivers for the Village on Horsetooth: Sue Beck-Ferkiss—Social Sustainability Department

Village on Horsetooth has 43 units at 30%, which is 45% of the project. They have paid some, but they are requesting \$360,136 in fee waivers. Does not include * items (see doc in meeting packet). For the Fee Waiver Expansion being considered by City Council, we don’t want to offer fee waivers retroactively, so the request must be submitted ahead of time. The request should be made before a certificate of occupancy is issued to assure this change is applied to new development proposals only.

Jen motioned to support the fee waiver request for the 30% units for Housing Catalyst for the Village on Horsetooth. Curt seconded. Passed unanimously.

AGENDA ITEM 5: Business—no discussion

AGENDA ITEM 6: Fee Work Group Discussion—Diane Cohn—no discussion

Meeting Adjourned: 6:23

Next Meeting: November 2