CITY OF STEAMBOAT SPRINGS
AGENDA
REGULAR MEETING NO. 2009-02
TUESDAY, JANUARY 13, 2009
5:00 P.M.

WORKSESSION MEETING LOCATION: Citizens' Meeting Room, Centennial Hall; 124 10th Street, Steamboat Springs, CO

WORKSESSION MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the work session meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled work session meeting items will be heard **following** the presentation or the internal deliberation. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 9:00 p.m.

A City Council work session meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, whichever comes first. CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

A. ROLL CALL (5:00 P.M.)

1. Jon Roberts, City Manager Candidate.

B. CITY COUNCIL REVIEW TOPIC (5:30 P.M.)

2. Affordable Housing: Council policies and philosophy.
3. Yampa Valley Housing Authority discussion.

C. ADJOURNMENT **BY: JULIE FRANKLIN, CMC**
INTERIM CITY CLERK

AGENDA ITEM # 1

<u>Jon Roberts, City Manager Candidate.</u>

This item is discussion only.

AGENDA ITEM # 2

CITY COUNCIL COMMUNICATION FORM

FROM: **Nancy Engelken, Community Housing Coordinator (Ext. 253)**
Tony Lettunich, City Attorney
Bob Litzau, Interim Finance Director (Ext. 239)

THROUGH: **Tom Leeson, AICP, Director of Planning & Community Development (Ext. 244)**
Wendy DuBord, Interim City Manager (Ext. 228)

DATE: **January 13, 2009**

ITEM: **Affordable Housing: Council policies and philosophy**

NEXT STEP: **Direction to Staff for preparation of any Amendments to the Community Housing Ordinance**

_X_ DIRECTION
___ INFORMATION
___ ORDINANCE
___ MOTION
___ RESOLUTION

I. REQUEST OR ISSUE:

City Council has requested an extensive work session to discuss the City's Community Housing Ordinance, possible amendments to that Ordinance, dispersal of payment in lieu funds, and the ongoing role of the City with the Yampa Valley Housing Authority.

II. RECOMMENDED ACTION:

Discussion and Direction to Staff.

III. FISCAL IMPACTS:

None at this report.

IV. BACKGROUND INFORMATION:

The City of Steamboat Springs passed an Inclusionary Zoning Ordinance on February 26, 2006 following extensive public process, recommendation and review by Planning Commission and City Council. The Inclusionary Zoning Ordinance was amended on June 19, 2007 to add Commercial and Residential Linkage, increase the target Area Median Income for Inclusionary Zoning units and add an exit strategy for units not sold in 12 months.

The Community Housing Ordinance follows recommendations in the **Steamboat Springs Community Area Plan,** a document developed through an extensive public process that guides community development policy for the City. Similar recommendations and policy are contained in the Vision 2020 document and the adopted Implementation Program for Community Housing. The Housing Vision in the Community Area Plan is as follows: *"The Steamboat Springs community will allow the majority of people who work in Steamboat Springs to afford to live here, if they so choose. This also applies to those who have worked for many years in the community and have retired."* Under Policy H-1.2, "Support a variety of affordable housing options that are integrated throughout the community, but protect the character of existing neighborhoods", the Community Area Plan specifically calls for the following strategies:

Strategy H-1.2 (a): Develop Inclusionary Zoning Standards
Strategy H-1.2 (b): Develop a Jobs-to-Housing Linkage Program
Strategy H-1.2 (c): Re-evaluate Affordable Housing Incentives
Strategy H-1.2 (d): Establish Provisions to Ensure Permanently Affordable Housing

Since the Ordinance was amended in 2007, significant national and international economic issues have affected the ability to market units and provide mortgage financing for homebuyers for some of the affordable housing units that have been built or are under construction. Tightened lending requirements, limited financing available for any residential unit (deed restricted and free market) if less than 51% of all units in a new development are under contract, new appraisal standards that restrict financing for owner-occupied units in condo-tels, and increased interest rates for homebuyers that apply down payment assistance funding in any form are among the financial and mortgage lending changes and challenges in the last 6 months. While the Ordinance provides flexibility to meet community housing obligations in multiple ways including mixing affordable and free market units within a development (an option Staff has suggested for the First Tracks at Wildhorse Meadows development), all real estate transactions for deed restricted and free market housing have been affected by changes in the mortgage lending and financial industries.

Attached please find a memo to guide Council discussion. The memo is divided into the following categories:

- A summary of affordable housing created under the City's Inclusionary Zoning and Linkage program;
- Options for Amending the City's Community Housing Ordinance;
- Options for Payment in Lieu funds;
- A Preliminary Analysis of a Voluntary Real Estate Transfer Fee; and
- Background for the discussion of City involvement with the Yampa Valley Housing Authority.

City Council initially should determine:

1. What, if any, changes it wants to make to the City's Community Housing Ordinance. Four options are presented for consideration.

2. Should City Council recommend proceeding with Options 1, 2 or 3, City Council should then determine how payment in lieu funds are to be distributed and used. Three options are presented for consideration.

Staff is also presenting a preliminary analysis of a voluntary real estate transfer fee submitted by a Housing Developer Task Force of the Yampa Valley Housing Authority. City Staff was not involved in this Task Force process and, therefore, has not had time to prepare more than a preliminary analysis of this option.

Finally, City Council has requested a discussion about the ongoing role of the YVHA with the City. Several questions and considerations are presented to help frame this discussion.

V. LEGAL ISSUES:

None at this report.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None at this report.

VII. SUMMARY AND ALTERNATIVES:

Provide direction to Staff for any amendments to the Guidelines and/or additional information required for policy discussions and decisions.

Community Housing Ordinance: Summary of Program Results to Date and Options for Reform

Affordable Housing Created under the Community Housing Ordinance:

Since passage of the Inclusionary Zoning Ordinance in 2006:

- **16 units** have been created and obtained CO
  - Of the 16, 8 have closed and are being occupied and 2 are under contract.
  - The remaining 6 units have been marketed according to an approved development agreement for a month and a half (since late November 2008.)

- **47 units** are under construction at First Tracks at Wildhorse Meadows
  - Of the 47, 16 are under contract.
  - CO is expected in mid-summer 2009.
  - Staff has been working with the developer on a revised Community Housing Plan that conforms to the Community Development Code and meets the needs of the developer.

- **77 affordable units** are scheduled to be developed as a part of 8 different approved development projects including off-site compliance for two projects (e.g. Phase 2 of First Tracks, Sundance North, Riverwalk, Fulton Ridge, Steamboat Barn Village.) These units are primarily composed of 2 and 3 bedroom units and for households between 80-120% AMI.

<u>Colorado Communities with Inclusionary Zoning Programs (only):</u> Boulder, Durango, Carbondale, Denver, Glenwood Springs, Garfield County, Lafayette, Longmont.

<u>Colorado Communities with Inclusionary Zoning and Linkage Programs:</u> Aspen, Basalt, Crested Butte, Frisco, Gunnison County, Mt. Crested Butte, San Miguel County, Snowmass Village, Steamboat Springs, Telluride.

Options for Amending the Community Housing Ordinance

***<u>Summary</u>:* City Council initially should determine what, if any, changes it wants to make to the City's Community Housing Ordinance. Four options are presented for consideration.**

Should City Council recommend proceeding with Options 1, 2 or 3, City Council must then determine how payment in lieu funds are to be distributed and used. Three options are presented for consideration.

<u>Option 1</u>:

Make major amendments to the Ordinance

- Allow more flexibility for developers and creation of housing demanded by the market by calculating IZ requirements as a percentage of overall square footage being developed as opposed to the current 15% of all new units requirement. This allows developers to submit community housing plans for a certain amount of square footage and accommodate unit size and type within that square footage.
- Increase incentives for IZ compliance including waiving of City building permit fees for affordable units (approved through the new Routt County Building Department IGA in 12-08), consideration of possible financial compensation for or deferral of some building-related fees for affordable units (fee deferral dependent on County approval), and City administration of federal housing program funding applications and distribution of funds that would provide subsidies to developers for affordable housing.
- Allow payment in lieu for developments that require less than 3 units.
- Allow payment in lieu for any development deemed a "condo-tel" that allows nightly rental of units within the building.
- Amend off-site compliance to allow off-site development within a certain radius of the new development and with no additional affordable housing requirements.
- Amend land and off-site lot dedication to equal 100% of the payment in lieu requirement.
- Allow employer purchase of deed-restricted units for rent to income qualified employees.
- Recommend discussion of density bonuses for onsite Inclusionary Zoning by City Council and during the Steamboat Springs Area Community Plan update process.

Advantages:

- Follows example and documentation of reforms to similar inclusionary zoning and linkage programs in Colorado.
- Promotes a cost-neutral approach to the development of affordable housing within proposed new developments.
- Achieves mix of housing throughout the City by including units in scattered developments rather than in one concentrated area.
- Allows affordable housing to be developed concurrent with market rate housing;
- Responds to developer and lender concerns about marketability and financing of affordable housing within certain developments.
- Conforms to the Steamboat Springs Area Community Plan.

Disadvantages:

- Current City financing options for development incentives for IZ are limited. Fee deferral to final inspection or CO significantly complicates administrative procedures and means the City is a financial partner. If a project isn't completed or goes into foreclosure, the deferred fees are lost.
- Requires free market developer to develop and market an affordable housing product or partner with an experienced affordable housing developer.
- Requires a complex administrative process.

Option 2:

Make payment in lieu a right for all Inclusionary Zoning compliance and Increase Incentives for development of housing through Inclusionary Zoning

- Payment in lieu calculation will need to be amended to properly reflect HOA fees in older condominiums and townhomes with deferred maintenance as well as new developments.
- Payment in lieu collected to date: $328,175.95 for Inclusionary Zoning; $324,326.92 for Residential Linkage; $0 for Commercial Linkage (though approved projects do include commercial linkage funds) = $652,502.87.
- Payment in lieu potential based upon approved projects (if submitted today): First Tracks at Wildhorse Meadows (includes One Steamboat Place off-site units) -- 94 units = $11,056,656; Sundance North – 3 units = $352,872.
- Increase incentives for IZ compliance including waiving of City building permit fees for affordable units (approved through the new Routt County Building Department IGA in 12-08), consideration of possible financial compensation for or deferral of some building-related fees for affordable units (fee deferral dependent on County approval), and City administration of federal housing program funding applications and distribution of funds that would provide subsidies to developers for affordable housing.

Advantages:

- Payment in lieu funds can be potentially be leveraged with governmental and private funding to produce and preserve affordable housing.
- Allows land banking and development that responds to a demonstrated need for housing and particular types of housing.
- Balanced approach that still gives developers the option to build affordable housing with additional incentives or pay payment in lieu.
- Allows affordable housing development experts to finance and develop affordable housing.
- Conforms to the Steamboat Springs Area Community Plan.

Disadvantages:

- Affordable and buildable land for development is scarce.
- Payment in lieu represents only the subsidy needed to make a unit affordable, not the total cost of land and construction; hence, fewer total ownership units are likely to be developed should payment in lieu only be collected. For example, the $11,056,656 for First Tracks at Wildhorse Meadows might produce around 51 affordable ownership units for households at 100% AMI after land and construction costs are considered (estimated in today's dollars and based upon an appraised 2.5 acre parcel within the City limits.)
- The ability to leverage funds for rental housing is limited because of economic conditions and corresponding financing options. Under a low income housing tax credit deal (rental housing for households at or below 60% AMI), the $11,056,656 for First Tracks at Wildhorse Meadows might produce about 75-80 rental units because tax credit pricing is currently so low. Land availability, zoning and FAR also dictates the number of units that can be built.
- Governmental and private funding available for leveraging of payment in lieu funds are distributed through competitive processes and not guaranteed.
- While one option is to purchase existing lower cost units with payment in lieu funds, this approach takes units out of the free market, attainable pool.
- Current City financing options for development incentives for IZ are limited. Fee deferral to final inspection or CO significantly complicates administrative procedures and means the City is a financial partner. If a project isn't completed or goes into foreclosure, the deferred fees are lost.
- Potential of concentrating all the affordable housing in one location rather than mixed throughout the City.

Option 3:

Repeal Inclusionary Zoning and Maintain Commercial and/or Residential Linkage
or
Repeal Commercial and/or Residential Linkage and Maintain Inclusionary Zoning (with increased incentives for developers)

Advantages:

- Simplifies requirements for developments.

Disadvantages:

- Reduces options to meet the needs of the workforce at multiple income levels. Commercial and residential linkage (and the corresponding Nexus/Proportionality Analysis for Employee Housing Mitigation) specifically addresses the housing needs of members of the workforce earning less than 80% AMI. Repealing both or either commercial or residential linkage reduces funding options for housing for the service industry workforce and other members of the workforce earning less than 80% AMI.
- Council will need to determine how to address approved development projects that have paid payment in lieu or developed units should changes be made to either Inclusionary Zoning or Commercial and Residential Linkage. The decisions will include whether or not to compensate developers that have constructed Inclusionary Zoning units and/or refund payment in lieu funds collected.
- Unclear what happens to Inclusionary Zoning units under contract but not built if Inclusionary Zoning is repealed.

Option 4:

Repeal the Community Housing Ordinance

Advantages:

- Will test if the private sector and free market can and will provide affordable housing for the community's workforce.
- Eliminates affordable housing requirements for developers.

Disadvantages:

- Unclear what happens to the deed-restricted housing under contract but not built (e.g. First Tracks).
- Council will need to determine how to address approved developments that have complied with Inclusionary Zoning and Commercial and Residential Linkage requirements.
- If the private sector doesn't provide affordable housing, area employers and the City's economic base would suffer as recruitment and retention of employees – particularly at lower income levels – is impacted by the lack of housing.
- The workforce that can't afford to live in Steamboat Springs will increasingly commute from surrounding communities and this will impact traffic and congestion, sales tax revenues (as members of the permanent and seasonal workforce buy more goods in their home communities outside Steamboat Springs), and long-term environmental and community vitality issues.
- Does not conform with the Steamboat Springs Area Community Plan (Adopted 2004), Vision 2020 (1994), and Implementation Program for Community Housing (Adopted 2006) documents or address affordable housing needs documented in the Routt County Housing Needs Assessment (2003), and Workforce Housing Demand Analysis (2008).

Analysis of Payment in Lieu Options:

Option 1:
Distribute payment in lieu funds through a City administered Request for Proposals (RFP) process with a set-aside for funding needs outside the RFP timeline

Advantages:
- This option has been considered during three City Council public hearings -- on March 18, June 10 and October 21, 2008 – and therefore has been through a public review process. City Council made a unanimous motion to proceed with an RFP and set-aside process for payment in lieu at its October 21, 2008 meeting.
- The RFP and set-aside allows consideration of proposals from multiple affordable housing developers for different types of projects and funding of the best proposals and ideas.
- A category of "preservation of affordable housing" under the RFP would allow for some administrative funding as well as necessary maintenance expenses associated with existing affordable housing including infrastructure at mobile home parks, significant and unforeseen expenses at affordable housing complexes that could displace residents, and some YVHA administrative costs.
- Staff has preliminarily arranged for review of RFP applications by a committee of financing and lending professionals in conjunction with Staff. All funding recommendations would be approved by City Council.
- An RFP and set-aside application process insures compliance with the City auditing and financial reporting requirements, the "City of Steamboat Springs Financial Policies."

Disadvantages:
- Involves a complex administrative process.
- Requires the YVHA apply for funds through an RFP process and doesn't guarantee the organization funds for development and/or preservation activities.

Option 2:
Distribute all payment in lieu funds to the YVHA or another entity to be spent at the organization's discretion or with a City-approved process

Advantages:
- Allows one organization to be the point organization for affordable housing funding programs in the City.
- Provides a funding source for the YVHA.

Disadvantages:
- Does not conform to the City auditing and financial reporting requirements, the "City of Steamboat Springs Financial Policies."
- Would require City monitoring of funds distribution for compliance with the Ordinance through another organization.
- Doesn't allow other affordable housing development organizations, private and not for profit, the same access to housing development and preservation funds as the YVHA or necessarily any funding from payment in lieu funds. This includes local organizations such as Habitat for Humanity, Advocates Against Battering and Abuse, Horizons and statewide organizations, MGL Partners, Mercy Housing, Coburn Development, Ted Guy and Associates, Medici Communities and Archdiocesan Housing (all of whom responded to the Iron Horse RFQ), among others.
- Potential conflict of interest if the YVHA distributes funds to a developer that has partnered or is partnering with the YVHA in any capacity.

Option 3:
Allow Payment in Lieu for Down Payment Assistance:

Advantages:

- Could provide housing subsidies for households at multiple income levels.
- Offers flexibility to purchase housing of choice in the community rather than just housing that is created as affordable.

Disadvantages:

- Payment in lieu is designed per the Ordinance for the acquisition or development of new affordable housing. Down payment assistance doesn't create new housing stock or acquire land for new housing stock.
- Affordability of housing and funds available for down payment assistance are entirely a product of free market prices. As free market housing costs increase (including HOA fees and deferred maintenance in older units), fewer options exist for lower income households if a standard amount of down payment assistance is available or, if funds are used to buy down housing costs to the point housing is affordable, few down payment assistance grants are available overall for household purchase.
- Under current lending and mortgage requirements, households using down payment assistance programs may be viewed as higher financial risks by lenders and those lenders, in turn, may charge higher interest rates – up to 1% -- for households participating in these programs. Currently, therefore, down payment assistance is not a solution for all households.
- Other funding sources may be better suited for down payment assistance. For example, other Colorado communities use Colorado Division of Housing funds for down payment assistance and require repayment either as a second mortgage or as a monthly payment into a revolving loan fund that is redistributed to other income-eligible households. This fund distribution is often administered by a Housing Authority, Community Housing Development Organization (CHDO) or non-profit affordable housing development organization.
- Other Colorado communities have also worked with employers to establish a revolving loan fund for down payment or rental assistance. This can be combined with a lease to own model and can be done concurrently with Colorado Division of Housing down payment assistance funds. This type of funding program has been established through Community Development Financial Institutions, non-profit affordable housing development organizations and Housing Authorities. This encourages greater employer involvement in workforce housing development for their employees.
- Payment in lieu for down payment assistance would require eligibility guidelines, repayment monitoring, administration of fund distribution and refunding.

<u>Preliminary Analysis of the Application of a Proposed Voluntary Real Estate Transfer Fee:</u>

- This type of proposal is currently allowed under Alternative Compliance Method under Section Sec. 26-149 Community Housing in the Community Development Code pending determination of legality. One developer had, in fact, submitted a voluntary real estate transfer fee proposal for consideration. Sec. 26-149 (g) (7): Alternative Compliance Methods. *"The City Council shall have the discretion to accept in-lieu consideration in any form so long as the value of that consideration is equivalent to or greater than the payment in lieu contribution required by this Section and that the acceptance of an alternative form of consideration will result in additional benefits to the City of Steamboat Springs consistent with the purpose of this Section."*
- In other Colorado municipalities with a voluntary real estate transfer fees (e.g. Eagle County, Mountain Village), funds flow to an HOA initially for distribution under terms that meet the requirements of their Affordable Housing Ordinance.
- Would require administration of HOA's for on-going compliance with IZ and Linkage and distribution of real estate transfer fees for affordable housing.
- Fees are distributed only at the point of sale and only on a per unit basis and therefore do not correspond to the Ordinance's intent of developing affordable housing in correspondence with market rate housing and responding to the increased demand for workers in relationship with new residential and commercial development.
- On a per unit basis, the real estate transfer fee does not equal payment in lieu or provide the subsidy of payment in lieu.
- Based upon preliminary analysis of information submitted by the YVHA Task Force, fewer units are produced for dollars generated over 30 years than on a project basis under Inclusionary Zoning and those units come on-line at a much slower rate. .
    - Based upon the YVHA Task Force-cited Trailside Village project (225 units with average unit sizes of 1,012 square feet), if submitted today, the project would generate **33.75 units under Inclusionary Zoning** and $387,027 in residential linkage.
    - The developer indicated the estimated market value of the project is $105,000,000 which translates to an average cost of $466,667 per unit. Under today's HUD Area Median Income (AMI) guidelines, a unit priced at $466,667 – with HOA fees of $303 a month -- would require a payment in lieu subsidy of $259,981 to make it affordable to a household of 2 at 100% AMI. The developer estimated a voluntary real estate transfer fee of 1% would generate $7,720,588 over 30 years. If the $7,720,588 were in one lump sum as payment in lieu, this would allow subsidy of **29.7 units** at Trailside Village for households of 2 at 100% AMI.
    - Real Estate Transfer fees are different than Payment in lieu, however, because funds are generated over time rather than in one lump sum. Consequently, the ability to apply Real Estate Transfer fees for affordable housing must be analyzed differently from payment in lieu and take into account changing housing market and land prices and the effect on affordability, the per unit real estate transfer fee amount generated and the total value of the real estate transfer fee vs. units and payment in lieu alternatives (per the CDC requirements.)

Yampa Valley Housing Authority Discussion

Considerations:

1. What role does the City Council want the YVHA to play in affordable housing in Steamboat Springs in 2009?
   - City Council approved $80,000 in funding for the YVHA for 2009. Does the City want to provide additional funding and, if so, from what source and for what purpose(s)?
   - The City could specify funding for ongoing administration of existing affordable housing including sales at West End Village and management of the Fish Creek Mobile Home Park, monitoring of the City's deed restrictions, and management of affordable rental housing that may be developed in the future.
   - The City could specify funds for the YVHA to administer client-based programs, i.e. certified homebuyer education classes, down payment assistance programs, and providing information on affordable housing availability to eligible households. If funded and certified through a state governmental source, some of these programs would provide some administrative/operational funding, e.g. homebuyer education and down payment assistance.
   - The City could specify funding for the YVHA to develop new affordable housing. Currently, under a City Council motion passed in October 2008, the YVHA could apply for payment in lieu funds for such a project.
   - The City could discontinue all administrative and monitoring efforts of community housing proposals and compliance including plan review, policy guidance for City Council, work with developers on community housing options and lease-to-own programs, outreach to non-profit and for profit organizations involved in affordable housing development and administration, creation of new funding sources, employer partnerships, and administration of federal funding programs and have the YVHA assume all current City affordable housing related activities.
   - Are there any activities the City Council does not want to fund as a part of its 2009 contribution to the YVHA (e.g. new development of affordable housing)?
2. Other discussion items?

December 9, 2008
Yampa Valley Housing Authority Board of Directors
Via: Email and Hand Delivered:
Dear Board of Directors:
Extraordinary times offer all of us a chance to rethink how we can accomplish our individual organizations missions' in different ways and through new strategic thinking. Strategic alliances with people who can accomplish goals through collective cooperation are one way to meet the communities housing goals in the short and long-term.
A group of developers have met with your staff and a Board Sub-Committee to respond to the impending housing and funding difficulties faced by the YVHA, the City of Steamboat, and all of our projects. We believe we have an innovative concept proposal for your Board's consideration which then would be drafted as a Housing Ordinance amendment for city council when they meet in February to discuss this issue. If you agree that you support this strategy and concept ordinance, as your ally we would also support an emergency ordinance which you draft and submit to receive temporary funding for your operations.
The key components of our Housing Ordinances modifications (Inclusionary Zoning and Linkage) are briefly described below: The centerpiece of this proposal:

- We will be proposing that Compliance Methods for IZ and Linkage will include a .5% to 1% voluntary transfer fee in perpetuity for a community housing trust fund (also known as an Enterprise Fund). The developer will provide documentation and pro-forma estimates as why this compliance method will produce targeted community housing, increase the housing trust funds, and provide more stable long-term cash flow for housing. All of this is designed to provide a diverse inventory of affordable and attainable housing units for sale and for rent.

Associated recommendations and requirements for our group's support include:

1. The City Housing Trust fund will be administered by the city council in its fiduciary role to the community. The Trust Fund likely would have an appointed board with focus on governance, transparency, and fiduciary oversight on funds allocation to the YVHA operations and strategic plan implementation.
2. Routt County would be invited to continue their financial commitment and strategic input by partial funding of the YVHA operations budget. If the voluntary transfer fee is successful, they may consider offering optional compliance methods within the county for funding outlying communities and housing impacts within the Trust Fund allocations.
3. Yampa Valley Housing Authority will be the primary public agency in charge of administrating Housing Programs, Deed Restrictions, Education, Grants, Compliance, Employer Partnering, Developer Partnering, Rental controls, Down-payment Assistance, and the whole range of housing related daily tasks currently fulfilled by the YVHA and City's Housing Specialist.
4. The YVHA will be accountable to the City Council and Trust Fund. They will have performance measures with benchmarks, statistical dashboard indicators, and strategic initiative implementation tasks. Operating expense ratios will be monitored on percentage basis including performance relating to the number of existing affordable and attainable units, new units produced, AMI ranges served, employer assistance provided, and a number of other measurements. These performance standards will be provided to the community that the structure is much more efficient and effective than our current administration in two operations.
5. The YVHA would be afforded long term funding expectations which help them partner on projects which are viable long term solutions to the housing difficulties we face. Having the ability and flexibility to produce real Request For Partnership (RFP) proposals to for-profit and non-profit partners will extend the scope of influence and effectiveness of the dollars collected.

We believe the voluntary transfer fee option is also simple to understand and administer. The perpetual turnover of those transfers when coupled with the Housing Trust Fund concept (Enterprise Funds), even at conservative rates, will provide more net funds for housing when projections are annualized for 10 to 50 years. If those funds are spent effectively as outlined in the efficiency and accountability performance standards (#4), the community will see more affordable and attainable housing units which provide for the long-term stability and openness of our neighborhoods. Appendix A gives you a quick snapshot of the preliminary revenue estimates some of us have produced to support our position. We will be refining those numbers and formatting them for the council presentation of our ordinance proposal in February. The revenue forecast does give you an idea about the scope of our proposal and the opportunity to produce units with YVHA's assistance. In closing we ask for your Board's support in proposing the ordinance amendment and the structural changes we have suggested. We understand that it would require YVHA to change the way you have operated but we believe the community needs will be more effectively served and more quickly responded to through our proposals.

Respectfully Submitted,

Housing Authority –Developer Task Force Participants

Tony A. Connell/Randall Hannaway
Wilton West Development – 360 Village and The Bridges at Steamboat

James Cook
Riverwalk/Howelson Place
Joyce Hartless
Sundance North

Michael Hurley
Trappeurs Crossing
Peter Kreissig/Jamie Morgan
Rollingstone Village

Danny Mulcahy
Steamboat 700

Brian Olsen
Trailside Village

Ken Otterman
Eco Corral

Chris Paoli/Jon Wade
The Alpiner/Steamboat 40 LLC

Yampa Valley Housing Authority
P.O. Box 774542
Steamboat Springs, Co. 80477

Date: December 30, 2008

To: Steamboat Springs City Council

From Yampa Valley Housing Authority (YVHA) Board of Directors

RE: Alternative Compliance Methods for the City of Steamboat Springs Community Housing Guidelines

CC: Interim City Manager Wendy DuBord and City Planning Director Tom Leeson
Tony Connell, Wilton West Development (for distribution to Developer Task Force Participants)

On December 18, 2008, the YVHA Board of Directors held a special meeting to discuss the general concept of an alternative compliance method for the Community Housing Guidelines. Scott Myller and Loui Antonucci were at this meeting and we appreciate their participation in our discussion.

The alternative compliance method that was presented involved a perpetual voluntary real estate transfer fee of up to 1% that would be designated for affordable housing through a City Housing Trust Fund. This concept was discussed by YVHA's New Projects Committee and some local developers prior to bringing it to the full YVHA Board. Attached with this memo is a December 9, 2008 memo from the Developer Task Force to YVHA that outlines their initial proposal. While there are many details and possible legal issues to resolve related to this mechanism, the YVHA Board of Directors feels that this is a proposal that should be seriously considered by City Council.

When the City was developing the Inclusionary Zoning and Linkage Ordinances, YVHA sent a letter strongly encouraging Council to allow developers as much flexibility as possible in meeting their affordable housing requirements. Our position regarding this issue has not changed and we feel that any mechanism that creates a pool of money for the construction of affordable housing will be a benefit to the community. YVHA has successfully built and sold deed restricted housing units in the past and we can do that in the future if there is a dedicated funding source to assist with the development of affordable housing.

YVHA
Yampa Valley Housing Authority
P.O. Box 774542
Steamboat Springs, Co. 80477

As City Council begins its discussion of possible changes to the Inclusionary Zoning and Linkage Ordinances, YVHA respectfully requests that our organization be included as a partner in those discussions. We have several Board members that would be very interested in reviewing any and all options that will further affordable housing opportunities for our citizens. It is important for us all to work together to create innovative solutions that work for our community and the Developer Task Force has expressed a strong desire for YVHA to be the lead contact and primary public agency for affordable housing issues and programs. Please let us know how we can have "a seat at the table".

Thank you for your time and consideration.

Anja Tribble

From: Anja Tribble
Sent: Monday, December 22, 2008 9:07 AM
To: chermacinski@steamboatsprings.net; jquinn@steamboatsprings.net; louiotp@yahoo.com; organizedcoach@yahoo.com; smyller@steamboatsprings.net; ivo@springsips.com; wnmpepls@gmail.com; Wendy DuBord; Tony Lettunich; Nancy Engelken; Tom Leeson; Julie Franklin
Subject: FW: [City Council] Housing Ordinances

-----Original Message-----
From: Anja Tribble
Sent: Monday, December 22, 2008 9:04 AM
To: 'lewi@springsips.com'
Subject: RE: [City Council] Housing Ordinances

Dear Steve

This is to let you know that your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----
From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of lewi@springsips.com
Sent: Friday, December 19, 2008 10:57 AM
To: Anja Tribble
Subject: [City Council] Housing Ordinances

Steve Lewis sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

Hello Council,
From Louie’s comments at the Thursday YVHA meeting, I believe you have a well balanced view of the housing ordinance challenges ahead. Thanks Louie for communicating your understanding of what the issues are.

It may be redundant then, to request we separately consider flaws in the housing ordinance vs. the immediate difficulty of selling/financing already built AH.

I agree the ordinance needs work. $600/month HOA fees, difficulty selling higher AMI units, and conflicts in the deed appreciation structure are flaws apparent to everyone. We can remedy these.

But First Tracks and other AH units already in the market deserve more urgent, and separate, consideration. It is my hope the lending markets thaw so that my proposal of shifting into more successful 80% AMI products becomes a viable alternative.

Short of a lending market thaw these developers are in a bind on even their free market units. In that event I hope we can create some vehicle to take these AH units off the developers’ shoulders and re-deliver them as affordable products at some future date. Perhaps a 5-10 year life as employee rentals, sold to employers or others at the affordable program’s price (or lower).

New development applications are another matter entirely. Please do not take the false choice that a greatly reduced housing policy will create new construction. The housing policy created by our community does not amount to a “go or no go” barrier to multi-family projects.

Thank you, and have a nice holiday!
Steve Lewis

January 6, 2009

Steamboat Springs City Council
PO Box 775088
137 10th Street
Steamboat Springs, CO 80477

Dear City Council Members,

This letter is written in an effort to find solutions to the community's affordable housing challenge, an issue that affects all residents of the City. The City Council, with all good intentions, originally adopted an inclusionary housing ordinance ("IZ") in June of 2007. To date, that IZ ordinance, by broad consensus, has not met its original goals. It has not been workable for the intended beneficiaries, for developers, or for the community at large. Council has been presented recently with numerous examples of the current ordinance's failure to provide the desired affordable housing for target markets. Although developers have attempted to work with the City to present alternatives to the current IZ, the City has been slow to react. In retrospect, the IZ was unsuitable for Steamboat Springs when it was adopted and experience has confirmed that hypothesis. The continuing tightening of credit, the distress in the housing market and the global financial collapse have simply exacerbated these problems.

A legal review of the IZ has been conducted at our request and has concluded that the ordinance is subject to challenge. Attached, please find a letter from Thomas Ragonetti of Otten Johnson Robinson Neff and Ragonetti describing potential areas of legal challenge.

The undersigned fully support the goal of providing affordable workforce housing and are committed to work with the City to develop a workforce housing plan that is viable over the long term and appropriate for our community. We would value the opportunity to meet with the Council to discuss further our proposal to replace the current IZ and linkage ordinance with a community housing ordinance tailored to the needs of <u>this</u> community.

We suggest that any new ordinance provide two compliance options:

- <u>Option 1</u>: The City would create an affordable housing impact fee equal to one percent (1%) of sales or market value on new residential, commercial and industrial development within the City payable at the earlier of (1) the initial sale of such developed property or (2) 100 days after the later of the issuance of a certificate of occupancy for such development or the termination of active efforts to sell the property. This development impact fee would be secured by development agreement entered into between the developer and the City at the time of issuance of a building permit. Payment of this development impact fee would be required unless the developer voluntarily agreed to Option 2 described herein.

- Option 2: At the issuance of a building permit, developer would enter into a development agreement with the City requiring the payment of a real estate transfer assessment of one half of one percent (1/2 of 1%) on the initial sale and each resale of the property. Option 2 would be available to all developments subject to Option 1. It would be voluntary, so we do not believe it would run afoul of the TABOR prohibitions on real estate transfer taxes.

All funds from either option 1 or 2 would be invested as the City chooses for housing purposes, but we recommend that the funds be dedicated to YVHA thereby avoiding duplication of efforts by City and County.

This proposal can help create a realistic housing solution for the long term and keep those responsible for affordable housing focused on affordable housing. There is no solution that will solve all housing problems. However, the most flexible of all solutions is to create a housing fund that can be deployed where the needs are greatest at any given time. This could result in a wide range of programs, from developing affordable communities to buying down units in specific developments, to creation of rental assistance, to additional down payment assistance programs. This new strategy would also take the entire burden of the affordable housing issue off a single industry as there could be room to create other revenue sources that would feed into this overall fund, including an appropriate tax exempt component.

The undersigned look forward to working collaboratively with council to find new solutions to the challenge of affordable housing. We also must emphasize that while it is not our desire to take the path suggested in the attached letter, the status quo is not acceptable. If we are unsuccessful in moving toward new solutions in the near term, we will pursue other options.

Sincerely,

Concerned Citizens for Affordable Housing

H Brent Pearson

Mariana Ishida

Robert E. Milne, President Steamboat Realty

Ron Murray

Michael Hurley

Brian Olson

TERRY DRAHOTA

Jane Denning
Jane Denning

Paul Franklin

Jon Peddie

DAVID BALDINGER JR.

J. Chapman
JEFF CHAPMAN

Paul Clavadetscher
PAUL CLAVADETSCHER

Ed MacArthur
Ed MacArthur
jm

James M Temple

MARK E. SCULLY

ROBERT WEISS

Chris Diamond

J. MARK HALVORSON

Randall W Hannaway
RANDALL W. HANNAWAY

Jim Lorenz
JIM LORENZ

Mary T Brown
Mary T Brown

January 7, 2009

THOMAS J. RAGONETTI
303 575 7509
TJR@OTTENJOHNSON.COM

Concerned Citizens for Affordable Housing
610 Marketplace Plaza, Suite 210
Steamboat Springs, CO 80487

Re: Steamboat Springs Community Housing Provisions

Dear Ladies and Gentlemen:

The City of Steamboat Springs, Colorado (the "City") has adopted a community housing ordinance (the "Ordinance") which is now codified at Section 26-149 of the City's Municipal Code (the "Code"). The City has also adopted the Community Housing Guidelines – 2008 (the "Guidelines") to implement the Ordinance. You have asked us to advise you whether the Community Housing Ordinance and the Guidelines are subject to challenge under C.R.S. § 29-20-104.5 (the "Impact Fee Statute"), C.R.S. § 29-20-201 through 205 (the "Regulatory Impairment Statute") or either the federal or state constitution. While we believe the Ordinance is probably outside of the scope of the Regulatory Impairment Statute, features of the Ordinance do violate both the Takings Clauses of the United States and Colorado constitutions as well as the Impact Fee Statute. Alternatively, to the extent the in-lieu fees required in the Ordinance are not "impact fees" subject to the Impact Fee Statute, they are taxes which have been imposed in violation of Article X, § 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights ("TABOR"). This letter starts with a brief description of the Ordinance and proceeds with a discussion of the various possible challenges.

THE ORDINANCE

Subsection (a) of the Ordinance describes its purpose as follows:

> The purpose of this Section is to ensure that a reasonable amount of Community Housing is provided to the City of Steamboat Springs that meets the needs of all economic groups. This is accomplished through the establishment of regulations that require the set-aside of a portion of new residential development for Community Housing purposes and require new residential and nonresidential development to mitigate a percentage of the impact its [sic] generates for Community Housing demand as a condition of approval. (Code, § 26-149(a)).

The set-aside requirement is referred to in the Ordinance as "inclusionary zoning" which is defined as "the mandatory provision of Community Housing units, or financial set-aside, as a quid pro quo for development approval." (Code, § 26-149(b)). The mitigation requirement is described in the Ordinance as either "commercial linkage" or as "residential linkage," which is defined in each case as "the mandatory provisions of Community Housing units, or financial set-aside, to satisfy a certain percentage of the demand for work force housing that is generated by the proposed [non-residential/residential] development." (Code, § 26-149(b)).

The inclusionary zoning requirement applies to any development of three or more residential units. (Code, § 26-149(c)(1)). For single-family developments the percentage required to be set aside for sale or rent to eligible households is 15%. (Code, § 26-149(e)(1)). For multi-family developments the percentages range from 15% for units with a gross floor area under 2,000 square feet up to 25% for housing units with a gross floor area of 4,001 or greater square feet. *Id.*

Under the commercial linkage requirement, a developer is required to complete or ensure the completion of development of a percentage of the workforce housing units "for which demand is generated by the proposed development." (Code, § 26-149(e)(2)). The applicable percentage is five percent for the first 5,000 square feet of development and 10% for any square footage over 5,000. *Id.* The Code contains a formula to determine the number of housing units required to be provided which include variable factors for the average number of employees per leasable space, average number of jobs per employee and average number of employees per housing unit. *Id.* The annual Guidelines then set forth the variables to be used each year. In 2008, the variables are set at 2.8 for the average number of employees per 1,000 square feet, 1.2 for the average number of jobs per employee, and 1.64 for the average number of employees per unit. (Guidelines, at 3).

Because a different percentage requirement is assigned to the first 5,000 square feet of development and a higher percentage requirement to square footage above that number, to determine the linkage requirement of a commercial development larger than 5,000 square feet, you would need to perform two calculations. Take for example a proposed development of 10,000 square feet. To determine the requirement applicable to the first 5,000 square feet, you start multiplying 2.8 (average number of employees per 1,000 square feet of leasable space), by 5,000, which equals 14,000. That number would then be divided by 1,000 to give you 14 employees. That number is then divided by 1.2, the average numbers of jobs per employee. This results in a number of 11.67. That number is then divided by 1.64, the average number of employees per unit, resulting in 7.11. This number is then multiplied by the applicable mitigation percentage (5%) to arrive at .36 housing units required to be provided for the first 5,000 square feet. An identical calculation would be done for the additional 5,000 square feet of leasable space except that the percentage used is 10%, resulting in .71 housing units. The total number of units for the entire development would be 1.07 units.

For hotels, the calculation is based upon the assumption that each new hotel room generates a need for .5 employees. The number of employees is then taken through the same calculation as for other types of commercial uses. (Guidelines, at 3).

The residential linkage requirement starts with a table of employee generation rates based upon the square footage of the proposed residential unit. (Code, § 26-149(e)(3)). The employee generation rates range from .17 for residential units under 500 square feet to 1.66 for residential units between 11,500 and 12,000 square feet. *Id.* at Table 2. The total number of residential units in a development is multiplied by the employee generation rate, and the sum is then divided by the average number of employees per unit. *Id.* The resulting number is then multiplied by an applicable mitigation rate to determine the community housing units required. *Id.* The mitigation rate again varies depending upon the square footage of the unit. The mitigation rate is zero for units under 500 square feet, 1% for units between 500 and 1,499 square feet, and ranges up to 35% for units over 6,000 square feet. *Id.* at Table 1.

The Ordinance offers multiple ways by which the housing requirements can be satisfied, including direct on-site development of units in connection with the inclusionary zoning requirement, off-site development at 125% of the required number of units, dedication of on-site lots with a value equal to 100% of the payment in lieu contribution, dedication of off-site lots or other land with a value equal to 125% of the payment in lieu contribution, or payments in lieu. (Code, § 26-149(g)). Payment-in-lieu fees are adjusted annually based upon the difference in the market rate cost per unit and the purchase prices that are affordable for income-eligible households, plus an administrative fee of up to 15%. (Code, § 26-149(g)(6)a.). The payment-in-lieu fees are accepted as a right to satisfy the linkage requirements, but for inclusionary zoning payment-in-lieu fees are accepted only for fractional units. (Code, § 26-149(g)(6)). There is a further exception for inclusionary zoning for developments within the area defined as the base area, but the fee is then increased to 125% of the in-lieu fee. *Id.* The Guidelines have currently set the per unit in-lieu fee at $172,012 per unit for linkage and $117,624 per unit for inclusionary zoning. (Guidelines, at 15).

A developer providing community housing units must execute and record a deed restriction in a form approved by the City. (Code, § 26-149(f)). The approved form runs in favor of the City and its program administrator and is a covenant which runs with the land. If a community housing unit cannot be sold to a qualified buyer within one year, it must be offered for sale to the City or the Yampa Valley Housing Authority subject to the same price and deed restrictions. If neither the City nor the housing authority elect to purchase the unit, it may be sold without deed restriction and, at closing of the sale, the City will release the deed restriction in exchange for payment of an amount equal to 100% of the then current payment-in-lieu fee. (Code, § 26-149(h)).

POTENTIAL CHALLENGES

The deed restriction required by the Ordinance is a real property interest which a developer is required to convey to the City as a condition of development. Because the Ordinance requires the landowner to convey a real property interest to the government, it is subject to review under the Takings Clauses of the federal and state constitutions. The United States Supreme Court has analyzed such requirements in two leading cases, *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). In *Nollan*, a property owner challenged the requirement of the California Coastal Commission that he dedicate a lateral easement for public access across his beachfront property in exchange for approval of a permit for renovations to his beach house. The Supreme Court struck down the easement requirement as unconstitutional because the Court could find no nexus between the requirement of granting the easement in order to secure the permit and the stated public purpose for the easement, preserving visual access to the beach and alleviating psychological barriers to the use of the beach. *Nollan*, 483 U.S. at 836-37. The Court stated that an exaction imposed as a condition of development approval must first promote a legitimate governmental interest and there must exist an essential nexus between the governmental interest and the actual condition imposed. *Id.* In *Dolan*, the Court extended the holding of *Nollan* and went a step further and required not only some kind of relationship between the nature of the impact and the exaction imposed, but a relationship between the extent of the impact and the exaction imposed. *Dolan*, 512 U.S. at 391.

Although some commentators have suggested that *Dolan* applies only to *ad hoc* impositions, as opposed to legislatively mandated exactions, that suggestion is simply incorrect. In fact, the dedication requirements at issue in *Dolan* were mandated by the city's community development code. *Id.* at 377-79 ("the CDC requires that new development facilitate this plan by dedicating land for pedestrian pathways . . . " and "the CDC establishes . . . the city shall require dedication of sufficient open land for greenway adjoining and within the flood plain.") By contrast, the scope of Regulatory Impairment Statute is limited to dedication or fee requirements imposed on an ad hoc basis, as opposed to legislatively mandated dedications and fees. Although the statute was generally designed to codify *Nollan* and *Dolan*, with respect to this aspect of *Nollan* and *Dolan*, the statute's application is actually narrower than the cases. It is for this reason that we believe the Ordinance is probably not subject to challenge under the Regulatory Impairment Statute, even though it does violate *Nollan* and *Dolan*.

Under a *Nollan-Dolan* analysis, the major problem with the Ordinance is that its requirements are disproportionately greater than the impacts of the projects to which it is applied. *Nollan* and *Dolan* are concerned with fundamental fairness. The lesson of the cases is that a developer can only be required to convey real property to address a governmental need to the extent the need is caused by the proposed development. The City commissioned a nexus/proportionality study from RRC Associate, Inc. and Rees Associates, Inc. (the "Study") with respect to the linkage requirement. The Study itself incorrectly states that no similar analysis has been done for the inclusionary zoning requirement "given that a nexus/ proportionality analysis is not required for inclusionary programs." (Study, at 1). Because the inclusionary zoning requirement mandates a conveyance of a real property interest to the City as a condition of development approval, it falls squarely within the requirements of *Nollan-Dolan*. The failure to assess the impact of residential development on the need for affordable housing violates the *Nollan-Dolan* requirements. Had a study been done, it is unlikely that it would have determined that the provision of housing units causes a need for housing units. The economic laws of supply and demand suggest that the provision of housing units satisfies, rather than causes, the need for housing.

As it relates to the linkage requirement, the Study contains a number of flaws. First, it confuses the existing percentage of residents who earn within the targeted income range to be assisted by affordable housing as a level of service. Level of service refers to a service that has been or is being provided by a government. To say that a certain percentage of residents earn within the targeted income range and live in the community is not the same thing as saying that the City has been providing a housing service to those individuals. The very definition of "median" means that 50% of residents in any given area will make less than the area median income. Under the logic of the Study, then, every community provides a housing service to half its residents because the lower 50% live in the community.

Second, there are problems with respect to the Study's determination of job generation rates. The Study determined overall job generation rates for various types of commercial uses, including government and school uses. The Code exempts institutional uses, such as government and school uses from the linkage requirement. (Code, § 26-149(d)(4)). Nevertheless, it uses the overall job generation rate from the Study. (*See* Guidelines, at 3). Additionally, the Study found a difference between job generation rates in Routt County and those in a merged study of numerous resort communities. Nevertheless, it elected to use the merged level rather that the actual generation rates experienced in Routt County. These aspects of the Study violate the requirement of *Dolan* that the government must make an individualized assessment of the impact to be caused by a proposed development and set the fee accordingly. *Id.* The Ordinance certainly contains no individualized assessment. Finally, although the Study recites that the City must be careful not to charge new development for existing deficiencies and not to double charge, it does not correctly implement these requirements.

The Code deviates from the Study in two important particulars. While allowing a number of ways of satisfying the inclusionary zoning and linkage requirements, it arbitrarily requires 125% of the units or in-lieu fees in certain circumstances. For example, a residential developer with enough land to be able to provide on-site units must only provide 100% of the required units, while another developer providing off-site units is required to provide 125% of the required units. (Code, § 26-149(g)(1) and (2)). The same is true with respect to developers dedicating lots; an on-site dedication requires lots with a value equal to 100% of the in-lieu fee, while an off-site dedication requires lots with a value equal to 125% of the fee. (Code, § 26-149(g)(3) and (4)). Finally, a developer within the base area paying an in-lieu fee must pay 125%. (Code, § 26-149(g)(6)). The impact of a proposed development does not depend upon how the dedication or fee requirement is met. The arbitrary increase in certain circumstances violates the rough proportionality requirement. Similarly, the Study did not address whether larger commercial developments resulted in a higher job generation rate, but the Code imposes a greater percentage requirement on square footage in excess of 5,000 square feet than it does on the first 5,000 square feet of development.

In contrast to the Ordinance's dedication requirement, the in-lieu fees required under the Ordinance must be analyzed not under the Takings Clause, but under constitutional and statutory provision governing fees and taxes. Generally, a charge imposed by a local government is characterized as either a fee, tax or special assessment. *See e.g. Bloom v. City of Ft. Collins*, 784 P.2d 304, 307 (Colo. 1989). If the in-lieu fees are deemed to be taxes, the Ordinance violates TABOR, which requires that taxes be approved by a popular vote. If the charges are characterized as fees, the Ordinance violates the Impact Fee Statute.

The Colorado Supreme Court has described a fee as a charge imposed by the government in exchange for a service and which is reasonably related to the cost of providing such service. *Bloom,* 784 P.2d at 308. If no service is provided or if the amount of the charge greatly exceeds the cost of the service, the charge is a tax. *Id.* There are two recent district court opinions from Idaho which hold that fees similar to those imposed in the Ordinance are taxes on the theory that no service is provided to the person paying the fee. *See Schaefer v. City of Sun Valley, Idaho*, Case No. CV-060882 (5th Judicial Dist.. 2007); *Mountain Central Bd. of Realtors, Inc. v. City of McCall,* Case No. CV 2006-490-C (4th Judicial Dist. 2008). While these cases have no precedential import in Colorado, the logic of the cases is similar to that followed by the Colorado Supreme Court in *Bloom*. As indicated by the Idaho cases, there is a good argument that the charges imposed by the Ordinance are taxes because the person paying the charges receives no service in exchange.

Even if charges are determined to be a fee, however, the Ordinance violates the Impact Fee Statute. The statute restricts the ability of local governments to impose "impact fees or other similar development charges." C.R.S. § 29-20-104.5. The reference in the statute to "similar development charges" is certainly broad enough to cover the fees due with respect to fractional units under the Ordinance and probably broad enough to cover the actual dedication requirements.

The Impact Fee Statute states that an impact fee may only be imposed by a local government to fund expenditures by such local government on capital facilities needed to serve new development. C.R.S. § 29-20-

104.5(1)(c). The local government is required to quantify the reasonable impacts of a proposed development on existing capital facilities and establish the impact fee at a level no greater than necessary to defray such impacts directly related to the proposed development. C.R.S. § 29-20-104.5(2). The statute prohibits the imposition of an impact fee to remedy any existing deficiency in capital facilities that exist without regard to the proposed development. *Id.* As far as we can discern, the City made no effort to discern what existing deficiencies existed in the stock of community housing. The failure to do so violates the Impact Fee Statute. While the Study attempts to determine the need for community housing attributable to commercial development, it makes no effort to do so with respect to the inclusionary housing requirement. Once again, the failure to do so violates the Impact Fee Statute. Finally, as described above, the Study is flawed with respect to its determination of the need for community housing attributable to the commercial development.

By focusing solely on new development, the Ordinance also overlooks the fact that many new businesses may be created and located in existing developments which are not subject to the Ordinance or Guidelines. This strongly suggests that under the Ordinance, new development may be subsidizing the affordable housing needs generated by new businesses fortunate enough to locate within an existing development. Again, this violates the statute. In short, the Ordinance fails the quantitative relationship test by exacting more affordable housing than would be generated by any particular new development.

In addition, under the Impact Fee Statute, an impact fee must be collected and accounted for in accordance with C.R.S. § 29-1-801 – 804, which mandates that such money be deposited in an interest bearing account and used only to fund a capital expenditure for which such charge was imposed. It is unclear from a review of the Ordinance whether this is being done.

In summary, we believe the Ordinance violates both the federal and state constitutions and the Impact Fee Statute. As we discussed, we are prepared to proceed with a legal challenge to the Ordinance on your behalf.

Sincerely,

Thomas J. Ragonetti
for the Firm

TJR/abm

873536 3

AGENDA ITEM # 3

CITY COUNCIL COMMUNICATION FORM

FROM:	**Nancy Engelken, Community Housing Coordinator (Ext. 253)**
THROUGH:	**Tom Leeson, AICP, Director of Planning & Community Development (Ext. 244)**
DATE:	**January 13, 2009**
ITEM:	**Yampa Valley Housing Authority Memos as background for the City Council Discussion of the Community Housing Ordinance**
NEXT STEP:	**Direction to Staff for preparation of any Amendments to the Community Housing Ordinance**

___ DIRECTION
_X_ INFORMATION
___ ORDINANCE
___ MOTION
___ RESOLUTION

I. REQUEST OR ISSUE:

The Yampa Valley Housing Authority has prepared information for City Council consideration as a part of its discussion of the Community Housing Ordinance.

II. RECOMMENDED ACTION:

Discussion and Direction to Staff.

III. FISCAL IMPACTS:

None at this report.

IV. BACKGROUND INFORMATION:

Attached please find the following documents for the discussion about the Community Housing Ordinance:

- A Memo from a Developer Task Force through the Yampa Valley Housing Authority regarding a voluntary real estate transfer fee

- A Memo from the Yampa Valley Housing Authority Board of Directors regarding alternative compliance methods under the Community Housing Ordinance

Also please find attached the following information for the discussion about the City's role with the Yampa Valley Housing Authority

- A YVHA Summary Budget
- The YVHA Annual Report
- A Memo from the YVHA Board

V. LEGAL ISSUES:

None at this report.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None at this report.

VII. SUMMARY AND ALTERNATIVES:

Provide direction to Staff for any amendments to the Guidelines and/or additional information required for policy discussions and decisions.

Yampa Valley Housing Authority

To: Routt County Board of County Commissioners and Steamboat Springs City Council
From: Board of Directors, Yampa Valley Housing Authority
Date: August 1, 2008
Re: YVHA 2008 Annual Report

According to the enabling Intergovernmental Agreement between Routt County and the City of Steamboat Springs, the Yampa Valley Housing Authority is required to provide at least annually and no later than August of each year, a written report outlining current year activities to the elected officials in a public meeting format. Such report shall include annual financial statements and descriptions of the projects and programs undertaken or contemplated. August was selected in order to give all parties advance notice about potential financial impacts and plans that the Authority may have on the County and City budgets.

YVHA Board of Directors

Mary Alice Page-Allen, President
Tony Seaver, Vice-President
Kathi Meyer, Secretary Treasurer
Scott Myller (City Appointee)
Nancy Stahoviak (County Appointee)
Ed MacArthur
Kristi Brown
Catherine Carson
Bob Kauffman
John Spezia
Trish Sullivan

1370 Bob Adams Drive, Suite 203 PO Box 774542 Steamboat Springs, CO 80477
Phone 970.870.0167 Fax 970.870.6047

HOUSING DEVELOPMENT AND MANAGEMENT PROJECTS

Fox Creek Village
YVHA sold the last of the 30 units on April 26, 2007. The complex consists of five (5) buildings with six (6) 2 bedroom/2 bathroom units each. Ten (10) units are deed restricted to households earning between 81% to 120% of the Routt County Area Median Income (AMI) ($198,000 average purchase price) and twenty (20) units are deed restricted to households earning up to 80% Routt AMI ($182,000 average purchase price). Originally the Homeowners Association membership included two individuals from YVHA, but full membership and oversight was turned over to the homeowners this year. The purchase price of the 20 units sold to households with incomes up to 80% AMI was subsidized in the amount of $12,500 each through a $250,000 Colorado Division of Housing (CDOH) grant. The subsidy per unit stays permanently embedded with the property making subsequent purchases more affordable to qualifying and eligible households. The City waived the water tap and sewer fees related to each unit which must be paid back on a prorated basis if a unit is sold prior to three years of occupancy. This year, one of the Fox Creek Village units has been resold to qualified buyers and, in accordance with the provisions of the deed restriction, the owner notified YVHA of their intent to sell or rent. As with every similar situation, YVHA provides the owner with a letter that lists the components of the deed restriction and qualifies prospective buyers for the unit. If an owner rents the unit, the renter must meet the same qualifications as a buyer.

Elk River Village
In May 2008, the City Council approved the Elk River Village Project, successfully completing the DP/FDP planning process. The project will be built on the Copper Ridge Business Park, Lot One, a 10.7 acre parcel. YVHA has a $2,028,450 loan from First National Bank of the Rockies for the purchase of this land. The approved project is projected to include 50% of the units (34 units) targeted to households earning less than 120% AMI. The approved plan includes 54 multilevel units of which forty-four (44) are 2 bedroom/2 bathroom and ten (10) are 3 bedroom/2 bathroom units, and thirteen (13) 2 bedroom/2bathroom modular single family homes. In May of this year, the YVHA Board of Directors decided to postpone the project until the results of the Housing Market Demand Analysis were reviewed to better assess our market. The New Projects Committee will review the results in order to determine the appropriate mix of AMI for the deed restricted units.

In June 2008, YVHA submitted a proposal for $590,000 to the City of Steamboat Springs to subsidize the Elk River Village Project. The proposed funding from the City for the Elk River Project will provide $10,000 buy down assistance per unit for the 34 affordable housing units in the Elk River Village project. The request for $250,000 from the City/County Affordable Housing Fund and a $5,000 contribution from YVHA will serve as the required local matching funds for the Colorado Division of Housing (CDOH), Community Development Block Grant (CDBG) request for $255,000. The CDBG funds will provide an additional $15,000 buy down subsidy per unit for the initially projected 17 units that are targeted for households with incomes at or below 80% AMI. When the CDBG funds and the City funds are combined, each of the initially projected 17 units targeted for households at or below 80% AMI will have a $25,000 buy down subsidy, and each of the 17 units targeted for households between 81% - 120 % AMI will have a $10,000 buy down subsidy, significantly lowering the cost to the qualified buyers of the affordable housing units in the Elk River Village Project. The $250,000 from Affordable Housing Fund will be a revolving loan to YVHA that will be used as equity and returned to the City upon completion of each unit sale.

Fish Creek Mobile Home Park

In August 2007, YVHA purchased Fish Creek Mobile Home Park from Bob and Audrey Enever. In order to purchase the mobile home park, YVHA secured a loan from Wells Fargo in the amount of $2,580,000 and a $954,000 loan from the City of Steamboat Springs. The park currently consists of 68 mobile homes. As a condition of the loan from the City, YVHA agreed to explore the conversion of the mobile home park to a Resident Owned Community (ROC). YVHA has reviewed the prospect of selling individual lots to residents of the park with the City's Planning Staff, which uncovered significant challenges including the location of the park and a number of units in the floodplain and floodway. YVHA is now in the process of exploring a Cooperative form of ownership. YVHA staff and one of the residents will be attending a training session that focuses on Resident Owned Communities on August 21-23, 2008. YVHA held several meetings with residents to keep them informed about the progress of converting the park into a resident owned community.

YVHA staff has been overseeing the management of the Mobile Home Park. YVHA and the City's staff have worked out an agreement with Union Pacific Railroad regarding the railroad crossing improvements, and the improvements are scheduled to be completed by December 2008.

Hillside Village Apartments

In August 2007, the Hillside Village Apartments asset was transferred from the Regional Affordable Living Foundation (RALF) to YVHA. The operational transition to YVHA went well, as YVHA has overseen the general operations of this project since 2004. The complex consists of 55 apartments of which 19 are 1 bedroom and 36 are 2 bedroom; all units have one bathroom. We have 38 Rental Assistance (RA) slots that are targeted to very low to low income renters. The RAs are assigned to qualified renters who pay a rental rate that reflects their income level. In March 2008, the rental rates were increased, which was the first time in seven (7) years and was based on the review and recommendation of the United States Department of Agriculture/Rural Development (USDA/RD). The rental rates for tenants who do not receive rental assistance are no more than 30% of their gross income. There is currently a waiting list for the apartments.

In 2007, one apartment was converted to Americans with Disabilities (ADA) standards to accommodate a resident requiring a wheelchair. A second ADA unit will be completed by September 2008. An on-site maintenance person was hired in November 2007, which has significantly improved the efficiency and effectiveness of the maintenance of the facility. A representative from USDA/RD completed a site visit in July 2008 and complimented YVHA on the management, appearance and maintenance of the apartment complex.

HOUSING ASSISTANCE:

Homebuyer Education

In July 2007, the Homebuyer Education (HBE) classes were temporarily discontinued due to the resignation of the Executive Director who was a certified Homebuyer Education instructor. In April, 2008 the HBE classes were resumed and are being taught by current YVHA staff. A minimum of five enrollees are required to hold the class. As of July 2008, one group of eight (8) eight individuals completed the class. The next class is scheduled for August 16, 2008.

In Colorado, Homebuyer Education is a requirement in order to receive any down payment assistance. Currently the full day class covers the responsibilities of homeownership and the importance of personal finance, creditworthiness, and maintaining a home post purchase. At the conclusion of the 8-hour class, students receive a Certificate of Completion. YVHA is exploring the possibility of obtaining certification for a condensed version of the class that would be offered in the evening. The condensed class is a model used in Eagle County and has been certified by the Colorado Housing and Finance Authority (CHFA) and the Federal Department of Housing and Urban Development (HUD). Prospective homebuyers can also complete the require class online through CHFA.

Housing Counseling and Prequalification

YVHA offers individualized counseling to those interested in entry-level housing. The Authority often provides referrals to financing and housing resources. In many circumstances, those who have taken the Homebuyer Education class request a more personalized meeting to discuss their particular situation with regard to purchasing a home.

YVHA also pre-qualifies those seeking to purchase a deed restricted home. Deed restrictions apply in some or all homes at Fox Creek, West End Village and West End Village Town Homes. Prior to entering a sales contract with the sellers, buyers must demonstrate that they qualify for income, residency, net worth and/or employment requirements according to the terms and conditions of the respective deed restriction. YVHA pre-qualified slightly more than 50 households interested in deed restricted housing during 2007. Currently, YVHA collects a $50 fee for this service at closing. The fee structure has been reviewed and modified by the YVHA Executive Committee, and will involve a $25.00 fee for income qualification of each applicant, and deed restriction qualification for each buyer.

Down Payment Assistance

On June 1, 2007, a Community Development Block Grant (CDBG) that was awarded Routt County in 2003 by the Colorado Division of Housing (CDOH) expired. The $90,000 grant was issued as a revolving loan, of which $30,000 was drawn for Fox Creek Condominium buyers. Upon the expiration of the CDBG funded grant, CDOH urged YVHA to request another grant for HOME funds. In September 2007, YVHA submitted an application for a $300,000 grant to CDOH for a revolving loan of down payment assistance for interested homebuyers who earn up to 80% of the Routt County AMI. The final reporting has been submitted for the 2003 grant, and YVHA is waiting for notification of the status of the 2007 grant application.

YVHA is a member of the Colorado Mountain Housing Coalition (CMHC), another grant source for down payment assistance for homebuyers earning up to 120% Routt County AMI. Currently the total amount available to qualified Routt County home buyers is $43,000. Pre-requisites for all down payment assistance sources include attending a Homebuyer Education class and purchasing a home located in Routt County.

FINANCIAL, PLANNING AND ADMINISTRATIVE ACTIVITIES

2007 Audit

In August 2007, the Hillside Village Apartments (a RALF asset) was transferred to YVHA. During 2007, YVHA also implemented the Caselle fund accounting software. The asset transfer, conversion to Caselle software coupled with staff turnover resulted in the need to request an extension of the submittal of the YVHA audit. The extension was granted by the State of Colorado until September 2008.

Hillside Village Apartments is encumbered by a loan from USDA/RD and is required to have a separate audit each year. The Hillside Village Apartments audit must be included as a component of the YVHA audit. The YVHA audit including the separate Hillside Village Apartment audit will be completed by the September 30, 2008, deadline. A copy of the audit will be forwarded to the City and County at that time. Attached to this report is a copy of the YVHA un-audited 2007 year-end financial report.

Funding Source for YVHA

In July of 2007, the YVHA Board of Directors in consultation with City and County leaders decided against placing a funding question on the November 2007 ballot. The YVHA Board requested and was granted funding from both the City of Steamboat Springs and Routt County for the 2008 budget year for general operations. In June 2008, YVHA submitted proposals to the City and County for a total of $185,000 ($80,000 from the County and $105,000 from the City) for the 2009 general operations budget. The 2009 budget request reflects a zero increase over the 2008 allocation. The YVHA scope of services was provided as backup to the funding request submitted to the City and is outlined in the next section. In addition to the funding from the City and County, YVHA receives fees for various services.

YVHA Scope of Services

In 2008, YVHA documented the scope of services provided for the City and County. The scope of services was included in the background information for the funding request submitted to the City of Steamboat Springs. The categories of services include:

1. Income qualification of prospective homebuyers of deed restricted units;
2. Homebuyers assistance that includes homebuyers education, credit counseling, and acquisition of grants for subsidies and loans;
3. Maintaining records of approved community housing units, and monitoring resale of deed restricted properties;
4. Marketing community housing units;
5. Monitoring deed restricted and income limited rental property; and
6. Developing and maintaining a comprehensive housing database.

A fee structure has been developed and is subject to change.

Housing Market Demand Analysis

YVHA is currently serving as the administrative organization for the implementation of a Housing Market Demand Analysis which is focused on the Steamboat Springs workforce. YVHA coordinated a working group to develop a request for proposal that was sent to qualified consultants, evaluated the proposals, selected a consultant, developed the contract and entered into a contractual agreement with the successful firm. YVHA raised $40,000 from local employers, developers and realtors to supplement the $110,000 in contributions from the City of Steamboat Springs, Routt County and Steamboat 700. YVHA continues to work with the consultant in managing the process. The results are projected to be completed in August 2008, with a presentation to the City Council, Board of County Commissioners, YVHA Board of Directors, and the community scheduled for September 16, 2008. The information generated from the Housing Market Demand Analysis can be used to guide policy decisions at the City, County and YVHA. The information can also provide guidance for development related to the housing needs of the Steamboat Springs workforce.

2008 Routt County Housing Needs Assessment

YVHA also is serving as the administrative agent for the 2008 Routt County Housing Needs Assessment. The process involved the development of a request for proposal, the review and evaluation of submitted proposals, the selection of a consultant, and the development, submittal and successful grant award for a Community Development and Block Grant (CDBG) from the Colorado Division of Housing (CDOH) to cover the full cost ($52,400) of the 2008 Routt County Housing Needs Assessment. The Housing Needs Assessment will build on the Housing Market Demand Analysis. Coordination between consultant firms has been established. The Housing Needs Assessment will gather primary data for the communities of Hayden, Oak Creek, Yampa, Steamboat Lake, Stagecoach and unincorporated areas in Routt County, secondary data for each community including Steamboat Springs, and aggregate data for the entire county. YVHA will also manage the administration and reporting for the CDBG grant.

YVHA Annual Plan

In 2008, YVHA developed an annual plan that operationalizes the YVHA Multi-Jurisdictional Housing Plan, the priorities established by the Board at the October 2007 Board Retreat and the staff work plan. The annual plan will be monitored quarterly and will be extended each year based on tasks accomplished, priorities revisited, and the response to issues and opportunities that surface. A copy of that plan is attached to this report.

Executive Director

Elizabeth Black resigned as Executive Director in July, 2007. Curtis Church served as Interim Executive Director from July to December 2007. Curtis did an excellent job keeping the organization on track while maintaining his duties as Project Manager. Donna Howell was hired as Executive Director and began her duties on January 1, 2008

Thank you for your time and consideration.

Summary Budget for All Funds

Budget Recap

	2006 Audit	2007 Budget	2007 Actual	2008 Budget	YTD 10/2008	Proj. Actual	2009 Budget
General Operating							
Revenues	$309,563	$226,131	$214,287	$470,658	$392,184	$423,248	$278,100
Expenditures	$204,612	$256,750	$498,384	$513,399	$358,027	$441,009	$282,112
Revenues/ Expense	**$104,951**	**($30,619)**	**($284,097)**	**($42,741)**	**$34,157**	**($17,761)**	**($4,012)**
Beginning Balance	**$387,996**	**$488,172**	**$488,172**	**$204,075**	**$204,075**	**$204,075**	**$186,314**
Transfers In	$6,569	$0	$0	$0	$0	$0	$0
Transfers Out	($11,344)	$0	$0	$0	$0	$0	$0
Undesignated Balance	$481,284	$450,665	$197,647	$147,215	$226,467	$173,617	$173,959
Tabor Reserve	$6,888	$6,888	$6,429	$14,120	$11,766	$12,697	$8,343
Ending Balance	**$488,172**	**$457,553**	**$204,075**	**$161,335**	**$238,232**	**$186,314**	**$182,302**
Development Fund							
Revenues	$4,177,318	$19,179,000	$1,945,500	$33,738,640	$0	$0	$137,000
Expenditures	$3,793,433	$19,024,676	$2,101,941	$31,309,170	$143,295	$184,784	$136,967
Revenues/ Expense	**$383,885**	**$154,324**	**($156,441)**	**$2,429,470**	**($143,295)**	**($184,784)**	**$33**
Beginning Balance	**($30,451)**	**$353,434**	**$353,434**	**$196,993**	**$196,993**	**$196,993**	**$12,210**
Ending Balance	**$353,434**	**$507,758**	**$196,993**	**$2,626,463**	**$53,698**	**$12,210**	**$12,243**
Hillside Village.							
Revenues	$0	$351,120	$185,840	$460,371	$313,175	$375,536	$401,350
Expenditures	$0	$448,737	$160,468	$415,356	$293,058	$349,149	$455,538
Revenues/ Expense	**$0**	**($97,617)**	**$25,373**	**$45,015**	**$20,117**	**$26,387**	**($54,188)**
Beginning Balance	**$0**	**$0**	**$171,809**	**$197,182**	**$197,182**	**$197,182**	**$223,569**
Ending Balance	**$0**	**($97,617)**	**$197,182**	**$242,196**	**$217,299**	**$223,569**	**$169,381**

Summary Budget for All Funds
Budget Recap

	2006 Audit	2007 Budget	2007 Actual	2008 Budget	YTD 10/2008	Proj. Actual	2009 Budget
Fish Creek							
Revenues	$0	$0	$146,156	$308,787	$263,834	$316,601	$333,128
Expenditures	$0	$0	$31,540	$100,430	$113,089	$167,972	$122,102
Debt Service			$37,152	$144,000	$118,035	$144,000	$161,157
Reserve					$15,390	$18,976	$38,964
Revenues/ Expense	**$0**	**$0**	**$77,464**	**$64,357**	**$32,710**	**$4,628**	**$49,869**
Beginning Balance	**$0**	**$0**	**$0**	**$77,464**	**$77,464**	**$77,464**	**$82,093**
Total Revenues	$0	$0	$146,156	$308,787	$263,834	$316,601	$333,128
Total Expenditures	$0	$0	$68,692	$244,430	$231,124	$311,972	$283,259
Ending Balance	**$0**	**$0**	**$77,464**	**$141,821**	**$110,174**	**$82,093**	**$131,962**
Down Payment Assistance							
Revenues	$60,000	$30,000	$0	$300,000	$0	$0	$300,000
Expenditures	$60,000	$30,000	$0	$105,000	$0	$0	$300,000
Revenues/ Expense	**$0**	**$0**	**$0**	**$195,000**	**$0**	**$0**	**$0**
Beginning Balance	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
Ending Balance	**$0**	**$0**	**$0**	**$195,000**	**$0**	**$0**	**$0**
All Funds							
Revenues	$4,546,881	$19,786,251	$2,491,783	$35,278,455	$969,193	$1,115,385	$1,449,578
Expenditures	$4,058,045	$19,760,163	$2,829,484	$32,587,355	$1,025,505	$1,286,914	$1,457,876
Revenues/Expenditures	**$488,836**	**$26,088**	**($337,701)**	**$2,691,101**	**($56,311)**	**($171,529)**	**($8,298)**
Beginning Balance	**$357,545**	**$841,606**	**$846,381**	**$508,680**	**$508,680**	**$508,680**	**$504,185**
Undesignated Balance	$839,493	$860,806	$502,252	$3,185,661	$425,213	$305,478	$448,581
Fish Creek Reserve					$15,390	$18,976	$38,964
TABOR Reserve	$6,888	$6,888	$6,429	$14,120	$11,766	$12,697	$8,343
Ending Balance	**$846,381**	**$867,694**	**$508,680**	**$3,199,781**	**$452,369**	**$504,185**	**$495,887**

To: Steamboat Springs City Council
From: Board of Directors, Yampa Valley Housing Authority
Date: January 8, 2009
Re: January 13, 2009 YVHA/City Council Discussion

The following information is provided for our discussion scheduled on Tuesday, January 13, 2009. The staff information provides a beginning point, particularly with regard to short term issues, and that information is reiterated herein. Given the broader nature of the discussion scheduled for Tuesday, it was felt by the YVHA Board of Directors that the longer term concerns needed a stronger focus and should also be included. Additionally, there are some comments and information shown in italics beside City staff's to provide additional information for the discussion.

Yampa Valley Housing Authority Discussion

Purpose
It is the purpose of the Yampa Valley Housing Authority to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan in order to provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income living within the jurisdiction of the Authority, and to provide affordable housing projects or programs for employees of employers located within the jurisdiction of the Authority (Intergovernmental Agreement Establishing the Yampa Valley Housing Authority (2003), p. 2).

Long Term

How does the YVHA fulfill its mission and purpose?

- During 2009, the YVHA and the City should consider what steps could be taken to sustain the YVHA with regard to long term funding. As the alternative to finding long term funding options, parties will need to work together in developing an exit strategy that includes turning over management of the Fish Creek Mobile home Park and the Hillside Village Apartments, along with providing support for programs such as down payment assistance, deed restriction monitoring, and client-based programs.
- Assuming that a long term funding solution is found, the YVHA and City need to discuss and develop specific strategies to assure that there is a functional relationship and on-going collaboration between the entities.

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- If the City continues the Housing Specialist position, the City and YVHA should address the community's confusion and perception that the City and the YVHA are duplicating efforts. This will likely require a significant public education and outreach campaign.

Short Term – Questions Posed by City Staff

What role does the City Council want the YVHA to play in affordable housing in Steamboat Springs in 2009?

- City Council approved $80,000 in funding for the YVHA for 2009. Does the City want to provide additional funding and, if so, from what source and for what purpose(s)?
- The City could specify funding for ongoing administration of existing affordable housing including sales at West End Village and management of the Fish Creek Mobile Home Park, monitoring of the City's deed restrictions, and management of affordable rental housing that may be developed in the future. *The YVHA has included continuing this work as some of the core functions in the 2009 work program for the Asset/Program Manager.*
- The City could specify funds for the YVHA to administer client-based programs, i.e. certified homebuyer education classes, down payment assistance programs, and providing information on affordable housing availability to eligible households. If funded and certified through a state governmental source, some of these programs would provide some administrative/operational funding, e.g. homebuyer education and down payment assistance. *The YVHA has included continuing this work as some of the core functions in the 2009 work program for the Asset/Program Manager.*
- The City could specify funding for the YVHA to develop new affordable housing. Currently, under a City Council motion passed in October 2008, the YVHA could apply for payment in lieu funds for such a project. *The YVHA applied for fee-in-lieu funding for the Elk River project mid-2008 and has never received a response from the City as to the status of that application.*
- The City could discontinue all administrative and monitoring efforts of community housing proposals and compliance including plan review, policy guidance for City Council, work with developers on community housing options and lease-to-own programs, outreach to non-profit and for profit organizations involved in affordable housing development and administration, creation of new funding sources, employer partnerships, and administration of federal funding programs and have the YVHA assume all current City affordable housing related activities.
- Are there any activities the City Council does not want to fund as a part of its 2009 contribution to the YVHA (e.g. new development of affordable housing)?