

Brown Ranch Annexation Committee (BRAC)
Wednesday, June 7, 2023
Meeting Summary

Attendance: Robin Crossan, Joella West, Gary Suiter, Leah Wood, Kathi Meyer, Jason Peasley (BRAC); Angela Cosby, Kim Weber, Chuck Cerasoli, Jon Snyder, Mark Beckett, Rebecca Bessey, Dan Foote, Matt Barnard (City staff); Emily Katzman (YVHA staff)

A. PRIOR MEETING RECAP

1. Approval of Minutes

Minutes (the official video recording) from the May 24, 2023 meeting were approved unanimously. First by Leah Wood; Second by Robin Crossan

2. Post-Annexation Land Use Approval

City and YVHA staff have an upcoming meeting to work through outstanding post-annexation land use approval issues. They plan to discuss issues that could be addressed through zoning code updates, as well as issues that may be in the Annexation Agreement.

3. BRAC Agenda Topic Schedule

June 23, 2023 – Meeting was extended. New time: **8am – 2pm**

- Draft Fiscal Impact Model including capital revenue/expense study
- Post-annexation land use approvals

BRAC will revisit the need to schedule meetings into July at the conclusion of the June 7th BRAC meeting.

4. Communications and Public Outreach Update

The [Communications and Public Outreach update](#) was provided in the meeting packet.

Highlights of the report include:

- Two additional Annexation Town Hall meetings have been scheduled for June 28th at 5:30 pm and July 27th at 4 and 6pm.
- YVHA provided an [AMI fact sheet](#). Area Median Income (AMI) is the metric YVHA and other public housing authorities use to determine eligibility for income-restricted housing and other programs.

B. CURRENT DISCUSSION

- 5. Contingencies** – Dan Foote, City Attorney, presented on Contingencies, which are described in Section 15 of the DRAFT Brown Ranch Annexation Agreement. Please see [packet materials](#) and meeting recording at 19:00:00 for additional details.

At issue: how to handle unresolved legal challenges. These contingencies create an “off ramp” in case third parties get involved with annexation in a way that stops or stalls the process, and either party needs to exit the agreement. Two ways this could happen:

- Successful referendum petition – If referendum passes, annexation process would have to start over.
- Legal challenge – If the process is bogged down in litigation, either party could pull out after a year. Unlikely situation due to state statute.

Outcome: BRAC agreed to the language proposed in Section 15 of the DRAFT Annexation Agreement.

- 6. Draft Annexation Agreement** – Dan Foote, City Attorney, presented on various topics in the DRAFT Annexation Agreement where there is disagreement between parties (highlighted in red or yellow in the agreement). Note, this summary is not intended to capture the nuance of the conversation. Please see [packet materials](#) and meeting recording at 24:52:00 for additional details.

“RED ITEMS” – FEES AND EXACTIONS

STR Tax Contribution

- Language is primarily in Section 9, as well as numerous references to STR tax throughout document. These notes relate to all references to the STR tax in the document.
- YVHA proposed a 75% share of the STR tax to the Brown Ranch project. City proposes 50% share.
- City concern: language regarding YVHA to have no responsibility for offsite infrastructure not funded by STR tax (City proposes deletion of this provision).
- City concern: direct link between STR tax and utility fund could impact enterprise status of Utility Fund (City proposes elimination of link between STR Tax and Utility Fund).
 - Enterprise Fund: TABOR creates restrictions on how the City can raise and spend money. Those restrictions do not apply to “enterprise funds” which operate on basis of fees, rather than taxes. The City’s Utility Fund is paid for by user fees and receives no more than 10% annual revenues from City taxes. It is not subject to revenue and spending limits set forth in TABOR. If enterprise fund status is lost, the City would not be able to issue debt without an election.

Questions and Discussion re STR Tax:

- Q: Jason Peasley: YVHA proposed the STR tax would be granted to YVHA, which would pay the tap fees that are normally assessed to a project. Does that extra step of granting funds to YVHA resolve the enterprise fund issue?
A: Dan Foote: There isn’t a bright line. But the major concern is the language that says YVHA’s offsite infrastructure responsibilities only exist to the extent that the City grants YVHA STR tax funds.
- Share of STR tax dedicated to Brown Ranch: Conversation deferred to June 23, 2023, to discuss in conjunction with the Brown Ranch capital model.
 - Leah Wood requested the City consider this issue on a subsidy per unit basis.
 - BRAC acknowledged there is only a four-month track record of revenues collected from STR tax.
- Q: Kathi Meyer: Has the City had an opportunity to talk to bond counsel regarding potential to underwrite the STR tax?

A: Kim Weber: City has not discussed in detail with counsel. Conversations have been high-level and focused on debt service coverage.

- Dan Foote: TABOR establishes limitations on the City's ability to make promises to pay money in the future. All conversations about commitment of STR funds are non-binding and contingent on future City Councils making annual appropriations. Unless one of the following three things happen:
 1. City has money now and appropriates it now. (not applicable)
 2. City issues revenue bond. Once bonded, it can be committed. (requires election)
 3. Voters approve a multi-fiscal year financial obligation. (requires election)
- Robin Crossan and Joella West: interested in talking to City Council about TABOR election in November 2023 or 2024.
- Q: Robin Crossan: what happens if City bonds STR tax, but economy changes and STR collections are lower than expected?

A: Dan Foote: The outcome depends on the type of bond.

 - Revenue bonds: if revenues are lower than expected and insufficient, bond holder has no recourse.
 - General obligation bond: City backs up bond. If STR revenues are insufficient, City's General Fund would be obligated.
- Q: Robin Crossan: What happens if a future City Council chooses to reduce the 9% STR tax to a lower percentage?

A: Dan Foote: If the STR tax is bonded, a future City Council cannot impair its ability to repay the bond (cannot reduce the tax).
- Timing for bonding question on November ballot:
 - 100 days in advance of election – notify County Clerk
 - 70 days – sign Intergovernmental Agreement w/County
 - 60 days – certify ballot language
 - Determined by ordinance with two readings
 - If moving forward, need to handle in July 2023
 - Election authorizes but does not require City to issue debt.
 - Long shot, if not impossible, to put bond question on November 2023 ballot. However, City could grant YVHA a percentage of current STR tax revenue (cash transaction) and have a bond question in November 2024.
- Outcome:
 - YVHA will work with Dan Foote on
 - City concern re: YVHA having no responsibility for offsite infrastructure not funded by STR tax.
 - City concern re: Enterprise Fund status.
 - BRAC will revisit Brown Ranch share of STR revenues and bonding potential at the June 23rd meeting.

Fire Station Dedication

- YVHA has proposed dedicating land for a 50,000 SF station; City has requested space for an 87,000 SF station.

- Chief Chuck Cerasoli and Jason Peasley met to discuss the issue. Proposal: change language in Annexation Agreement to “site that can accommodate critical features of fire station.” Location has been identified, but Annexation Agreement should retain flexibility in case site needs to change.
- Land dedicated to City at time of final plat for Neighborhood A. Construction to begin when roads and infrastructure are accepted by City.
- BRAC requested minimum and maximum lot size in Annexation Agreement [1.25 – 2 acres?] w/ criteria to ensure the City gets what it needs to serve Brown Ranch.
- Delete reference to staffing in AA.
- Chief Cerasoli: any agreement also needs consensus of Steamboat Springs Area Fire Protection District.
- Next steps:
 - Chief Cerasoli will add this topic to a future agenda of the Fire District Oversight Committee meeting.
 - City and YVHA staff will collaborate to refine language.

Transit

- YVHA draft Annexation Agreement contemplates committing City to providing a level of service “commensurate” to existing transit service. City feels strongly about restoring the language it previously had in Annexation Agreement re: lack of City funding source for robust transit and/or micro-transit.
- City uncomfortable committing to something it cannot deliver on.
- City may have to reduce existing service by 10% in 2024 due to rising cost of providing service.
- YVHA emphasized the importance of public transit. YVHA heard through community engagement that transit is one of the top community needs and priorities for Brown Ranch.
- Kathi Meyer suggested adding “best effort” language to the Annexation Agreement to acknowledge there is a long-term goal to expand transit service.
- Need dedicated revenue source for transit.
- YVHA Board will meet to discuss “acceptable outcome.” Review conversation with BRAC on June 23rd.

Water and Wastewater

- Current draft Annexation Agreement language eliminates YVHA obligation to pay tap fees (if not granted STR tax revenue) and water rights dedication fee in lieu. City proposes restoring YVHA obligation to pay tap fees and water rights dedication fee in lieu for two reasons.
 1. Inconsistent with how enterprise funds operate.
 2. The infrastructure and facilities need to be built and City cannot assume YVHA’s share.
- Fee in lieu for dedicating water rights:

- YVHA requested estimate of fee. City Public Works Department is developing a methodology to determine fee for City Council consideration. Also need this input for the Capital Projects analysis.
- YVHA position: this fee adds to the cost of development and decreases affordability of housing.
- BRAC discussed potential to waive City building permit fees and building use excise tax.
- No outcome; both parties need to revisit.

Fiscal Impacts to General Fund Operations

- Not addressed in current draft. Need to add language that addresses this issue. Range of outcomes:
 - City willing to absorb delta in General Fund?
 - YVHA cover some or all of gap w/various mechanisms? ie Real Estate Transfer Assessment (RETA), metro district, etc.
- No outcome; both parties need to revisit.

“RED ITEMS” – PROCESS

Post-Annexation Land Use Approvals

See meeting [summary from 5/24/23](#) meeting for details on City position on these issues.

- Collateral/phasing – staff exploring options.
- Preliminary plat should be public process (City position)
- Variance decision maker should be City Council instead of Planning Director (City position)

Next steps: staff to meet, revise language, present changes on June 23.

Consent to Formation of Special Districts – Section 3 of DRAFT Annexation Agreement

- YVHA has requested ability to form one or more special districts and has requested City consent to do so.
- Regarding process, the City must approve a service plan, which is a legislative issue.
- Outcome: YVHA will work with City to refine language to be softer. Language should indicate City support of the concept without restricting legislative actions of a future council.

Vesting – Section 13 of DRAFT Annexation Agreement

- What is a vested right? A promise that the land use authority (City of Steamboat Springs) will not change rules for certain period of time.
- YVHA has requested a 40-year vesting term with fairly limited vesting related to uses, densities, and financial questions. With its proposed language, YVHA is looking for protection against future City Councils downzoning the property and keeping YVHA from delivering the proposed development plan.
- City Council is concerned about committing to 40-year vesting term, however, has not offered a counterproposal.

- BRAC discussed idea: 20-year vesting term w/opportunity to extend 20 years if YHVA meets some milestone? (x number of units by y year)
- City staff recommendation: Narrow scope of vesting. Rights that are not vested should include: subdivision processes and TND development standards.
- Outcome: YVHA and City attorneys will revise language that narrows vesting scope while ensuring that density and uses are preserved.

Attorney Fee Shifting Provision

- City generally opposes this concept. City proposes that if parties end up in litigation, they each bear their own fees.
- Outcome: YVHA and City attorneys will discuss and revise language.

“YELLOW ITEMS” – CITY SERVICES

“Commensurate” service levels

- YVHA’s proposed DRAFT Annexation Agreement regularly uses the word “commensurate” to describe the level of service contemplated at Brown Ranch.
- City position: The word “commensurate” is too broad and subjective. City proposes being more specific and handling level of service on a case-by-case basis to provide more objective standards.
- Outcome: Staff will figure it out and revise DRAFT Annexation Agreement accordingly.

Streets – Section 7a

- A previous draft of the Annexation Agreement contained language describing minimum Right of Way (ROW) widths as a compromise and a suggestion YVHA does more than the minimum.
- City proposes:
 - ROW width language to be restored as a management of expectations.
 - Add language regarding timing of snow removal equipment acquisition and staff hiring/training. Intent: set expectations.

Parks

- Regional park – City requesting dedication of 46- acres of regional parkland. YVHA remains opposed to the concept. – Add to June 23 agenda.
- City requesting additional phasing details to ensure parks are available as Brown Ranch is developed and residents move in. Phasing should be based on both proportion of population as well as neighborhood completion. – City to propose language.

Questions and Discussion:

- Q: Kathi Meyer: What is driving the need for a regional park? Is it Triple Crown?
A: Angela Cosby: Triple Crown has been significantly reduced, compared to 2017-2019 when PROSTR was adopted. Largest demand is from local use. Example: lacrosse tournament last

weekend. 300 players at Howelsen, 200 at Whistler, and same at Emerald Park and Ski Town park.

- Q: Kathi Meyer: is there a partnership opportunity w/school districts as they add parks?
A: Angela Cosby: Have one; looking to make it better.
- Q: Kathi Meyer: where does 46-acres come from? Is that an industry standard?
A: Angela Cosby: No. Industry standard is to keep up with per capita, which would be over 100 acres of regional parkland. 46-acres was a peer recommendation during PROSTR process.
- Q: Jason Peasley: YVHA is working to provide a Special Use Facility through a third-party partner (Steamboat Sports Barn) that would construct and operate the facility. If the facility is not dedicated to the City, does it count toward YVHA's park acreage total?
A: Angela Cosby: City would like to see the land dedicated to the City as parkland. The City would then leverage partnerships to get that type of facility built. This is important to the City to protect the community's long-term investment and equity of access. BRAC acknowledged alignment of goals, though did not resolve the issue.
- Outcome:
 - City to propose language re park phasing.
 - Parties to resume negotiations re regional park.

PUBLIC COMMENT – Public comment was held at 11:32 pm. Two community members provided comment.

- Leslie Alprin – Has the City already annexed Brown Ranch? Brown Ranch is an extreme mistake. No one in this room will be around in 40 years. We are destroying Steamboat. Will result in expanding US40. Will you have to tear down historic buildings in downtown Steamboat Springs to expand the highway? The housing won't be affordable. I don't know why there is a question that this should be annexed to the City. What happens to Sleeping Giant school? Will it be overcrowded? *
- Angie Gamble – Thank you for working hard on this. Would like to know about affordability goals at Brown Ranch and if goal is still to limit housing expenses to 30% of someone's income?

*City Council President Robin Crossan responded to the first comment to clarify that the City of Steamboat Springs has not annexed Brown Ranch. The purpose of these public meetings is to discuss and negotiate the terms of a Brown Ranch Annexation Agreement.

Water/Wastewater – Section 3a

- Elk River Water Treatment Plant: City intends to build the plant, but requests a softening of language. Revise/delete the language regarding timing.

- Limit scope of water/wastewater vesting in case there are material changes to the Brown Ranch Development Plan. City understands concept presented by YVHA and believes it is reasonable, but going to soften language.
- Updates to conservation plan – City proposes replacing existing concept with a water budget. Clarify that plan will be updated every 7 years, in accordance with the state statute. YVHA is committed to water conservation and will work with City to clarify language in Annexation Agreement.
- Regarding overall process: Leah Wood requested update on timing and when City can turnaround a new DRAFT Annexation Agreement. – June 23rd.

“YELLOW ITEMS” – Process

Affordability/Attainability

- City wants to ensure permanent affordability at Brown Ranch.
- City wants some degree of input or role in revising AMI targets over time.
- City may propose language on YVHA enforcement of affordability measures.

Questions and Discussion:

- Regarding City input in setting AMI targets: Jason Peasley asked for clarification on what kind of role the City would like: key stakeholder? Decision maker?
 - Kathi Meyer clarified that affordable housing financing partially drives AMI targets on a project (HUD, Fannie, Freddie all have different requirements).
 - Jason Peasley clarified that YVHA wants to take a data-driven approach to the process based on a regularly updated Housing Needs Assessment.
 - City representatives that community has so much stake in the project, and therefore City needs some level of influence in this process.
- Regarding permanent affordability: this is also critical to YVHA. YVHA commits to providing as much permanent affordability guarantee as possible within the constraints of the housing financing programs, which vary by housing types:
 - Ownership housing units: YVHA can commit to permanent affordability on for-sale units through Community Affordability Agreement (deed restriction)
 - Middle-market rental housing (non-LIHTC): requires negotiation between YVHA and its development partner. YVHA has successfully negotiated permanent affordability in its other middle-market development deals.
 - Low-Income housing financed by LIHTC: Surprisingly, these projects have the greatest amount of public subsidy, with the least stringent permanent affordability requirements per the funding program (out of YVHA control). The State of Colorado requires a Land Use Restrictive Agreement with a 40-year affordability requirement. After that 40-year term expires, YVHA can extend affordability term by:
 1. YVHA can exercise its Right of First Refusal or purchase option to acquire property. When YVHA has full ownership of the development, it can put its own permanent affordability requirements on it.

2. Re-syndication and recapitalization – this is a refinancing event typically tied to major capital improvements. If new tax credits are allocated, the affordability requirements are extended by an additional 40 years.

- YVHA committed to putting in all provisions possible to achieve permanent affordability. However, YVHA must be able to utilize the LIHTC program, because it is virtually the only way to build housing that is affordable to people at 30 – 60% of Area Median Income.
- Example of local LIHTC project with expired affordability requirements: Mountain Village – was developed over 40 years by a private party, using the Low-Income Housing Tax Credit (LIHTC). The Land Use Restrictive Agreement (and affordability requirements) has expired and apartment complex was sold. YVHA tried to acquire it but was significantly outcompeted. In next 3 years, 26 apartment units with affordability controls will be converted to market rate units.
- Acknowledgment that City and YVHA goals are aligned. Add language about “best efforts” of exercising ROFR or resyndication/capitalization.
- Outcome: Staff to work on language collaboratively.

Land Use Approvals

- Zone districts – City does not intend to create zone districts that are exclusive to Brown Ranch but is updating TND zoning to be tailored to Brown Ranch. City working on this now and will provide draft to YVHA soon.
- Variance criteria – City staff support considering a general affordability criteria, but not one that is specific to Brown Ranch. City proposes handling this through a sperate process (City CDC amendment).
- Preliminary plat – City proposing this process should go to Planning Commission. All parties agree (turn it green!).
- Parks exemption shall apply only to acreage and location and not to other standards. Example of other standards: integration of stormwater, steep slopes. – YVHA to review and respond.
- Outcome: staff to meet, revise language, present changes on June 23.

Sustainability

- Dan Foote Has not yet had chance to talk to City Council; direction is needed.
- Question: *will City have a role in developing and/or enforcing sustainability measures?*
- In the absence of City sustainability requirements, YVHA has proposed its own sustainability regulation in the form of *Brown Ranch Health Equity, Sustainability, and Resiliency Design Guidelines*.
- Add language that YVHA will comply with any future City sustainability guidelines or regulations in addition to its own regulatory framework.

Term

- Current language is based on West Steamboat Neighborhoods annexation plan and needs to be revised.

- Needs revision to reflect different annexation scope, goals, and commitments/missions of the parties.
- Dan Foote will revise this section after other key sections are finalized.

Moratoria

- No objection to this language, provided there is agreement on affordability/attainability measures.

Amendments – Section 17e

- Definition of YVHA needs to be limited. i.e. Districts and HOAs not art of amendment process.
- Outcome: YVHA and City attorneys will discuss and modify language. Amendments handled by resolution of YVHA Board of Directors?

Assignment

- YVHA is a unique counterparty and current language is too broad.
- Outcome: Dan Foote understands YVHA’s intent and will propose modified language for the agreement.

7. Draft Fiscal Impact Analysis

YVHA is working with RCLCO to address questions and comments from the 5/24/23 BRAC meeting. For the June 23rd meeting, RCLCO will provide an updated fiscal impact model that will include requested changes to operating model. YVHA will also include revised capital revenues and expenses model.

C. NEXT MEETING – OUTSTANDING TOPICS AND ISSUES

- June 23rd 9am – 2pm
 - Fiscal Impact Model including capital revenue and expenses
 - STR tax allocation
 - Transit
 - Water/wastewater tap fees and fee in lieu
 - Regional park
 - Post-annexation land use

Future meetings scheduled:

- July 12th 9 am -2 pm
- July 26th 9 am-2 pm