

**FRUITA HOUSING AUTHORITY AND FRUITA CITY COUNCIL
JOINT MEETING
APRIL 4, 2023
5:30 P.M.**

Present:

Chairman/Mayor Joel Kincaid
Vice-Chairman/Mayor Pro Tem Matthew Breman
Commissioner/Councilor Jeannine Purser
Commissioner/Councilor James Williams
Commissioner/Councilor Ken Kreie
Commissioner/Councilor Amy Miller
Commissioner/Councilor Aaron Hancey

Excused Absent

(None)

**Housing Authority
and City staff present:**

Executive Director/City Manager Mike Bennett
Executive Director Designee/Assistant City Manager
Shannon Vassen
Treasurer/City Clerk/Finance Director Margaret Sell
Secretary/Deputy City Clerk Deb Woods
Communications and Engagement Specialist Ciara DePinto
Housing Authority/City Council Attorney Mary Elizabeth Geiger

Also present:

Special Counsel to the Housing Authority and City Dee Wisor with Butler Snow
Kim Pardoe, Principal of IndiBuild, LLC
Paul Glasgow, Partner in IndiBuild, LLC
Sam Betters, Housing Authority and Development Specialist (virtually)
Alex Gano, Attorney for Indibuild, LLC with Bryan Cave Leighton Paisner LLP (virtually)
Members of the public (in person and virtually)

***Note from Secretary/Deputy City Clerk:** This meeting begins with a Fruita Housing Authority meeting. The opening of the Joint Fruita Housing Authority and Fruita City Council occurs after the Fruita Housing Authority Public Hearing Agenda item (Resolution FHA 2023-01).*

CALL TO ORDER AND ROLL CALL

The third meeting of the Fruita Housing Authority was called to order by Chairman Joel Kincaid at 5:33 p.m. The meeting was held in person and virtually.

AGENDA – ADOPT/AMEND

- **COMMISSIONER KREIE MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER PURSER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

CONSENT AGENDA

1. APPROVAL OF THE MINUTES OF MARCH 7, 2023

Chairman Kincaid asked if there were any requests from the public to remove any item(s) from the Consent agenda for further discussion. There were no such requests. He referred the matter to the Fruita Housing Authority.

- **COMMISSIONER HANCEY MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COMMISSIONER MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

PUBLIC HEARINGS

2. RESOLUTION FHA 2023-01 – A RESOLUTION ADOPTING A BUDGET AND APPROPRIATING SUMS OF MONEY FOR THE FRUITA HOUSING AUTHORITY FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2023 AND ENDING ON THE LAST DAY OF DECEMBER 2023

Executive Director designee Shannon Vassen presented the proposed draft 2023 Fruita Housing Authority Budget. He explained that as is required by government budget law, staff did present the proposed 2023 Budget to the Housing Authority at their last meeting of March 7, 2023. Since then, the Fruita City Council has appropriated \$15,100 to the Housing Authority and in order for the Authority to legally spend those dollars, it needs to adopt a Budget and appropriate the funds.

Mr. Vassen stated that there had been no changes to the Budget since it was first presented on March 7, 2023. That concluded his presentation.

Chairman Kincaid opened the public hearing. Hearing no comments from the public, he closed the public hearing and referred the matter to the Housing Authority.

- **COMMISSIONER PURSER MOVED TO ADOPT RESOLUTION FHA 2023-01 – ADOPTING A BUDGET AND APPROPRIATING SUMS OF MONEY FOR THE FRUITA HOUSING AUTHORITY BUDGET FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2023 AND ENDING ON THE LAST DAY OF DECEMBER 2023. COMMISSIONER MILLER SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

OPEN JOINT MEETING OF THE FRUITA HOUSING AUTHORITY AND FRUITA CITY COUNCIL

Chairman/Mayor Joel Kincaid opened the Joint Meeting of the Fruita Housing Authority and Fruita City Council at 5:45 p.m.

JOINT MEETING AGENDA ITEMS**3. PRESENTATION – INDIBUILD PRESENTATION TO FRUITA CITY COUNCIL AND FRUITA HOUSING AUTHORITY ON PROPOSALS REGARDING FRUITA MEWS**

Founder of IndiBuild, LLC, Kim Pardoe gave a PowerPoint presentation concerning proposals for a partnership opportunity for the Fruita Housing Authority (“FHA”) with IndiBuild and its Fruita Mews team to create, own and operate 50 workforce, affordable housing units in Fruita. Accompanying Ms. Pardoe in person was Paul Glasgow, partner in Indibuild. Present virtually were another Indibuildpartner, Sam Betters, Indibuild’s attorney Alex Gano with Bryan Cave Leighton Paisner LLP and IndiBuild’s tax credit consultant, Adam Morgan with Morgan & Associates.

Ms. Pardoe stated that the Fruita Mews will consist of 50 one-, two and three-bedroom units located within ten residential buildings and a 1,300 square foot clubhouse. She said the development will serve Fruita residents earning between \$17,000 and \$106,000 per year, which based on her prior estimates from last year is about 86% of the Fruita population.

In her presentation, Ms. Pardoe also stated the following:

- The project will be highly sustainable with the current rating that exceeds National Green Building Silver Standards.
- The property design is “pocket neighborhood” in nature and community oriented in an attempt to generate community interaction with front porches and tree lined streets.
- Community amenities include a community building with an expansive back porch overlooking a play structure, community gardens and a grassy outdoor amphitheater. She said there will also be a nature trail and a mountain bike skills loop that will eventually tie into the Grand Valley multi-modal trail as well as numerous outdoor gathering spaces.
- In the spirit of IndiBuild and Fruita’s “Live, Work and Play” mission and Safe Routes to School, the Mews will be located next to the brand-new Monument Ridge Elementary School.
- The timeline for making the Mews a reality started in late 2020 when IndiBuild identified the need for attainable housing in Fruita after reading Fruita’s brand new Comprehensive Plan, *Fruita in Motion*. IndiBuild then started the journey in full force when they honed in on Fruita’s housing needs specifically and presented to the Livability Commission in March of 2021. Ms. Pardoe said that John Rodwick, the then Chairman of the Livability Commission was eager to learn about IndiBuild’s plans and that they were met with a warm welcome by others on the Commission and even urged by Karen Leonhardt to get in front of City Council.

- After an exhaustive search for a piece of land desirable for families, IndiBuild connected with their seller, the Burnheide's through a budding relationship they had created with the Mesa County School District #51.
- After creating their Concept Plan and throughout 2021 and 2022, IndiBuild held a neighborhood meeting, went to Planning Commission and then City Council requesting a Planned Unit Development (PUD) amendment.
- In June of 2022, IndiBuild was awarded tax credit funding from the Colorado Housing and Finance Authority (CHFA) and in December of 2022, they successfully subdivided and purchased the property.
- IndiBuild has created partnerships with Family Health West and the D51 School District, the largest employers in Fruita and the county, respectively. She said both have struggled to hire and retain employees and that the partnerships provide these institutions with affirmative marketing to help them with local housing, thereby assisting them to retain employees and strengthen local economy.
- IndiBuild also has a partnership with Eureka! to provide after-school stem programming and summer recreational camps.
- IndiBuild has a new partnership with Housing Resources of Western Colorado to provide home ownership workshops and financial counseling to help residents of the Mews and the general public develop into future homeowners.
- IndiBuild's timeline for moving forward anticipates a June 1st closing date on all of its financing and an August 2024 construction completion date. They anticipate full occupancy by the end of 2024.
- IndiBuild was present to request the Fruita Housing Authority become a special limited partner in the Fruita Mews project, which will benefit IndiBuild, the new Housing Authority and the community at large.
- Their goal is to preserve and construct the Mews as originally designed while facing rampant inflationary pressure on their construction costs and rising interest rates.
- The proposed partnership will provide project sales use and property tax exemptions for IndiBuild.
- IndiBuild is also requesting from City Council a waiver or deferral of City impact fees to help finance the upfront construction costs.
- Sales and use tax savings will reduce IndiBuild's construction costs by an estimated \$400,000.

- The real estate tax abatement will save IndiBuild between \$25,000 and possibly \$50,000 per year in operating expense budget.
- In return for the above savings, IndiBuild has offered the Housing Authority an annual administrative fee of \$5,000 over their initial period of 15 years (\$92,000 for 15 years) as well as an upfront \$50,000 participation fee.
- IndiBuild is also offering the right-of-first refusal on the property and a purchase option.
- Lastly, IndiBuild has a commitment from CHFA to provide the Housing Authority with a \$150,000 Capital Magnet Fund Grant that would then be loaned into the partnership and paid back to the Housing Authority through available cash flow.

Commissioner/Councilor Kreie asked if the property tax abatement would stay with the property if it were to change hands in the future or if the property would just go to the Housing Authority. Attorney Dee Wisor with Butler Snow, the Fruita Housing Authority's Special Counsel, responded that as long as the Authority is a Special Limited Partner in the partnership and it continues to be the owner, the exemption will continue. IndiBuild attorney Alex Gano responded that if IndiBuild Fruita, LLLP continues to own the property, the property tax exemption would continue and if Ms. Pardoe sold her partnership interest or IndiBuild's investor sold its partnership interest but the property remained titled to IndiBuild, LLLP, the property tax exemption would continue. Attorney Gano explained that if IndiBuild, LLLP were to sell the property to an entirely different owner, the property tax exemption would not apply to the new title owner.

Commissioner/Councilor Kreie asked if there was a potential for the investors to be making more money off of what the Fruita Housing would be providing in terms of helping to fund the project or if the amount that they will be making is a specific amount that doesn't change. Ms. Pardoe said she kind of knows what the investors will make on the property because she was an investor for 25 years and knows how to run their model. She added that the return for investors in tax credits is on the tax credit itself and losses that are generated over 15 years, but someone would have to see their model to know what they are making.

Ms. Pardoe continued to explain that there are two levels of investors; there's a syndicator (which is what she used to be and is like a management team of investment banker-type people who structure deals) and then they usually sell it off to an investor, bank, insurance company or multi-investor fund. She said in Fruita's case, it is a bank.

Chairman/Mayor Kincaid asked what the funding gap is that IndiBuild needs to close on the loan and what other funding opportunities IndiBuild may have after partnering with the Fruita Housing Authority. Ms. Pardoe said she didn't have the numbers in front of her and that IndiBuild is still working out their financing, although they have most of it in place with four tranches from CHFA. She added that in the presentation material that she sent to the Housing Authority/City Council, there is a CHFA first mortgage, CHFA Capital Magnets second mortgage, CHFA Housing Opportunity Fund (HOF) and if the Housing Authority isn't willing to partner with IndiBuild, CHFA is willing to grant some funding to the Housing Authority. She added that on top of that, IndiBuild is currently negotiating \$5.3 million with the Colorado Division of Housing, who might

make a portion of that a loan to IndiBuild, who is working through the tax implications of that. Ms. Pardoe also said that in the numbers that were sent to the Housing Authority/City Council, the column with the Housing Authority assumes a \$200,000 gap, and that is where IndiBuild was going asking for some fee waivers (unintelligible).

Commissioner/Councilor Purser asked if IndiBuild would be able to maintain the original goal of affordable housing on their own if the Housing Authority decides not to partner with them. Ms. Pardoe responded that honestly, IndiBuild didn't know that they would need to cobble together more financing until January when they got their costs back and they were \$3.5 million over budget.

She continued that one of things that IndiBuild has always wanted to do is partner with the Fruita Housing Authority because they are really building an asset for the community and that her long-term goal is not to wait for the affordability period to burn off and make a bazillion dollars; she is here to try and create affordable housing for the community. Ms. Pardoe concluded her answer by saying that if the Housing Authority does not partner with IndiBuild, then the easiest and most likely answer would be that they would delay their closing and cobble together the \$750,000 that they would benefit by partnering with the Housing Authority.

Commissioner/Councilor Purser asked if the \$3.5 million is actually what IndiBuild needs overall to make the project go forward and Ms. Pardoe said it was and that some of it was through a design-build process where value engineering would be implemented through working with subcontractors. She noted that it was important to IndiBuild to use local subcontractors to keep the money in Mesa County.

Ms. Pardoe noted that she forgot to mention earlier that if IndiBuild doesn't partner with the Fruita Housing Authority, they found some new financing sources that have come together through all the different legislative packages, which takes a while for the state to roll out. Just most recently, IndiBuild figured out that they can apply on May 1st for a High Efficiency Electric Heating and Appliances (HEEHA) Grant with the Colorado Energy Office, who is looking to fund ten properties at \$1 million each. She added that IndiBuild will be their first applicant and that the Colorado Energy Office is very excited for them. IndiBuild said Mews will be all electric and will have heat pumps versus resistant heat, which is what the state is reaching for.

Commissioner/Councilor Miller asked who the General Contractor and Property Manager for the project would be. Ms. Pardoe said the General Contractor would be Bryan Construction and the Property Management Company would be Syringa out of Wyoming.

Commissioner/Councilor Miller asked if it would be possible for the City Council/Housing Authority to receive periodic reports about occupancy and how the compliance for that is going. Ms. Pardoe said that in a Standard Operating Procedures (SOP) Agreement, there is usually an annual or quarterly reporting requirement that goes to the partners. Attorney Gano added that usually, the owner will send all of the required reports to send to the Department of Local Affairs (DOLA) and to CHFA, so, throughout the 15-year period, IndiBuild is sending annual compliance reports to these other government entities and then the SOP basically gets copied on all of those compliance reports.

Vice-Chairman/Mayor Pro Tem Breman inquired how it would decrease construction costs but at the same time increase ongoing fixed costs if IndiBuild was asking Fruita for the dedication of

public streets. Ms. Pardoe said it decreases IndiBuild's upfront cost because it reduces Ute Water's requirement for an extra loop (unintelligible). She added that the extra cost is the difference between \$100 per month for fire monitoring versus \$450 per month. She said with just the one loop, monthly fees have to be paid per building, which would mean ten lines that have to get monitored versus one line to a private road.

Vice-Chairman/Mayor Pro Tem Breman noted that at the Council's first meeting with IndiBuild, it was presented that IndiBuild didn't think they would need anything additional from the Housing Authority, but then later there's an ask plus something else IndiBuild *may* ask for. He asked if there was anything else that's out there that IndiBuild may ask for that the Housing Authority/City Council should know about before giving any consideration. Ms. Pardoe said she didn't know what else she could possibly ask for and that she knew she was kind of asking for a lot right now. She reiterated how the Division of Housing is really behind the Mews project and really wants to see affordable housing in Fruita.

Commissioner/Councilor Kreie asked who will coordinate with the partnerships IndiBuild has built with local agencies such as Eureka! after the buildings are built. Ms. Pardoe said it would be herself (as she will still be the owner for 15 years) and that she also knows it's also necessary to stay on top of property managers.

Commissioner/Councilor Hancey asked Special Counsel Dee Wisor to speak more about the Special Limited Partnership such as what the pros and cons are, what the risks are and also what value there is in establishing such a partnership whether the Housing Authority does the tax abatements or not. Attorney Wisor stated that the reason IndiBuild is making the request for the partnership is because there is a state statute that says that if a Housing Authority has an ownership interest in an entity that owns one of these projects, the property is exempt from all property taxes and, during construction, is exempt from sales and use tax. This helps the owner's cash flow and borrowing capacity. Attorney Wisor advised that regardless of the reason for a Special Limited Partnership, a Special Limited Partner is really protected from liability and financial responsibility.

Commissioner/Councilor Hancey asked if there was zero value, then, in partnering with IndiBuild if Fruita does not allow the abatement. Attorney Wisor said he would say the only reason for the Fruita Housing Authority to become a partner is to provide for the tax abatement.

Commissioner/Councilor Kreie asked again if there were any entities who stood to make more money if the tax abatement is provided. Tax credit consultant, Adam Morgan with Morgan & Associates, responded that what the property tax abatement does is it allows more money to be borrowed to pay the costs; otherwise, additional funding must be sought to cover the shortfall.

Vice-Chairman/Mayor Pro Tem Breman asked what the deadline was the Fruita Housing Authority/City Council to make a decision. Ms. Pardoe responded that interest rates are going up every day and subcontractors need to lock in their contracts, so IndiBuild was feeling the pressure. She said the more important deadline to meet is what is called a "carry-over test" for CHFA to show that IndiBuild has spent 10% of its costs by June 30th. If that deadline is not met, CHFA will give an extension, but Ms. Pardoe said she really didn't want to have to ask them for it. Mrs. Pardoe added that December 30th would be the latest date she could ever close the deal and not lose her tax credits.

Commissioner/Councilor Williams asked Ms. Pardoe to speak a little bit more about how CHFA would be willing to grant IndiBuild more funding if the Housing Authority chose not to partner. She said the fourth tranche of funding was a \$150,000 Capital Magnet loan, but if IndiBuild did partner with the Housing Authority, that would become a grant to the Housing Authority, who would loan it to the partnership. The Authority would then be paid back over the 15 years through cash flow.

Commissioner/Councilor Williams asked Mrs. Pardoe where she is from. She responded that she is from Boston and currently lives in Boulder, Colorado. She added that she has been coming to Fruita for 20 years.

Chairman/Mayor Kincaid asked how the appraisal would be done on the property at the end of the 15-year period if the Housing Authority has the first-right-of-refusal and IndiBuild wants to sell the property.

Attorney Alex Gano spoke about how in these deals, there are customarily two purchase rights that are granted to a Housing Authority. The first one is a right-of-first refusal, where at the end of the compliance period (15 years), if Ms. Pardoe decides to sell the property, the Housing Authority has a right to buy it at a below-market price. Secondly, at the end of the 15-year compliance period, the Housing Authority has a "purchase option," so even if Ms. Pardoe doesn't want to sell the property, the Housing Authority can come in and buy the property from her. The exact terms of those would need to be agreed to by IndiBuild's investor partner, but the right-of-first refusal is usually at a below-market price while the purchase option is closer to market price.

Attorney Gano continued that the appraisal amount is usually a bit less than what is seen for a market-rate property because when it is appraised, considerations have to be made for the fact that the tenants are paying below-market rents, which somewhat depresses the value of the property.

Ms. Pardoe added that in year 15, IndiBuild will still have 25 years left on their affordability period that CHFA will record in a covenant against the property. She said when an appraisal is done, the rents are held at the level that they can be at with some kind of growth factor until the end of the Affordability Period. She continued that if it was a for-profit developer, they might jack up the rents, but if it's a Housing Authority, you just continue to maintain lower rents.

Chairman/Mayor Kincaid asked if the market rate would be negotiated in the contract. Ms. Pardoe stated that it is an Income Capitalization and that there is literally a cap on the income. She theorized that if there were only five years left on the Affordability Period, an appraiser could look at that property and say, "for five years, your return is (blank) and then after that, the rents would double and the property value would be more because they are capping an operating income that's twice as high.

Commissioner/Councilor Miller asked if the composition of floorplans and rents for the property would remain the same for the 15-year period. Ms. Pardoe responded that they would actually remain the same for 40 years. Attorney Gano representing IndiBuild said there's a formulation that it seen a lot in these Rights-of-First Refusal Agreements, which is a "debt plus tax is purchased price." He said basically, you look at what debit is remaining on the property at year 15 plus the exit taxes that have to be paid to the investor to get them out. Attorney Gano called it a complicated formulation.

Attorney Gano stated that the other alternative is a set percentage below fair market value. He added that the “debt plus taxes” formulation can be very beneficial for the Housing Authority.

Mayor Kincaid asked if that was going to be in the partnership agreement. Attorney Wisor confirmed that yes, it will be part of the Right-of-First Refusal and Purchase Option language. He asked Attorney Gano if he would have to negotiate a little bit with his equity investor on which approach to take. Attorney Gano responded that the investor is investing quite a bit of money in the project, so they are going to have to sign off on whatever IndiBuild comes up with, but those are just common formulations that his firms sees in Colorado Housing Authority deals.

Commissioner/Councilor Kreie asked if it was common for the developer to stay after the 15-year compliance period or not and Ms. Pardoe said that typically, when there is a non-profit or Housing Authority as a partner, it is customary to extend the Right-of-First-Refusal. She added that a lot of developers don’t have a non-profit or Housing Authority partnership because there’s no benefit to them and they will just hold onto the property and refinance it.

Commissioner/Councilor Kreie asked if it was likely that in 15 years, the Fruita Housing Authority would purchase the property. Ms. Pardoe responded that if the Fruita Housing Authority partners with IndiBuild, that would be her intent; to make sure that the Housing Authority has the access to that Right-of-First Refusal.

Commissioner/Councilor Hancey asked Attorney Wisor if the potential abatements from the Housing Authority, would be strictly property tax or if it would it include sales tax as well. Attorney Wisor advised that one limitation in the statute is that the abatements can only be available for units which are low income. He said that unfortunately, the statute doesn’t define what is meant by low income, but he thought that IndiBuild was going to have a couple of units that are at 120% of AMI (Area Median Income).

Ms. Pardoe interrupted Attorney Wisor and stated that 120% has not been a restriction that anybody has put on IndiBuild; it is a restriction that IndiBuild put on for themselves. She noted that the rents listed in the informational materials she brought to the Council are at 85% of AMI. Attorney Wisor said his point was that there a couple of units that are 120%, so the Fruita Housing Authority/City Council may decide (unintelligible), so maybe the exemption is only 90% of the units (unintelligible).

Attorney Wisor stated that he imagined that IndiBuild’s attorney Alex Gano will eventually have a certificate or agreement for the Fruita Housing Authority to sign that says, the Housing Authority will consent to the abatement up to 90% of the units (if that is the number the Housing Authority lands on).

Commissioner/Councilor Hancey asked for confirmation that state statute limits the Housing Authority to only forgive the sales tax and the property tax is on the units that are low income. Attorney Wisor confirmed that to be correct.

Vice-Chairman/Mayor Pro Tem Breman asked for clarification that if IndiBuild calls for a cap of all units being at 120% or less, the Housing Authority can define 120% as low-income housing. Attorney Wisor confirmed this to be true and added that the Housing Authority will define low income before IndiBuild closes on their financing.

City/Housing Authority attorney Mary Elizabeth Geiger asked if Commissioner/Councilor Hancey was asking if the Housing Authority could decide to abate only property tax or only sales and use tax. Commissioner/Councilor Hancey said that that was another one of his questions. Attorney Wisor said he didn't think that is the case; the tax exemption is all of those things (sales tax and property tax). He continued that on the property tax side, it is the ability to borrow more money and on the sales and use tax side, it is a cash flow benefit to the developer, who may be able to spend the money on other construction costs.

Commissioner/Councilor Hancey asked if the CHEEHA Grant was currently considered in IndiBuild's capital stack now of missing funds. Ms. Pardoe stated that in the numbers that were sent to the City Council/Housing Authority, she thought there was a \$5.3 million line item for the State Division of Housing and the HEEHA would come out of that; it would reduce that and would be replaced by the HEEHA grant. Ms. Pardoe said she honestly doesn't know what IndiBuild will qualify for or how much they are going to get because the grant application is still being written.

Commissioner/Councilor Hancey asked why the \$5.3 million would decrease in the HEEHA instead of adding to it. Ms. Pardoe responded that the Division of Housing did not approve the \$5.3 million as a loan; they said that IndiBuild had to make it better for them to say yes to the proposed numbers. She added that \$5.23 million is actually \$107,000 per unit and the Division of Housing has never funded a property for that much, so they asked the amount to be reduced.

Commissioner/Councilor Hancey asked for confirmation that the construction costs are \$23 million and IndiBuild is saying everything else is looking pretty good except that the \$5.3 million is not 100% secured. Ms. Pardoe said the application has gone through the "First Level" of staff and that they are going to give IndiBuild a loan and she is going to pay them back. She explained that IndiBuild still has to go to the State Housing Board.

Housing Authority/City Attorney Mary Elizabeth Geiger tried to clarify by saying that IndiBuild has applied for the funding and staff is recommending approval, but IndiBuild does not have final approval. She added that if IndiBuild was awarded the HEEHA Grant, that would reduce the amount to \$4.3 million that IndiBuild would be asking for.

Ms. Pardoe stated that the \$5.3 million is going to be approved with \$4.3 million as their "EDG" gap funds and the remaining \$1.3 million will be a conduit loan to IndiBuild that they will pay back.

Sam Betters, consultant to Ms. Pardoe, said he has been working on the project since the very beginning. He stated that the \$5.3 million that is in the model that was emailed to the Housing Authority/City Council represents all of Department of Housing (DOH) funding at this point. That was the original ask and Mr. Betters said they pushed back pretty hard on that number, and that's why Ms. Pardoe and her partner, Paul Glasgow have been out looking for other sources of funding; the HEEHA dollars being the most promising of those dollars.

Mr. Betters continued that IndiBuild's was an enormous ask of the DOH and it is in IndiBuild's best interest to be able to try and reduce that ask as much as they can.

Mr. Betters stated that quite honestly, he is concerned how the DOH will view the Fruita Mews project if Fruita doesn't participate because IndiBuild has conditioned their ask on the notion that they have approached the City/Housing Authority and that IndiBuild is hoping that the Fruita

Housing Authority will become a Special Limited Partner. He said these type of projects are getting increasingly difficult to do and without the participation of local housing authorities, they are nearly impossible to do, especially in areas like Mesa County where the AMI income levels are so low.

Mr. Betters continued that the HEEHA numbers are important in order to help the DOH reduce their participation in the project. However, if those dollars don't come through, then IndiBuild is working on a plan where the Division will still be able to fund the project, but it will have to go through a more complicated system of actually providing a conduit loan to IndiBuild, who will be responsible for paying that loan back out of cash flow.

Mayor Kincaid noted that IndiBuild has an ask of the Fruita City Council concerning a waiver open space fees, transportation impact (TIF) fees, chip seal fees, etc. and asked how those are related to the partnership for funding with the Housing Authority. Mr. Better recalled how someone has asked what IndiBuild's gap would be on the project and he said the gap is fairly significant; with the DOH funding it gets narrowed by \$5 million plus and with the participation of the Fruita Housing Authority, it gets narrowed by approximately another \$800,000. Mr. Betters said that leaves IndiBuild with a \$200,000 gap, which is why IndiBuild conditioned the request to the City Council of about \$200,000 in fee waivers; it would help IndiBuild cover the remaining gap if everything else comes together.

Commissioner/Councilor Purser said that part of a partnership on a personal level requires trust. She pointed out that she wasn't on the City Council when IndiBuild presented to the City Council in the past but said she has noticed that there have been some "rocky roads" on the way here. She said she wanted to provide an opportunity for IndiBuild to speak about how trust between the Fruita Housing Authority/Council and IndiBuild could be established, what that would look like and what allows the Fruita Housing Authority/Council to trust IndiBuild with the project.

Ms. Pardoe said she has some hurt feelings, too, and that she didn't try to be disingenuous or dishonest in her CHFA narrative, but thinks it was construed that way. She said she understood why it happened and noted that she has apologized for the misunderstanding.

Ms. Pardoe continued that with CHFA, if someone mentions "Housing Authority," they say put it in; you don't have to actually have anything in writing. She said she thinks this is something she should have cleared first, but that she is all about repair, as well.

Ms. Pardoe stated that she is a collaborator and a partnership person by nature and that she desperately needs for everybody in a room to feel good, so it is important to her too, to build that trust.

Commissioner/Councilor Purser asked Ms. Pardoe to explain why she loves Fruita. Ms. Pardoe responded that she has been coming to Fruita for 20 years. She remembers riding the trails at 18 Road when there were only two or three trails and no campground, as well as Mary's and Horsethief since before she moved to Colorado. Ms. Pardoe continued that she lived in Utah for a couple of years and she and her partner found Fruita when they found Moab and have been coming to Fruita since before there was a lot going on here. Ms. Pardoe said the people in the audience could attest to her love for Fruita even though they haven't known her for 20 years. She also stated that she thought about naming her property, "Farm," but she saw that someone else has already taken it.

Commissioner/Councilor Kreie asked what the option of a loan from the Housing Authority to IndiBuild (in lieu of waiving impact fees) would look like; would the Housing Authority and IndiBuild settle in 15 years or would the Housing Authority utilize the right-of-first refusal to buy it less the amount of the loan? Ms. Pardoe responded that it would be existing debt, so when the 15-year cash flow that IndiBuild gives the Authority with the residual analysis, at the bottom, you can see the balances on those loans on assumptions such as (for example) 5% on vacancy, 3% growth on income and 3% growth on expenses. She estimated that the Mews will be fully occupied, but added that there are projections and in year 15, there's only one loan that would need to be refinanced (the \$825,000 Capital Magnet Fund loan) by the Housing Authority. Ms. Pardoe also noted that IndiBuild might still have a loan outstanding and the Authority would have to pay that off if she were to be taken out; otherwise, the Authority would just assume all the other debt with part of the assumption that it is the Housing Authority's \$150,000 loan.

Mayor Kincaid asked City Manager Mike Bennett how the waiver of the impact fees would impact the City of Fruita's budget long-term. Mr. Bennett explained that the City collects transportation impact and other impact fees (some pursuant to state statute), which allows for the money to be spent on future impacts of new development, but not on things such as maintenance. He continued that the City is trying to find funding to widen 19 Road next year at a cost of \$5 million and for which the Transportation Impact Fee alone is estimated at about \$172,200. If waived, the same amount of money that would have otherwise gone towards some of the City's street projects would be reduced in the budget.

Mr. Bennett explained that the only other road fee is a chip seal fee for road maintenance, which is estimated at a cost of approximately \$5,000, depending on whether the roads are public or if there is a portion that is private. In the original plan, staff estimated that at \$5,000, but it could be a little bit more with the dedication of public roads.

Commissioner/Councilor Miller asked if the City has ever waived impact fees in the past. Mr. Bennett explained that the City has not waived impact fees in the past, but has given credits to developers for impact fees for improvements that qualify. The amount of the credits is equivalent to the amount for which City would have spent the impact fees. Mr. Bennett added that based on state statute and Fruita's own updated Land Use Code, the City allows for the ability to waive impact fees for one purpose only, which is affordable housing.

Commissioner/Councilor Hancey asked for confirmation that IndiBuild's request of the Fruita Housing Authority/Fruita City Council is \$700,000 from sales and property tax over the life of the project and then another \$200,000-ish from the waiving of impact fees to help fill IndiBuild's gap of \$900,000. Ms. Pardoe confirmed this was the request, but noted that it was an estimate because some of the contractors might not be aware that they need to reduce their sales tax out of their bids.

Commissioner/Councilor Williams asked what happens to the partnership after the 15-year period and if the property tax kicks back in at that point or if the property tax is waived the lifetime of the property. Attorney Dee Wisor advised that as long as the Housing Authority is a Special Limited Partner, and as long as the partnership owns the building, the property tax exemption continues. He added that the only way it would change is if the partnership decided to sell the building to some other entity that neither is involved in.

Housing Authority/City Attorney Mary Elizabeth Geiger advised that if the Housing Authority exercises its right-of-first refusal or purchases the property at that time, the project would continue

to be tax exempt. She added that as long as the Housing Authority is involved in any way, either as the owner or the limited partner, the tax exemption carries on.

Commissioner/Councilor Williams asked what happens if at the end of 15 years, the Housing Authority no longer wants to be a partner. Attorney Gano explained that it would depend on the deal; for example, the Denver Housing Authority (DHA) puts in their Special Limited Partner (SLP) Agreements that they are in it for the compliance period of 15 years, but once that period is over, they have a right to look at the project's financials and if the project would do fine without the exemption, they can pull out. The DHA also reserves rights in its partnership agreements to terminate a portion of the exemption by going from 100% down to a 50% exemption. Attorney Gano advised that those are the kind of terms that can be negotiated, but he thought IndiBuild's investor is going to want to see that the property tax exemption will be in place for the whole compliance period.

Commissioner/Councilor Williams showed support for the agreement term of being able to reduce the property tax exemption if the project is generating plenty of revenue.

Attorney Gano continued with his example of the Denver Housing Authority (DHA). He said there is a little bit of a nuance in that the payment goes back to the DHA as a payment in lieu of taxes; so, they are still giving the DHA the exemption, but the money that would have been paid on property taxes instead goes as a cash payment to the DHA. Attorney Gano offered to send the Housing Authority/City Council an example of the DHA's Addendum if they would like to see it, noting that it is about 50 to 60 pages long because it is so detailed. Attorney Hancey requested that Attorney Gano send the example.

Vice-Chairman/Mayor Pro Tem Breman asked for confirmation that the payment would go to the Fruita Housing Authority and not the City of Fruita. Attorney Gano said that it would be the Housing Authority and not the City giving the property tax exemption, so it would be the Housing Authority that gets the payment in lieu of the taxes on the back end.

Commissioner/Councilor Hancey asked what the restrictions on the monies would be. Attorney Dee Wisor said the monies could be used for any affordable housing project the Housing Authority has in mind or the Housing Authority's expenses for such projects. Commissioner/Councilor Hancey said that he wanted to know whether the Housing Authority could reimburse the City of Fruita for the taxes that were forgiven over 15 years. Ms. Pardoe said she thought the payment in lieu could be made to whomever. Attorney Wisor advised that the Fruita Housing Authority is not just dealing with the City of Fruita's taxes; the exemption is for the city, county, school district, mosquito district, just to name a few and that if it all were to go back to the City of Fruita, those taxing partners would have some questions about that someday. Housing Authority/City Attorney Mary Elizabeth Geiger clarified that if, in 15 years from now, the Housing Authority has the taxes, those could be spent on other potential programs and projects that the Housing Authority has discussed. The taxes wouldn't have to go towards a Low-Income Housing Tax Credit (LIHTC) project if the Housing Authority had a downpayment assistance or ADU (Accessory Dwelling Unit) program, for example. Ms. Geiger pointed out that if the Housing Authority/City Council were to make a decision at this meeting, the decision would be concerning whether or not to become a Special Limited Partner with IndiBuild and not about the details in the agreement that would later be negotiated with them.

Councilor/Commissioner Miller asked what the breakdown would be of the units by percentages of Area Median Income (AMI) and whether they were one, two or three-bedroom units. She also wanted to know if the vacancies would be filled on a first come, first served basis. Ms. Pardoe responded that the units had not yet been assigned and that there is a very lengthy handbook in which the property managers must be heavily trained to be able to remain in compliance. She added that the first-year files will be reviewed by another agency and then by IndiBuild's Asset Management Group because it is so complicated.

Mayor Kincaid explained that the Fruita Housing Authority/City Council were going to leave the room for the upcoming Executive Session and then would return. He noted that the Fruita City Council has a regular Council meeting scheduled for 7:30 p.m.

Housing Authority/City Attorney Mary Elizabeth Geiger further explained that the Housing Authority/City Council would be returning to a public meeting after reconvening from the Executive Session.

4. JOINT EXECUTIVE SESSION – TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM ATTORNEYS PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME.

- **VICE-CHAIRMAN/MAYOR PRO TEM BREMAN MOVED TO CONVENE IN EXECUTIVE SESSION FOR DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO C.R.S. SECTION 24-6-402(4)(E) WITH REGARD TO A REQUEST FROM INDIBUILD, LLC/FRUITA MEWS AND RECEIVING LEGAL ADVICE FROM ATTORNEYS PURSUANT TO C.R.S. SECTION 24-6-402(4)(B) REGARDING THE SAME. COMMISSIONER/COUNCILOR PURSER SECONDED THE MOTION. THERE WERE SIX YES VOTES.**

The Fruita Housing Authority/Fruita City Council convened in Executive Session at 6:44 p.m.

RECONVENE FROM EXECUTIVE SESSION TO JOINT MEETING

The Joint meeting of the Fruita Housing Authority/Fruita City Council reconvened at 7:10 p.m.

5. RESOLUTION FHA 2023-02 – A RESOLUTION OF THE BOARD OF THE FRUITA HOUSING AUTHORITY CONCERNING BECOMING A LIMITED PARTNER IN THE OWNERS OF THE FRUITA MEWS PROJECT

Mayor Kincaid explained that although this agenda item was not a public hearing, the Housing Authority/City Council would be allowing comments from the public.

Bill Cummins, Associate Vice President of Business Development for Family Health West (FHW), reiterated FHW's support of the Mews project. He stated that FHW currently employs approximately 600 people and about 20% of FHW staff live in the Clifton area specifically because of affordable housing. Mr. Cummins encouraged the Council to support affordable housing; noting that FHW has been working with Kim Pardoe over the last year and a half. He stated that as a personal reference, he has always found Ms. Pardoe to be extremely genuine.

Jason Calunga, Housing Resources of Western Colorado's Director for Housing Counseling and Education, said that his organization cares a lot about affordable rental housing and knows that there is a big need for it in the community, especially Fruita. He expressed his support for the Mews project, saying that Housing Resources looks forward to partnering with them on educational and outreach programs at their site once it is completed.

Sue Ellen Rodwich, 220 Mica Court, said she is the Director for the Food Bank of the Rockies Western Slope Distribution Center and is also on the Executive Council for AARP Colorado. She continued that in looking at the livability of Fruita, a key part of it is accessible and affordable housing, which also affects food insecurity. Her organization partners with a lot of the supporting partners in the Mews project such as Eureka! to make sure that when families move in, they have a full pantry. She spoke about how the project will make a difference for the community because it impacts all finances.

Angela (no last name given), Sycamore Street in Fruita, said that affordable housing is very important to her, as are improvements and services. She asked the Council to really think things through and asked if there were alternatives to the \$900,000 that IndiBuild needs to fill their funding gap. She asked if the developer had considered the option of making three-bedroom units into two- or one-bedroom units in order to increase the number of units. Angela also asked if the developer could reduce the number of affordable units. She suggested that the Council find the money and spend it now rather than kicking the can down the road.

Lou Mudd, Maple Street in Fruita, stated that the rent on one of the new downtown one-bedroom studio apartments is \$1,450 per month. He said it is really tough for people who work in Fruita to live in Fruita because of the way the situation is now. Mr. Mudd said the Mews is not for welfare people to move in and trash the neighborhood; that it looks to be a very nice development. He added that there are plenty of people who want to live and work in Fruita and hopefully IndiBuild can move forward in helping that become a reality.

There were no more public comments. Chairman/Mayor Kincaid referred the matter to the Housing Authority/City Council, who had no further questions or comments.

- **COMMISSIONER/COUNCILOR PURSER MOVED TO APPROVE RESOLUTION FHA 2023-02 – DIRECTING THE EXECUTIVE DIRECTOR TO EXECUTE A LIMITED LIABILITY PARTNERSHIP AGREEMENT WITH INDIBUILD AND MAKE A DETERMINATION AS TO THE PERCENTAGE OF THE DEVELOPMENT THAT WILL QUALIFY AS LOW INCOME AS REQUIRED BY C.R.S. SECTION 29-4-227.**

Housing Authority/City Council Attorney Mary Elizabeth Geiger recommended that Commissioner/Councilor Purser's motion be amended to reflect that the Housing Authority/City Council wishes to negotiate with IndiBuild on the terms of the agreement rather entering into the agreement right now.

- **COMMISSIONER/COUNCILOR PURSER MOVED TO APPROVE RESOLUTION FHA 2023-02 – DIRECTING THE EXECUTIVE DIRECTOR TO NEGOTIATE A LIMITED LIABILITY PARTNERSHIP AGREEMENT WITH INDIBUILD AND MAKE A DETERMINATION AS TO THE PERCENTAGE OF THE DEVELOPMENT THAT WILL QUALIFY AS LOW INCOME AS REQUIRED BY C.R.S. SECTION 29-4-227 AND WORK WITH THE FRUITA HOUSING AUTHORITY ATTORNEY. COMMISSIONER/COUNCILOR KREIE SECONDED THE MOTION. THERE WERE SIX YES VOTES.**

6. INDIBUILD PROPOSAL – DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST FOR WAIVER OF DEVELOPMENT IMPACT FEES AND ACCEPTANCE OF INTERNAL ROADWAY NETWORK AS PUBLIC IMPROVEMENTS

Mayor Kincaid pointed out that at this point in the meeting, it would be the Fruita City Council (not the Housing Authority) that would be posing questions or making comments on any proposals by IndiBuild.

City Attorney Mary Elizabeth Geiger suggested that since there were two requests before City Council, they should discuss or take action on them as two separate items. The Council decided to proceed with the request concerning the road first.

DISCUSSION/MOTION CONCERNING ROAD DEDICATION REQUEST

Mayor Kincaid noted that IndiBuild was asking for the dedication to the City as a public road of the project's interior loop road (instead of it being a private road) so that the City of Fruita would be responsible for the maintenance of it.

- **COUNCILOR WILLIAMS MOVED TO DIRECT CITY STAFF TO WORK WITH INDIBUILD TO ACCOMPLISH A DEDICATION OF AN INTERIOR ROAD AS A PUBLIC RIGHT-OF-WAY.**

City Attorney Geiger advised that the word "road" should be plural with an "s" on the end of it.

- **COUNCILOR WILLIAMS MOVED TO AMEND HIS PREVIOUS MOTION TO REPLACE THE WORD "ROAD" WITH THE WORD "ROADS." COUNCILOR MILLER SECONDED THE AMENDED MOTION. THERE WERE SIX YES VOTES.**

DISCUSSION/MOTION CONCERNING FEE WAIVERS REQUEST

Mayor Kincaid listed IndiBuild's requests of fee waivers as follows:

Impact Fee Type	Amount of waiver requested
Open Space Fee	\$93,000
Transportation Impact Fee	\$172,000
Chip Seal Fees	(between) \$4,993 - \$20,927
Total	(approximately) \$270,000

Councilor Breman made the comment that right now, everyone knows the numbers are a moving target, which makes it a challenge, but that he would compel IndiBuild to complete their financing package without the waiver of the fees.

Mayor Kincaid clarified that what the City Council wanted to see was a tighter financial package before they were willing to make a decision on whether to waive the impact fees. He pointed out that the requests from IndiBuild were not something new; it was the same thing that was brought before the Council before, so at this time, the Council wanted to see a tighter financial package before they would be willing to release the funds.

Mayor Kincaid also pointed out that IndiBuild's request for the waivers was something the Council has never done for any other developer in the past. He added that the Council still needs to have more discussion as a Council, with staff and with the City Attorney concerning how those decisions would impact Fruita's citizens long-term. He asked that the request for waiver of impact fees be tabled until IndiBuild can give the Council a better look at what the financial package is going to look like and whether the waivers are actual necessary to make the project work.

Councilor Purser added that perhaps now because IndiBuild has a partnership with the Fruita Housing Authority, IndiBuild may be able to find the funding in other places by using the partnership as a negotiating power. She said if IndiBuild is able to come up with the funds without having the Council waive the impact fees, that would be fantastic, but if not, IndiBuild could come back to the City Council.

IndiBuild partner Sam Betters said it was gracious of the Council to provide the ability for IndiBuild to come back before them again, but added that timing is getting to be critical. He said they are trying not to lose any of their subcontractors and that the less moving parts they have to deal with, the easier it is for IndiBuild to get to a closing. Mr. Betters thanked the Council for everything they had done.

Ms. Pardoe asked what the process would be to move forward because IndiBuild has another level of staff approval at the Department of Housing (DOH) on April 11th and then it wouldn't go to the Housing Board until April 25th. Mayor Kincaid pointed out that the decision wasn't coming from the Housing Authority; it was an ask of the Fruita City Council.

City Manager Mike Bennett said the City Council was challenging IndiBuild to not have to ask for the waivers of impact fees considering the differences in estimates of the revenues such as property tax. He noted that the City's Finance Director had spoken with the Mesa County Assessor's Office (as had IndiBuild), but there are variables in the estimates that are greater than

\$200,000, so it was possible that it could land to where IndiBuild doesn't need \$200,000 from the City.

Mr. Bennett stated that he thought the City Council was saying that with the Housing Authority moving forward with the Special Limited Partnership, and the City also accepting dedication of the internal roads to be public (which also saves in expenses) that hopefully, all that combined with IndiBuild's other funding, may result in IndiBuild filling the gap of \$200,000.

Mr. Bennett added that if that was not the case, the City Council was saying that the ask would still be there and they could consider it at that time.

Ms. Pardoe asked what the process would be to figure that out and if the Council thought that IndiBuild's numbers were too high. Mr. Bennett clarified that the numbers are too low. Ms. Pardoe asked if he was referring to the real estate tax number and Mr. Bennett said he was. Ms. Pardoe said IndiBuild spent a fair bit of time on that.

Mr. Bennett stated that when IndiBuild has more finality of the numbers, they could request to go before City Council again.

Councilor Kreie requested that staff place it on an agenda.

Mr. Sam Betters stated that he didn't know that IndiBuild would be able to get finality on the property tax number, which has been difficult for everyone to try to get. He said that the value of looking at the property tax is that whatever that amount is will go towards debt coverage. Mr. Betters stated that he thinks the other numbers are easier to reconcile and that IndiBuild is very close to those numbers right now. He reiterated that he didn't think he could get more information on the property tax without going through a hearing with the Mesa County Assessor's Office and he wasn't even sure how long that would take. Ms. Pardoe said that one person at the Assessor's Office told them that affordable housing in Mesa County has to go through appeal to get a real tax number, although the latest person she spoke to did not say that. Ms. Pardoe added that that person's number came in around \$29,000 but she was guessing. Mr. Betters asked if the City had a better number they could look at.

City Attorney Mary Elizabeth Geiger responded that the City's Finance Director/City Clerk has those additional numbers and would share them with IndiBuild. She noted that the City Council's regular meeting would be starting soon, so she suggested that Ms. Pardoe follow up with the City Manager and that she (Ms. Geiger) could later speak to IndiBuild's attorney, Alex Gano.

With no further business to come before the Fruita City Council, the Joint meeting was adjourned at 7:32 p.m.

Respectfully submitted,

Debra Woods
Secretary/Deputy City Clerk
Fruita Housing Authority/City of Fruita