

**AMEND THE TEXT OF THE LAND DEVELOPMENT REGULATIONS  
TO AUTHORIZE COLLECTION OF STEWARDSHIP FEES  
AMD 09-0024**

**STAFF REPORT: MAGGIE SCHILLING  
January 25, 2010**

**APPLICANT:** Planning Director

**REQUEST:** An amendment to the Scenic Resources Resolution to authorize the Teton County Scenic Preserve Trust to collect fees to assist in meeting its obligations for the perpetual stewardship of the conservation easements it holds.

**PROPOSED TEXT**

as reviewed by the Planning Commission

**Scenic Resources Resolution, Chapter III.**

*Add:*

**SECTION 10. COLLECTION OF STEWARDSHIP FEES.**

- A. **Purpose.** The Scenic Preserve Trust is hereby authorized to collect fees from landowners wishing to grant scenic or other open space easements to the Trust to assist the Trust in ensuring that the terms of the agreements are upheld over time.
- B. **Use of funds.** The funds shall be used by the Trust for activities related to the perpetual stewardship of the easements it holds, including, but not limited to, costs of annual monitoring visits and reports, as well as legal expenses associated with the enforcement of the terms of the easements. If an easement for which a fee has been collected is transferred to another land trust or qualified holder, the fee collected shall be transferred to the new holder as well.
- C. **Amount of fee.** The amount of the fee collected shall be designated as "Restricted Fund Balance," where the up-front fee collected would ideally be retained over time, and the annual interest earned would contribute to the annual stewardship expenditures of the Trust, as follows:
- Fee amount = (annual stewardship expenses) / (earned interest rate percentage)
- Annual stewardship expenses shall be calculated based on an estimate of the average annual hours spent by staff on landowner correspondence, easement compliance reviews, notification of violations, resolution of violations, and other stewardship duties, plus the cost of completing an annual monitoring visit and report.
- The earned interest rate percentage shall be based on the previous 20 year historic average interest for a 1 year CD.
- The fee amount shall be updated as needed, but no more than annually, by the Planning Director, and published in the Planning Department fee schedule.
- D. **Timing of payment.** The fee amount shall be collected prior to the time that the easement is recorded with the Teton County Clerk.
- E. **Alternative Agreement.** If a landowner is unable to make the payment required above, and falls within or below the income and asset guidelines for Category 3, as defined and updated by the Teton County Housing Authority, the Board of the Trust is hereby authorized to consider acceptance of a transfer fee agreement instead of an upfront fee payment. Each time property ownership is transferred, a payment to the Scenic Preserve Trust stewardship fund would be required. The agreement would be recorded in a separate document and would travel with the title of the easement-encumbered property. A sample transfer agreement follows:

*"Transfer of Property. Any time the Property or a portion thereof is transferred by Grantor to any third party, Grantor shall pay a transfer fee of 1/2 of 1 percent of the purchase price, unreduced by transaction costs and including the costs of any improvements, to the Grantee, to be used for the purpose of monitoring and enforcing the easement, or for other purposes consistent with Grantee's mission. Transfer fee payments shall be due at closing. In the event of non-payment, the TCSPT shall have a lien against the property for the amount due. Said transfer fee shall be waived if the Property is transferred via gift, devise, foreclosure, or to a corporation, LLC, trust, or partnership in which all beneficial interests are owned by the Grantor. The term of the agreement should not exceed 40 years."*

### PLANNING COMMISSION AND STAFF RECOMMENDATION

The Planning Commission and Planning Staff recommend that Board of County Commissioners APPROVE Text Amendment **AMD 09-0024, as proposed in the 1/25/10 Staff Report**, finding that the proposed amendment is consistent with the Comprehensive Plan and meets all applicable standards of the Teton County Land Development Regulations.

### PLANNING COMMISSION DISCUSSION

The application was heard by the Planning Commission on December 14, 2009, by Commissioners Wall, McCarthy, and Hamilton. Discussion topics included the average size of TCSPT easements and the relation of acreage to annual costs; the fact that the amendment would not be retroactive; and the effect of the amendment on alterations to existing easements. Public comment noted the benefits of these easements to the landowner and to the community but also noted that maintaining them carries significant annual costs. A motion was made by Mr. Wall, and seconded by Mr. McCarthy, to recommend approval of the proposed language; motion carried 3-0.

### BACKGROUND

The purpose of the proposed amendment is to explicitly authorize the Teton County Scenic Preserve Trust (TCSPT) to collect stewardship fees with each conservation easement it accepts. It also elucidates how the collected funds may be used, and how the amount of the fee should be determined.

The current Land Development Regulations (LDRs) establish the Scenic Preserve Trust through the Scenic Resources Resolution, but do not explicitly authorize the Trust to collect stewardship fees. The TCSPT—a registered 501c3 organization—was established by Teton County in 1979 to accept conservation easements required by the subdivision regulations in the LDRs. The Board of the TCSPT is one and same as the Teton County Board of County Commissioners. The TCSPT Coordinator works in the Planning and Development Department. Currently, the costs associated with each conservation easement held by the TCSPT are covered by allocations from the county General Fund to the budgets of the Planning Department and the County Attorney's office.

The acceptance of a conservation easement imposes perpetual responsibilities on the holder. The TCSPT has agreed contractually in each easement it holds to accept the perpetual obligation of ensuring that the subject property is maintained as open space. The associated required annual easement monitoring, ongoing landowner correspondence, and potential enforcement actions all carry financial costs. In addition, it is likely that an organization considering accepting the transfer of a TCSPT easement will request a simultaneous transfer of dedicated stewardship funds to help cover the costs they would assume on the TCSPT's behalf. Currently, all of the costs of stewarding the 55 conservation easements on just under 3,000 acres that the TCSPT holds are being covered by the taxpayers of the community. The proposed amendment would shift this burden, at least in part, to the grantor of the conservation easement, who is benefitting by the associated permitted subdivision of his/her property.

The Land Trust Alliance, a national umbrella group that establishes standards and practices for land trusts, requires the following of all accredited land trusts: *“Funding Easement Stewardship. The land trust determines long term stewardship and enforcement expenses of each easement and secures the dedicated or operating funds to cover current and future expenses (LTA Standards and Practices, Practice 11A).”* Land trusts typically set up Stewardship Funds based on a quasi-endowment model, where the up-front fee collected is ideally retained over time, and the annual interest earned contributes to the annual stewardship expenditures of the trust. In the event of a major litigation effort, the principal could be spent if needed to defend the easement. Pitkin County, Summit County, and the City of Boulder, Colorado, all have Stewardship Funds set aside for their open space programs.

Land trusts around the country typically request, on average, from about \$2,500 to \$15,000 per easement. The Jackson Hole Land Trust requests usually run between \$13,000 and \$17,000. The Teton Regional Land Trust typically requests between \$12,000 and \$25,000. These requests are normally made as solicitations of charitable donations from the landowner and are not assessed as a required fee. However, since most easements accepted by the TCSPT are not tax-deductible charitable gifts, staff believes it is logical for the TCSPT to consider assessing a fee.

As the TCSPT does not currently assess a fee, landowners have chosen to grant their required easements to the TCSPT to avoid having to make stewardship fund contributions to the JHLT. The proposed amendment should help eliminate these situations. It will also help with the TCSPT's current efforts to

transfer the easements it holds to private land trusts such as the JHLT. The JHLT has requested \$13,250 (on average) per easement it accepts from the TCSPT. These funds have come from the General Fund to date. The proposed amendment would generate a revenue stream to help offset the costs of future transfers.

### KEY ISSUES

During the Staff review of the proposed amendment, the following questions were raised:

- *What will the actual fee amount be once the amendment is adopted?* The amendment proposes the following formula to calculate the fees:
  - *Fee amount = (annual stewardship expenses) / (earned interest rate percentage)*
 In 2009, annual stewardship expenses are estimated to be approximately \$660 per easement, as follows:
  - *\$495 per monitoring visit and report (per contract with Teton Science Schools)*
  - *\$165 for an average of 3.3 hours, at \$50 hour, of staff time for landowner correspondence, easement compliance reviews, notification of violations, and resolution of violations*
  - *\$495 + \$165 = \$660.*

An earned interest rate percentage of 5% would generate a fee of \$13,200 ( $\$660/.05=\$13,200$ ). The amendment proposes that the earned interest rate percentage shall be based on the previous 20 year historic average interest for a 1 year CD. Staff obtained the 5% historic average used in the calculations above from Bankrate.com, but has not included a requirement to refer to this particular site in the regulations as web addresses change frequently. A similar source that provides a comprehensive overview of the financial industry (ie, not just data from a single institution) would be appropriate to use in the future. Staff selected this particular indicator--rather than a mutual fund, bond fund, or stock index fund—due to the limitations placed on the Teton County Treasurer in terms of investing public funds. The county can invest in CDs and interest-bearing checking accounts, but not in the other options listed. Unfortunately, funds collected in the near future will need to be invested in an interest bearing checking account, until the size of the stewardship fund grows significantly. These accounts are currently generating far below a 5% return; a 1% return is more likely. Staff believes it is logical to look at what the fund may be able to do over time, however, and look toward CDs, rather than write the regulation based on the current 2009 situation (additionally, investing in an interest bearing checking account in 2009 would generate a fee of \$66,000, which Staff believes is not really practical).

- *If a landowner with an existing TCSPT easement proposed an amendment to the easement, would a fee be collected?* Staff has not included language addressing this question in the proposed text amendment as these determinations will likely need to be made on a case-by-case basis, at the discretion of the TCSPT Board. If a proposed amendment is very minor, a fee might not be assessed, while a more major amendment (including additional acreage, for instance), may generate a fee.
- *What is the rationale for the inclusion of the Alternative Agreement option?* Staff has including the option of accepting a Transfer Fee agreement in-lieu of an upfront payment to address the proverbial ‘land-rich, cash-poor’ situation. There are landowners in the county for whom paying the \$13,200 fee upfront would present a significant hardship; the alternative agreement provides a way for these landowners to assist in the defrayal of the TCSPT’s costs over time, rather than all at once. Use of this option is limited to landowners meeting the income and asset restrictions generated by the Teton County Housing Authority as Category III (see Attachment II). While accepting payments over time costs the county the potential interest earnings generated by an upfront payment, Staff believes the long term nature of these transfer fee agreements can help offset these losses due to their potential to generate funds in excess of the required upfront fee amount should a property turn over frequently.
- *How do the Transfer Fee agreements work?* A separate document, outlining the terms of the agreement, would be recorded at the time the conservation easement is recorded. It would bind all future owners of the property, and would require that a certain percentage of the sales price be transferred to the TCSPT at closing. The agreements should not extend beyond a 40-year timeframe, given Wyoming’s statutory 40-year limitation related to marketability of title.

## RELATIONSHIP TO THE COMPREHENSIVE PLAN

### **Chapter 1: Community Vision**

To guide and manage change and development to:

- ✓ support and promote a diverse social and economic population that includes a resident work force;
- ✓ preserve the traditions and character of the Rocky Mountain West and Wyoming, including ranching and through architectural design;
- ✓ promote economic sustenance that does not depend on population growth;
- ✓ set aside, for generations to come, scenic vistas and wildlife habitat;
- ✓ maintain and enhance environmental quality, including air and water quality;
- ✓ maintain outdoor recreation and adventure opportunities; and
- ✓ offer a spectrum of housing types, especially for resident workers.

The guiding principles shown below have been articulated to reconcile the benefits of growth with the benefits of growth management.

1. Teton County's wildlife and scenic resources are a local and national treasure, and, therefore, the community recognizes a stewardship responsibility for their protection. Future development in Teton County will take place in this context.
2. Teton County is a community first and a resort second. Social diversity is a defining characteristic of the community, and sufficient housing is seen as essential to retain that characteristic in the future. High-end residential and commercial development will not be permitted to dominate the community at the expense of affordable housing opportunities for permanent residents.
3. The intent of this Plan is to create conditions for a sustainable visitor-based economy not dependent upon growth, and an economy that reflects the unique small-town, Western commercial character of Jackson, and the outdoor recreational opportunities of Teton County as key components of the visitor experience.
4. As a community grounded in values of individualism, fairness and hospitality, the intent of this Plan is to provide property owners and local businesses with as much flexibility as possible in the use and development of their property. Local elected officials will be entrusted with discretionary decision-making power to protect public health, safety and welfare.

**Complies.** Stewardship of the wildlife and scenic resources protected by the conservation easements it holds is the primary responsibility of the TCSPT. The proposed amendment will help the TCSPT ensure that it is able to continue to meet these obligations over time.

### **Chapter 2: Population, Economy, and Growth**

**Goals:**

1. To manage growth based on the community character vision, so that growth achieves beneficial outcomes throughout the community.
2. To support a balance of growth among residential, commercial, and resort development to preserve and enhance community character.
3. To encourage enhancement of the types of visitor services that emphasize the area's unique outdoor attributes.
4. To define the future boundaries of growth necessary to preserve community character.
5. To manage the rate of growth in the residential, resort and commercial sectors in a way that allows the community to change while preserving community character.

**Not Applicable.**

### **Chapter 3: Community Character**

**Goals:**

1. To maintain a sense of place and of community, and a way of life based upon Teton County's western heritage.
2. To protect Teton County's natural and scenic resources, including wildlife, as a primary element of community character.
3. To maintain social and economic diversity.
4. To maintain a balance between visitation and community life.
5. To preserve the character of some existing neighborhoods and commercial centers and to enhance others through redevelopment.
6. Guide the development of "mixed-use villages".

**Complies.** Again, the proposed amendment will assist the TCSPT in meeting its obligations to protect the natural and scenic resources of its easement properties.

**Chapter 4: Natural and Scenic Resources****Goals:**

1. *To preserve and protect wildlife habitat, including continuous migration corridors.*
2. *To protect environmentally sensitive and physically unsafe areas from development.*
3. *To preserve the scenic quality of the environment.*
4. *To protect significant natural features and land forms.*
5. *To encourage restoration of environmentally degraded areas.*
6. *To preserve open space.*
7. *To foster, promote and encourage ranching.*

**Complies.** The open space under easement with the TCSPT includes significant wildlife habitat, migration corridors, environmentally sensitive areas, scenic areas, natural features, and agricultural properties; the proposed amendment will help ensure that the TCSPT is able to continue to provide stewardship of these important resources.

**Chapter 5: Affordable Housing****Goals:**

1. *To provide a variety of quality affordable housing for Teton County's socially and economically diverse population.*
2. *To establish a balanced program of incentives, requirements, and public and private actions to provide affordable housing.*

**Not Applicable.**

**Chapter 6: Commercial and Resort Development****Goals:**

1. *Economic development efforts shall be consistent with community character, natural resources and affordable housing goals.*
2. *To preserve and protect the economic vitality of the community by ensuring that the quality of the natural and built environment and unique western character are maintained.*

**Not Applicable.**

**Chapter 7: Community Facilities****Goals:**

1. *Anticipate community facility needs due to planned levels and locations of growth.*
2. *Maintain up-to-date Town and County development exactions, and/or adopt impact fees which ensure that growth pays its fair share of the costs of park and recreation facilities, transportation, water supply and wastewater treatment facilities, fire protection facilities, government facilities and schools.*

**Not Applicable.**

**Chapter 8: Transportation****Goals:**

1. *To systematically plan for future mobility that meets the needs of residents and tourists within the context of community character.*
2. *To decrease the rate of anticipated vehicular traffic growth in the community.*
3. *To improve the safety and efficiency of the transportation system in Jackson and Teton County.*
4. *To coordinate the administration of the overall transportation system.*

**Not Applicable.**

**Chapter 9: Intergovernmental Coordination****Goal:**

1. *To achieve a high level of cooperation and coordination among the various state, federal, and local agencies operating in Teton County.*

**Complies.** This application has been reviewed by the Teton County Attorney's office and the Teton County Treasurer.

**Chapter 10: Agricultural Resources****Goals:**

*To encourage agricultural activities in Jackson Hole because:*

1. *It is productive use of land.*
2. *It contributes to Jackson Hole's unique community character.*
3. *It provides and maintains critical habitat for wildlife.*

4. *It is the primary foreground view for the scenic vistas so popular among tourists and residents alike.*
5. *It is a tourist attraction in and of itself and as well as providing a context for such attractions as the rodeo and County Fair.*
6. *It lends diversity and tradition to a rapidly changing area.*

**Complies.** The proposed amendment will assist the TCSPT in the preservation of agricultural lands.

## RELATIONSHIP TO THE APPLICABLE LAND DEVELOPMENT REGULATIONS

### **Division 4300, Open Space Standards for Residential Developments**

**N/A.** This Division outlines the standards that required open space properties and easements must meet. Staff did not include the fee requirement in this section because the easements generated by these requirements do not necessarily end up with the TCSPT. The Jackson Hole Land Trust has accepted a number of these easements, and they collect their own stewardship fee. A payment to the TCSPT should only be required if the TCSPT holds the easement; therefore the proposed text amendment has been placed in the Scenic Resources Resolution, which establishes the TCSPT.

## REVIEWS

County Attorney – Jim Radda, Deputy Teton County Attorney, received the proposed text amendment on 11/13/09, but has not provided comments to date.

Teton County Treasurer - Teton County Treasurer Donna Baur provided the following comments, which have been incorporated into the suggested language at the beginning of the staff report:

*“I would like to request a change. In the paragraph:*

- C. **Amount of fee.** The amount of the fee collected shall be designated as Restricted Fund Balance, where the up-front fee collected would ideally be retained over time, and the annual interest earned would contribute to the annual stewardship expenditures of the Trust, as follows...*

*The term Restricted Fund Balance is the correct terminology used in the most recent Governmental Accounting Standards Board (GASB) Bulletin No. 54 which addresses Fund Balance Reporting and Governmental Fund Type Definitions. The Scenic Preserve Trust fees will be part of the General Fund Balance and designated as restricted in our annual financial statements.”*

Jackson Hole Land Trust (JHLT) – Staff requested comments from Tim Lindstrom, attorney for the JHLT, and John Shepard, Protection Associate, on 11/13. Tim Lindstrom replied:

*“My only suggestion is with respect to the transfer fee. You may want to provide exceptions in cases of foreclosure, gifts, transfers by death, and other cases where no actual value is received by the transferor in an otherwise bona fide transaction.”*

Staff believes that the last sentence in the sample transfer fee provision addresses these concerns.

John Shepard’s comments are summarized and addressed below.

1. *What about depreciation of the fund’s principal through inflation?*  
Any unused interest should be returned to the fund annually to help offset the erosion of the principal amount due to inflation.
2. *I would try to tie the fee amount to actual costs as closely as possible and eliminate estimates where possible.*  
While Staff agrees with this statement in principle, in practice implementing actual hourly averages would require a significant increase in Staff time to track the exact hours and minutes spent on TCSPT matters over a 12-month period. At present Staff believes it more realistic to utilize estimates.
3. *Regarding the 20 year historic average interest for a 1 year-CD, which issuing institution are you referring to?*

Rather than tie to a specific institution, Staff utilized a comprehensive source (Bankrate.com), which analyses across the financial industry. However, Staff is hesitant to include a specific website address in the regulations as these addresses change frequently.

4. *What is the duration of the transfer fee agreements?*

While each agreement will need to be worked out individually, Staff would currently suggest a timeframe of 40 years, which is the time period established in the WY Statutes relating to marketable title. This has been added to the sample language in the amendment.

5. *Regarding the transfer fee agreement, I think this paragraph would benefit from some more specificity as the nature and mechanics of the agreement. Suggested addition: "This transfer fee agreement shall travel with the title to the easement-encumbered property and require that each time ownership of the easement-encumbered is transferred, a payment to the Scenic Preserve Trust stewardship fund would be required."*

Staff has added language to Paragraph E to address this concern.

6. *I understand a need to retain flexibility in the construction of these agreements, but it might be helpful to state what percentage of the sales price may be required by the Board beyond what is in the sample agreement language.*

In addition to the suggested percentage (1/2 of 1% of the sales price, unreduced by transaction costs), Staff added language clarifying that amount collected also includes the cost of any improvements in proposed Paragraph E.

7. *What is the nature of this fund? What happens to the payments once they are received?*

Staff believes this concern is addressed in proposed Paragraph B.

### PUBLIC COMMENT

The proposed amendment has been advertised in the newspapers, posted on the Planning Department website, and emailed to the Planning Department's Amendment list. One public comment has been received and is attached as Attachment 3.

In addition, Staff spoke to Scott Garland, local attorney, who suggested that the word "may" be changed to "shall" in the following sentence:

*"If an easement for which a fee has been collected is transferred to another land trust or qualified holder, the fee collected may be transferred to the new holder as well."*

Staff agreed that the funds collected should stay with the transferred easement/ property and has included this change in the proposed language in the Staff Report above.

### STANDARDS FOR AMENDING THE TEXT OF THE LAND DEVELOPMENT REGULATIONS AND OFFICIAL ZONING DISTRICT MAP

*Amendments to the text of these Land Development Regulations or an amendment to the Official Zoning District Map shall be consistent with the following:*

1. ***Consistent with purposes.*** *Amendments shall be consistent with the purposes of the Land Development Regulations.*

**This standard is met.** As stated in Article I, General Provisions, Division 1200 of the Land Development Regulations the purpose of the Land Development Regulations is to implement the Comprehensive Plan and to promote the health, safety and general welfare of the present and future inhabitants of the County. The proposed amendment provides a mechanism to help ensure that the some of the natural and scenic resources treasured by the inhabitants of the County are maintained into the future.

2. ***Consistent with the Comprehensive Plan.*** *Amendments shall be consistent with the Comprehensive Plan.*

**This standard is met.** See "Relationship to the Comprehensive Plan" section above.

3. ***Consistent with the Land Development Regulations.*** *Amendment shall be consistent with other provisions of the Land Development Regulations.*

**This standard is met.** See “Relationship to Applicable Land Development Regulations” section(s) above.

4. ***Consistent with other County Resolutions.*** *Amendment shall be consistent with other adopted resolutions of the County.*

**This standard is met.** The proposed amendment changes the Scenic Resources Resolution, but does not change the applicability of any provisions in other adopted resolutions of the County—the Solar Access Regulations Resolution, the County Building Codes Resolution, the Small Wastewater Facility Resolution, the Jackson Hole Airport Resolution, the Floodplain Management Resolution, the Woodstove Regulation Resolution, and the Fire Protection Resolution.

<p><b>STANDARDS FOR REVIEW OF AMENDMENTS TO THE TEXT OF THE LAND DEVELOPMENT REGULATIONS</b></p>
--

*Amendments to the text of these Land Development Regulations may be approved for reasons including but not limited to the following:*

1. ***Implements the Comprehensive Plan.*** *The amendment to the text would implement a portion of the Comprehensive Plan that is new.*

**Not Applicable.** There is no new portion of the Comprehensive Plan that the proposed amendment would implement.

2. ***Better achieve Comprehensive Plan goals and objectives.*** *The amendment to the text would implement and achieve the goals and objectives of the Comprehensive Plan that have proved difficult to achieve under the existing provisions of the Land Development Regulations.*

**This standard is met.** The amendment would better achieve goals of the Comprehensive Plan. The proposed text amendment will help further the Comprehensive Plan goals of clustering development and resource protection by assisting the TCSPT in the responsible stewardship of the required open space easements it holds.

3. ***Existing Land Development regulations unreasonable.*** *The provisions of the LDR’s were inconsistent or unreasonable in light of standards for similar uses.*

**Not Applicable.** The proposed amendment does not change existing potentially inconsistent text in the LDRs, it adds language to establish a new fee.

4. ***Responds to State or Federal legislation rendering LDR’s obsolete.*** *The amendment to the text is necessary in order to respond to State and / or Federal legislation.*

**Not Applicable.**

5. ***Additional flexibility.*** *The amendment to the text provides additional flexibility in meeting objectives of the LDR’s without lowering the general standards of the LDR’s.*

**This standard is met.** The amendment will provide additional flexibility in meeting the objectives of the LDR’s because it will allow for the TCSPT to collect easement stewardship fees. The current regulations do not explicitly allow for such fees.

<p><b>ATTACHMENTS</b></p>
---------------------------

1. Proposed Amendment
2. Income and Asset Guidelines published by the Teton County Housing Authority
3. Public Comment

## SCENIC RESOURCES RESOLUTION

## CHAPTER III. COUNTY SCENIC PRESERVE TRUST

**SECTION 10. COLLECTION OF STEWARDSHIP FEES.**

- A. **Purpose.** The Scenic Preserve Trust is hereby authorized to collect fees from landowners wishing to grant scenic or other open space easements to the Trust to assist the Trust in ensuring that the terms of the agreements are upheld over time.
- B. **Use of funds.** The funds shall be used by the Trust for activities related to the perpetual stewardship of the easements it holds, including, but not limited to, costs of annual monitoring visits and reports, as well as legal expenses associated with the enforcement of the terms of the easements. If an easement for which a fee has been collected is transferred to another land trust or qualified holder, the fee collected shall be transferred to the new holder as well.
- C. **Amount of fee.** The amount of the fee collected shall be designated as "Restricted Fund Balance," where the up-front fee collected would ideally be retained over time, and the annual interest earned would contribute to the annual stewardship expenditures of the Trust, as follows:
- Fee amount = (annual stewardship expenses) / (earned interest rate percentage)
- Annual stewardship expenses shall be calculated based on an estimate of the average annual hours spent by staff on landowner correspondence, easement compliance reviews, notification of violations, resolution of violations, and other stewardship duties, plus the cost of completing an annual monitoring visit and report.
- The earned interest rate percentage shall be based on the previous 20 year historic average interest for a 1 year CD.
- The fee amount shall be updated as needed, but no more than annually, by the Planning Director, and published in the Planning Department fee schedule.
- D. **Timing of payment.** The fee amount shall be collected prior to the time that the easement is recorded with the Teton County Clerk.
- E. **Alternative Agreement.** If a landowner is unable to make the payment required above, and falls within or below the income and asset guidelines for Category 3, as defined and updated by the Teton County Housing Authority, the Board of the Trust is hereby authorized to consider acceptance of a transfer fee agreement instead of an upfront fee payment. Each time property ownership is transferred, a payment to the Scenic Preserve Trust stewardship fund would be required. The agreement would be recorded in a separate document and would travel with the title of the easement-encumbered property. A sample transfer agreement follows:

“Transfer of Property. Any time the Property or a portion thereof is transferred by Grantor to any third party, Grantor shall pay a transfer fee of 1/2 of 1 percent of the purchase price, unreduced by transaction costs and including the costs of any improvements, to the Grantee, to be used for the purpose of monitoring and enforcing the easement, or for other purposes consistent with Grantee’s mission. Transfer fee payments shall be due at closing. In the event of non-payment, the TCSPT shall have a lien against the property for the amount due. Said transfer fee shall be waived if the Property is transferred via gift, devise, foreclosure, or to a corporation, LLC, trust, or partnership in which all beneficial interests are owned by the Grantor. The term of the agreement should not exceed 40 years.”

**CHAPTER IV. ADMINISTRATIVE PROVISIONS**

**SECTION 1. AMENDMENT**

## Household Income &amp; Asset Chart

Teton County Housing Authority

April 1, 2009 through March 31, 2010							
Household	Habitat Limit	Category 1	Category 2	Category 3 (Attainable 2)	Category 4 (Attainable 3)	Category 5 (Attainable 4)	Category 6
		80%	100% (Median)	120%	140%	175%	200%
One Person	\$34,020	\$50,120	\$62,650	\$75,180	\$87,710	\$109,638	\$125,300
Two Persons	\$38,880	\$57,280	\$71,600	\$85,920	\$100,240	\$125,300	\$143,200
Three Persons	\$43,740	\$64,440	\$80,550	\$96,660	\$112,770	\$140,963	\$161,100
Four Persons	\$48,600	\$71,600	\$89,500	\$107,400	\$125,300	\$156,625	\$179,000
Five Persons	\$52,488	\$77,328	\$96,660	\$115,992	\$135,324	\$169,155	\$193,320
Six Persons	\$56,376	\$83,056	\$103,820	\$124,584	\$145,348	\$181,685	\$207,640
Seven Persons	\$60,264	\$88,784	\$110,980	\$133,176	\$155,372	\$194,215	\$221,960
Eight Persons	\$64,152	\$94,512	\$118,140	\$141,768	\$165,396	\$206,745	\$236,280
<b>*Net asset limits:</b>		<b>\$143,200</b>	<b>\$179,000</b>	<b>\$214,800</b>	<b>\$250,600</b>	<b>\$313,250</b>	<b>\$358,000</b>

Based on U.S. Department of Housing and Urban Development (HUD) Median Family Incomes (MFI) for Teton County

\*Affordable and Attainable homes that have asset limits specified within their deed restrictions may be different than this chart indicates.

**Maggie Schilling**

---

Attachment

3

**From:** HRRealty@aol.com  
**Sent:** Wednesday, November 18, 2009 8:02 PM  
**To:** Maggie Schilling  
**Subject:** proposed amendments

Ms. Schilling,

Re: An amendment to the Scenic Resources Resolution to authorize the Teton County Scenic Preserve Trust to collect fees to assist in meeting its obligations for the perpetual stewardship of the conservation easements it holds.

Collect fees from whom? Who exactly is Teton County Scenic Preserve? If they are a valley non-profit, they already have many avenues to raise money to meet their obligations. If this group cannot meet their obligations, maybe they should team up with another organization with similar goals and cut staff and office expenses so that they have their needed funds.

Thank you.

Deborah VanDerVelde  
Broker/Owner/GRI  
Home Run Realty---The Name and Service You Will Remember  
PO Box 2803  
Jackson, Wyoming 83001  
Office/Home 307 733-9700  
Cell 307 690-9700