

CORRECTED* MINUTES

LAND-USE STUDY GROUP

Capitol Annex - Old County Courthouse
West Conference Room 117

August 16, 2007

The meeting was called to order at 1:00 p.m. by Co-chair Senator Russ Fulcher. Other committee members present were: Co-chair Representative Cliff Bayer, Senator Stan Bastian, Senator Shirley McKague, Senator Jim Hammond, Representative Phil Hart, Representative Lynn Luker, Representative Fred Wood, Representative Les Bock and Representative Bill Killen. Senator Heinrich was absent and excused. Ad Hoc members present were Kerry Ellen Elliott, Idaho Association of Counties; Ken Harwood, Association of Cities, John Eaton, Idaho Association of Realtors; Jeremy Pisca, Idaho Building Contractors Association and Anna Borchers-Canning, Meridian Planning & Zoning. Staff members present were Paige Alan Parker and Jennifer O’Kief.

Others present included: Maureen Ingram, Legislative Services Office; Fred Tilman, Ada County Commissioner; Tom Dale, Mayor of Nampa; Lance Clow, Mayor of Twin Falls; Jerry Mason, Leon Duce and Justin Ruen, Association of Idaho Cities; John Tensen, City of Boise; Joe Kunz, Building Contractors Association of Southwest Idaho (BCASWI); Nichoel Baird-Spencer, City of Eagle; Teresa Molitor, Lake City Development Corporation (LCDC); Alan Dornfest, State Tax Commission; Jedd Jones, Capital Investors; and Miguel Legarreta, Ada County Association of Realtors (ACAR).

Senator Fulcher asked each participant at the table to share a few words or comments regarding what they would like to see resulting from this study group.

Senator Fulcher, from District 21, commented that from an economic standpoint, the growth in the state of Idaho is very positive. However, there are some problems and inequities that come along with this rapid growth. He said that this study group has been formed in order to address issues such as conflict with land use, appropriate process of establishing the areas of impact, the annexation processes, urban renewal districts, etc. **Senator Fulcher** acknowledged that various stakeholders were present and each had a unique perspective and background on the issues to be addressed.

Corrections to Minutes:

- (1) Page 1 - “Subject to approval by the committee” was deleted.
- (2) Page 1 & 2 - The name “Kerry Ellen” on page 1 & page 2 was changed to “Karen Ellen Elliott” & “Ms. Ellen” on page 2 was changed to “Ms. Elliott.”
- (3) Page 1 - The start time of the meeting was changed from 9:03 a.m. to 1:00 p.m.
- (4) Page 1 - Senator McKague’s district was changed from “21” to “20.”

Senator Bastian, from District 14, which includes rapidly growing areas, Eagle, Star, North Meridian, and West Boise, said the issue of annexation, growth in cities and being able to provide city services in these rapidly growing areas is important to the respective communities. He said the issues of citizens who are upset by annexation need to be addressed.

Senator McKague, from District 20, said that she has a history of protecting the property rights of her constituents and looks forward to finding a solution to some of the problems regarding this issue.

Senator Hammond, from District 5, Western Kootenai County and Post Falls, said this area is experiencing rapid growth. He has been a city councilman, mayor and city manager and has dealt with these issues and is pleased to be part of the process.

Representative Killen, from District 17, the Boise Bench, said that he had lived in the McCall area for almost thirty years. He has served as a councilman and mayor and served on an urban renewal board. He was involved as a city attorney in annexation of some properties and as a private attorney in fighting annexations. He said he has dealt with county commissioners about how the land use planning impact reconciliation process works. He said he was very familiar with many of these issues.

Senator Fulcher recognized **Kerry Ellen Elliott, Idaho Association of Counties (IAC)**, sitting in for **Dan Chadwick**. **Ms. Elliott** said that the IAC has followed the annexation issue in the past and will continue into the future. She said the goal of the IAC's membership is better coordination and cooperation when the area of impact is negotiated/re-negotiated.

Ken Harwood, Association of Idaho Cities (AIC), commented that Idaho law charges the cities and counties with land use responsibilities and the AIC is interested in anything that happens with land use policy, legislative changes, and dealing with areas of impact, annexation or other policies.

John Eaton, Government Affairs Director of the Idaho Association of Realtors (IAR), said he has been involved with development in real estate issues his entire career, representing builders and developers and working with state legislators in Washington on these issues for local government committees. The IAR is looking forward to working with everyone involved to try to find a way to make sure that economic development continues, and at the same time, protecting the property rights of citizens.

Jeremy Pisca, Attorney, Idaho Builders Association of Contractors, said the Association is mainly made up of small contractors, building about two to five houses per year. He is looking forward to using this forum as a tool to getting "up to speed" on these issues.

Anna Canning, Planning Director, City of Meridian, said she hopes to be able to provide input and advice on implementation of annexation and land use laws and how that affects the ability of the cities to create a quality urban environment.

Representative Bock, from District 16, said that his constituents lie within the boundaries of the city of Meridian and Boise. He said this is particularly important to the interests of those in Garden City which

is on the cutting edge of growth. He said these communities need effective ways of growing and maintaining revenue sources.

Representative Wood, from District 27, Cassia County, Oneida County, Power County, and two precincts in Bingham County, said he is interested in addressing the issue of urban renewal. He said there have been significant “squabbles” over that issue, particularly in the city of Burley, and Minidoka and Cassia Counties.

Representative Luker, from District 15, West Boise, said he has a perspective from having been annexed in 1999. He said the committee’s goals address the issues he believes are important. He said it is important to recognize the interest of the citizens within and outside the city.

Representative Hart, from District 3, the northern part of Kootenai County, said this area is one of the fastest growing parts of the state, which is one of the fastest growing in the union. Urban renewal districts have been a topic of controversy. He looks forward to hearing all sides of the issues in anticipation of learning what can be done about some of the concerns that have been raised.

Representative Bayer, from District 21, Southwest Ada County, Kuna, parts of Boise, and Meridian, said he is anticipating this study group will facilitate dialogue that can lead to something constructive as opposed to the status quo. The land-use “umbrella” is a broad template over which topics of annexation and urban renewal districts can be discussed. He hopes to have dialogue on policy aspects and the tax implications.

Senator Fulcher, after each of the guests in the audience had introduced themselves, highlighted three Study Group objectives:

- Improve fairness to all property owners and taxpayers.
- Provide tools to local government entities that enable the promotion of fairness.
- Maintain and improve the ability of local government to plan for long-term infrastructure.

Senator Fulcher encouraged discussion from all members, each of which has a unique perspective, expertise, knowledge and opinion that need to be heard. He welcomed visitors to participate in the discussions.

Jerry Mason, Association of Idaho Cities, was the first speaker. **Mr. Mason** gave an overview of the statutory history of areas of impact and annexation in Idaho. His complete PowerPoint presentation is available from the Legislative Services Office. He said the Local Land-Use Planning Act, enacted in 1975, is mandatory and is strictly local, with no state oversight. Under the Act, the comprehensive plan requires each community and county to establish policies that are intended to provide consistency. **Mr. Mason** said there are fourteen required components in the comprehensive plan, including land use, community design, and natural resources.

Mr. Mason said the zoning ordinance designates areas for particular uses. It is implemented through a

zoning map, which is the official designator of what zones are applied to certain land. There is also a future land use map that provides a look at what the future uses will be if the jurisdiction's plans come to fruition. **Mr. Mason** said that the subdivision ordinance provides the basic standard for shaping the physical development of a community. Subdivision ordinances have two purposes: 1) to set a standard, and 2) to ensure the specified improvements are made.

Mr. Mason explained that another part of the Land-Use Act is the Area of City Impact which is a provision that focuses on agreement between counties and cities. Cities have exclusive police power authority within their limits. Outside the city limits, counties have exclusive authority. Final authority, under the Act, rests with the county. The area of city impact is a place where those interests meld and provides for negotiation.

Mr. Mason said that Idaho law provides three categories of annexation, Category A, B, and C. With minor exception all annexed land must be contiguous to the city. Most occurrences of annexation fall under Category A. **Mr. Harwood** added this is fairly new legislation that was adopted in 2002.

Mr. Mason explained that Category A is where a request comes from the landowners of the area to be annexed or where less than 100 residential properties are surrounded on all sides of the city. In response to a question from **Senator Fulcher**, **Mr. Mason** said that under Category A, 100% of the landowners must have requested the annexation. He said that the only exception would be if there were an enclave, i.e., island, surrounded on all sides by the city. Category B deals with annexation of less than 100 parcels, if not all landowners have requested it, or annexations of more than 100 parcels if more than 50% of a landownership by area consents. In response to **Senator McKague's** question, he said that the consent is based not on population but on ownership interest. He said this applies to Category C as well, in response to **Senator Fulcher's** inquiry.

Mr. Mason described the fundamental steps in the process for annexations for Categories B and C. In response to a question from **Senator Fulcher**, **Mr. Mason** defined consent under Category B as either actual consent, being connected to city water and sewer, or having agreed to annexation by virtue of restricted covenant. **Senator Fulcher** asked how actual consent is obtained in Category B. **Mr. Mason** said that the most common way would be by signing the application for annexation; consent can also be by connection to the utility systems. **Senator Fulcher** asked that in the process of a property owner converting to either city sewer or water services, does the landowner know what they're consenting to? **Mr. Mason** said that the most common way that consent is given with a new subdivision is by a request for utility service. Generally, the developer requests to have city sewer services and enters into an agreement with the city by which the developer accepts the sewer and, in exchange, agrees to include consent to annexation in the subdivision's covenants when the it becomes contiguous to the city.

Mr. Pisca remarked that typically the covenants are stated in the deed. Consequently, the covenants show up on a title report. **Mr. Mason** agreed and added that there are disclosure requirements that require express disclosure of being in an area of city impact and being subject to potential annexation. **Ms. Canning** said that it might vary from city to city, but suspects that most cities have a clearly defined disclosures on consent to annexation that makes it clear that when you receive water and sewer, you are

also consenting to annexation. In response to **Senator Fulcher's** question, **Mr. Harwood** said that his understanding was that it was the norm for other cities.

Senator Bastian gave a scenario where a developer who, prior to 2002, requested services for a subdivision and signed a consent for annexation, and then sold those properties to buyers who were not aware they were subject to annexation. **Mr. Pisca** stated that under the real property disclosure act, anytime a parcel of residential real property is transferred, the seller must comply with a property condition disclosure report. Among the items to be disclosed, as mandated by the legislature, is any consent to annexation, whether the property is currently within the city limits. All real estate agents are required to give the disclosure to their clients who are, in turn, required to complete the report. This is required on both preexisting properties and new construction.

Mr. Bastian followed-up with the following question: If at the time of the presentation of the disclosure document, would the purchaser of the property be required to sign the disclosure, acknowledging the fact that he was informed about the possibility of annexation? **Mr. Pisca** said he believes that would be the case. He added that a standard title report would disclose any restriction that has been placed upon the deed to the property.

Senator Fulcher asked if this disclosure would be obvious. **Mr. Pisca** said that with regard to the Residential Property Condition Disclosure Act, the information appears at the top of the form and is obvious.

In response to a question from Representative Bayer regarding the disclosure of tax implications associated with the annexation, **Mr. Pisca** said that taxes that could be assessed due to a future annexation are not disclosed. **Mr. Pisca** didn't think that anyone would have a good idea of when the property might actually be annexed. But, referring to the annexation process of Category B or C, the public notice must provide an explanation of future services offered and what those costs may be.

Mr. Mason continued by highlighting modifications that have been made to the statute that placed limitations on annexation. **Representative Luker** asked a hypothetical question: Assuming that within the area of impact there are 20 five-acre parcels. Next to that area, there is a subdivision involving 100 homes; and the sewer and water request for the subdivision is made and the subdivision is developed, creating 100 automatic consents. Given this scenario, he asked if there would be any limitation on the city drawing an arbitrary boundary including that 100 home subdivision and the 20 five-acre parcels within the area to be annexed, creating 100 consents to 20 nonconsents. **Mr. Mason** said that the first consideration is that the consents are not by ownership, but by area. He added that cities only annex undeveloped land when it is essential for continuity and necessary for orderly development. He added that if it is necessary to have an orderly developed community, the authority is there.

Senator Bastian commented that if the annexation is initiated by the private developer, the land needs to be contiguous but can be outside the area of impact. **Mr. Mason** said that was correct and added the areas of city impact are different across the state. **Senator Bastian** asked that if a county, exercising its authority under the *Blaha* case, decides that it wants to be in the urban development business and does

not wish to recognize the cities area of impact as the city views it, there could be a contest between the county and the city on the urban development within the area. **Mr. Mason** said that it is not much of a contest because the county has the final authority. **Senator Bastian** asked that if the developer wanted to be within the city, then there would be no contest because the land would be annexed into the city even though it is not within the area of impact. **Mr. Mason** said that was correct. **Senator Bastian** remarked that it may create a mess, given that some developers may choose to go through the city while others are choosing to develop through the county. Cities are trying to do long-range planning for water/sewer, and may be thwarted by the county wanting to encourage a planned community that can exist outside of an existing city.

Representative Luker, following up on his hypothetical and the efficacy of the consents: Given the developed subdivision was 20 acres with 100 homes, how would those consents compare to the 20 five-acre lots that are contiguous. **Mr. Mason** said that you calculate them based upon the parcel acreage depicted on the assessor's map. It is proportionate to the size of your ownership directly.

Representative Killen said he has had experience with that scenario and pointed out that counties have rather restricted authority in providing water and sewer system infrastructure. Unless the developer is going to convince the county to create an independent water and sewer district, the developer will ultimately have to go to the city, because counties have no authority to be in the water and sewer business. You eventually have to come back to a municipal entity unless you want to convince someone to create a new taxing district, which is usually a tough sale. He commented that county commissioners look out for what is best for the county, city council looks out for what is best for the city, and a certain amount of friction may be created that is healthy. "You tend to have to compromise to get things done."

Ms. Canning commented that there is a reluctance by the cities to do nonconsensual annexations because it blocks their ability to negotiate what happens to the development of that property. **Senator McKague** commended **Ms. Canning** and the City of Meridian for never having forced annexation as a policy.

Mr. Mason concluded that the Local Planning Act provides serious limitations on local governments. He noted that citizen participation in planning is very important. The Act has been put in place for good reasons and has been modified over time when concerns were raised. He encouraged the committee be informed of the Act's history and seriously consider all of the implications before it contemplates proposing radical changes.

Senator Fulcher stated that the issue of enclaves seems to be a real "sticking point" and asked **Mr. Mason** to describe what an enclave is. **Mr. Mason** said that an enclave is an area that is surrounded on all sides by an incorporated city but has not been annexed into the city. The issue begins when homeowners who have requested to be annexed, surround an area, where the people have requested not to be annexed. **Mr. Mason** noted that the people who deliver services, such as law enforcement, fire fighters, emergency medical, etc., express great concern about the problems that the "checker board" enclaves create for service delivery.

Representative Luker asked for an estimate of the percentage of annexation requests that come from a group of individual owners versus a developer. **Mr. Mason** stated he believes the majority come from developers. **Representative Killen**, referring to the Treasure Valley's current infill process, asked whether **Mr. Mason** saw any need in these statutes to deal with situations where municipalities are butting up against each other as opposed to the county versus the city scenario. **Mr. Mason** said that he thinks there could be some refinement in that process.

Representative Luker asked if he could explain the process when two municipal corporations overlap in their areas of impact. **Mr. Mason** said that if their impact areas overlap, the preferable way is for the Board of County Commissioners to hear from both cities and define a boundary. If the commissioners do not define that boundary, there are procedures for reconciliation. The core of the statute is agreement and forced agreements do not function well or last long. **Ms. Canning** commented that it is sometimes just an agreement between the staff of various agencies making a decision on what will work the best. She said sometimes it is fairly easy.

Mr. Alan Dornfest, Property Tax Policy Supervisor, Idaho State Tax Commission, was the next speaker. His complete PowerPoint presentation is available from the Legislative Services Office. He addressed the principles of the general property taxes on the budget and levy process for taxing districts. He noted that as annexations occur, sometimes a service will continue to be provided by the district the taxpayer was in and sometimes the city takes over the service, divesting the district of that authority. **Mr. Dornfest** said that there are 1,090 taxing districts in the state, of which 932 levied for property tax in 2006. He presented a slide depicting the list of property taxes and the way they changed from 2005 to 2006 by type of district, i.e., county, city, school, ambulance, auditorium, cemetery, etc.

Mr. Dornfest explained that within a jurisdiction there may be various taxing districts, for example, people living in the north half of the county may pay taxes to a north highway district, for example while people in the south half of the county may pay taxes to a south highway district. He noted that taxing districts have to be contiguous in their boundaries. There are exceptions in Idaho law, most notably the fire districts which can have 40 acre noncontiguous areas, creating a "checker board" situation. He said that some cities have multiple sewer districts. So there is a "hodge podge" of overlaps of taxing districts which create unique taxing rates for the underlying taxpayers. There are approximately 3,000 unique property tax rates.

Representative Bock asked if consolidation of some of these taxing districts had been studied and if so, what would be the economic benefit. **Mr. Dornfest** wasn't aware of studies that have been done, but there have been statutory changes in recent years that have encouraged certain districts to consider consolidation, notably in the area of fire district law and library district law. He said there was recently a consolidation of library districts in Moscow and fire districts in Coeur d' Alene. There is an inducement in law where fire districts receive an increase in their potential property tax budget by consolidating, but this is not true for library districts. **Mr. Bock** asked what were the procedural requirements for consolidation and what would be the benefits in streamlining some of those procedures. **Mr. Dornfest** said that each separate type of taxing district has a unique statutory structure. For example, library law will cover library district consolidation, while the fire district law would control fire districts.

Mr. Dornfest explained how levy rates are calculated and provided a chart with the 2006 average property tax rates per county. The average urban and rural rates are shown within each county, along with cumulative, average rate. He noted that there is not one levy rate for cities, and a city cannot lock in its levy rate because in our state the levy rate is budget driven. He pointed out limits that apply to property tax. The predominant limit is that the general property tax budget cannot increase more than 3% per year, except for voter approved bond issues, an allowance for new construction, annexation and the foregone amount, which is an amount equal to the amount of the prior increase the taxing district chose not to levy. He explained that there are hundreds of separate rate limits found in hundreds of statutes throughout the Idaho Code, but the 3% budget increase is the most significant restraint.

Representative Luker asked whether there is an adjustment to the levy rate when a city annexes property that was in the county and the county is no longer providing certain services. **Mr. Dornfest** said that each taxing district in the county must levy uniformly throughout its entire boundary. The county would continue to levy the same way it did before the annexation. There is one statutory exception dealing with counties having a mixture of highway districts and the road and bridge element. **Senator Fulcher**, asked that if in the case of annexation, would the annexed landowners be paying the existing county tax plus the new taxes levied by the city. **Mr. Dornfest** said that was correct and added that the levy of the county is computed, with the exception of highway services, against all the property in the county.

Fred Tilman, Ada County Commissioner, was the next speaker. He said that there are many challenges throughout the state in applying many of the existing land use laws. **Commissioner Tilman** said that he has several concerns with language in the Idaho Code, Section 67-6526, regarding area of city impact – negotiation procedure. He said that this is a “mandatory negotiation” process; it is the premise upon which the language was written that causes a number of concerns. His first concern is the ambiguous definition of “area of impact.” Another area of concern is when the requirements of the negotiated process have not been met, the city or county may demand compliance by written notice to the other. **Commissioner Tilman** explained that the next step would be to convene a committee of nine, made up of county commissioners, elected city officials, and residents from the county and city. If that committee cannot reach agreement, then the dispute goes to district court.

Commissioner Tilman said another concern is the unclear definition of some of the terms used in the statute, for example, “*trade area, geographic factors,*” and “*areas that can reasonably be expected to be annexed to the city in the future.*” He asked, “How far into the future do we look?” He addressed the language in subsection (c), regarding overlap and areas of impact. If two cities want the same area, there are now three entities involved in a negotiation. In the event agreement cannot be reached, then the committee of nine comes into play. **Commissioner Tilman** said that these sections of the statute need a tremendous amount of work if the area of impact is going to be considered a meaningful tool in trying to manage growth. He said that the position of the Association of Counties is to either repeal it and deal with it as an annexation issue, or come up with a meaningful tool that can be used in the area of impact process.

Representative Bock asked that the most problematic concerns in Ada County be identified.

Commissioner Tilman said the definitional part, for example, what should the county ask a city to provide in the way of a capital improvement plan and how are they going to serve it, and when, etc. His biggest concern is the overlap. **Representative Bock** asked what is meant by overlap. **Commissioner Tilman** used as an example two cities which both request a particular area; both presented capital improvement plans, and both met the requirements by law. If splitting the area does not resolve the issue, this puts the local governments in an awkward position.

Senator Fulcher said that one of the questions he has received from citizens and city government officials has been at what point do we consider doing away with an area of impact. **Commissioner Tilman** said that he thinks it is prudent to allow a city to have the ability to plan its future growth. He said that the way that it is currently positioned is not serving as a good planning tool. He thinks cities should be able to have the ability to annex the area where they want to control the land use decisions. Currently, the city is trying to dictate land use planning decisions in an unincorporated area under the jurisdiction of the county commissioners, which does not promote good, long-term planning. He added when there are two or three agencies trying to make decisions on the same piece of land, there is inherent conflict.

Senator Fulcher said that when property taxes are levied by a city following annexation, the two primary complaints he has received have been: 1) the taxes increased but the services didn't; and, 2) the taxes were levied by someone that the taxpayer did not have a chance to vote for. He asked if there was an opportunity to limit the amount of taxation that takes place, whether it be the city or the county portion, so it is not imposed on a newly annexed taxpayer. **Commissioner Tilman** said that the law requires that the county to levy against the taxpayers in the county. When there is an annexation, services such as fire, may now be provided by the city instead of the county. Consequently, the value of that service may have changed. He said that it depends on the service that is being referenced. Regarding the second complaint, he said that the issue of voting, and giving representation, will have to be left to the Legislature.

Senator Bastian asked if the issues of annexation were concentrated more in the rapidly growing areas of the state. **Commissioner Tilman** said that from the Association of Counties' standpoint, it is becoming more of an issue in all areas, even in some of the rural areas. He said that processes need to be put in place that will manage these future challenges of growth better.

Representative Luker, asked that the mayors in the audience be allowed to comment. **Mayor Tom Dale** of Nampa, said that he has met with the mayor of Caldwell and with the planning staffs regarding areas of impact, and this has not been a problem for them. They made decisions on the best way to provide services to an unincorporated area of land between those two cities without going through the area of impact process. Both Nampa and Caldwell are growing together in that "non-identified" area in an orderly fashion because of that cooperation. Nampa has also initiated a joint study group between the Nampa and Meridian planning staffs to look at those areas where they are growing towards each other. **Senator Fulcher** asked how would they handle a situation if the area of impact crossed the county boundaries. **Mayor Dale** said that has not been an issue for Nampa.

Representative Luker asked **Mayor Dale** if he felt the area of impact process was a helpful planning tool. **Mayor Dale** said that for Nampa it has been a good planning tool for looking at the future and starting to think about infrastructure, etc. However, it currently is not a useful tool because the Nampa city limits has reached the area of impact on its west boundary. Nampa knows that it is going to grow further west and the area of impact has ceased to be relevant on that boundary. **Senator Bastian** asked, if there were conflict with the city of Caldwell, would he prefer a mandatory mechanism, for example, a committee of nine rather than the county, to assist in settling the argument. **Mayor Dale** said that the best scenario would be good representation from both the county and city across the board, which is the art of negotiation and compromise. He added that Caldwell and Nampa have negotiated for particular areas.

Representative Bayer asked if he had a range, or average of the difference in the property tax costs between a Nampa resident and a county resident over the city boundary. **Mayor Dale** said he thought it was approximately 24% increase when a taxpayer is annexed into the city. **Representative Bayer** asked if services are more or less comparable following an annexation, i.e., if there is a 24% change in the property tax bill following the annexation, are the city services reasonably well managed and consistent in the number and quality, as well as with the timeline in which they have been provided. **Mayor Dale** said that Nampa works hard to be sure consistent services are supplied throughout the city and has cooperative agreements with the county.

Senator Hammond commented that another issue relating to the area of city impact is developing a county area to an urban standard. The city has to be asked if, at some point, would it be annexing this area. If so, a number of questions would need to be considered, such as: “Should streets be developed to an urban standard instead of a county standard, for example, curbs and gutters compared to county roads?” and “How are utilities going to be handled?” It is more than just considering if the region is going to grow. There needs to be some consistent standards throughout the county. For the most part, annexations occur based on landowners wanting to develop their land to a higher standard and are not usually city initiated. He further commented that cities throughout the state are working together. He gave an example of three cities in northern Idaho which negotiated with the counties and determined their areas of impact based on which could provide the best service by looking at the geography and topography and at what makes the most sense in terms of how the area can be efficiently served with sewer and water, etc.

Mayor Clow, Twin Falls, addressed the committee. He said that in the last four years, he knows of only one case where there was a proposal for a forced annexation by the city. The city council decided proper services could not be provided to the area, so annexation was not pursued. **Mayor Clow** said that in the process Twin Falls approached the county and to jointly determine where Twin Falls would logically grow and even decided that there were some areas that needed to be given back to the county. They also worked together to come up with common definitions of zones. The city of Twin Falls maintains their own streets. During annexation, or development, they require a developer to bring the county street up to city standards.

Senator Hammond commented that in fairness to the Ada County cities, it is a lot easier to plan the

area of impact where the property is still vacant, but when this land is in the midst of development, because of rapid growth and the cities are on top of one another, it becomes more difficult. **Senator Fulcher** commented that one of his concerns is that if anything is attempted statutorily, it is important to be careful not to negatively impact areas that are dealing with different dynamics. **Representative Bock** commented that one of the premises in this discussion is the issue of fairness. When moving from the county to the city following annexation, the taxes will go up. There are many intangible benefits that come with living in proximity to a city. Those in an enclave are receiving benefits that everyone else is receiving without paying for them. These benefits may include, parks, convenience of the city, etc. When evaluating the question of fairness, one must also consider the intangible benefits that those being annexed are receiving.

Commissioner Tilman commented that if cities would agree not to provide any services outside their city limits until the property was annexed, he would venture to guess that 99% of these problems discussed would disappear.

Responding to **Representative Hart's** suggestion, **Senator Fulcher** said there should be some statutory background provided at the next meeting.

Ms. Canning, Meridian Planning and Zoning, said that land use planning is enormously frustrating for the cities as well as for the counties. She said what is missing is a tool to address the issue of when cities are butting up to each other to plan for growth and to address the question of whether it is really proper for another city to annex into another city's area of impact where the public facilities have been sized to accommodate growth in that area. It is really not fair for a city to put in a 30" sewer pipe to serve an area three miles away that another city has decided to annex. Consequently, millions of dollars have just been wasted on those services. So it is important to use the area of impact serve as a tool for dealing with that kind of situation.

Senator Fulcher announced that he would, at this time, invite suggestions and comments from the committee. He said that the committee would meet again in another month. He asked that the members think about some proposed solutions, actions, recommendations, etc., that could be discussed at the next meeting. He asked that they be submitted to himself or **Representative Bayer**. They will, in turn, have Legislative Services circulate those comments out to all of the members.

Senator Wood said that he would like to know more about the history of urban renewal districts and how they might fit into land use planning, etc. He would like to have some discussion around the fact that they have become an economic development tool rather than an urban renewal tool. **Senator Fulcher** said that the intent had been to dedicate at least one full meeting to the issue of urban renewal districts. **Senator Bastian**, referring to the goal of improving fairness to all property owners, said that fairness is in the eye of the beholder. He said that the testimony today had not revealed an unfair treatment of citizens. He thinks that the issue of unfairness needs to be identified, in order to be able to come up with appropriate solutions..

Representative Luker said that it would be helpful to know the differences in expenditures as part of

the cities versus the counties and what services are being provided. He said the intangibles that **Representative Bock** referred to could be more specifically identified and the costs thereof. And discuss whether or not there is a benefit flowing to these annexed taxpayers. **Representative Bayer** said that he would like to see more defining parameters in order to define the problem. He would like to see that there are exceptions, i.e., as in the case of the existence of an enclave within an area that has requested annexation. He said that there are a lot of favorable things happening in the state and maybe the growth is something to be looked at in a positive way. He said the cities need to be recognized for some of the tough issues they face when being propelled to look at annexation. He sees some dilution in the areas of impact with regard to the role in planning. Sewer is an implied recognition of future annexation. He said that some recourse, via an elected official, and transparency in the process could be brought to the forefront.

Senator Fulcher added that the issues of how property is taxed, who's taxing it, and is it equitable has to be on the table for discussion. He said that the definition of the area of impact is certainly an issue. **Senator Bastian** said, in terms of the issue of fairness, some enclaves receive municipal benefits that those citizens enjoy. However, they don't want to pay the taxes to pay for those benefits. He suggested looking into finding a solution of how to address this area of unfairness.

In response to a question from **Ms. Canning**, **Senator Fulcher** said that the committee is not looking for specific legislative changes, but recommendations for procedural change, and if nothing else, to communicate to local government entities. He noted several factors to consider as the work of the committee proceeds: 1) identify discussion topics, potential action/solutions to be shared with the committee; 2) discussion of the definition of area of impact; 3) discussion on the double taxation topic between city and county and whether there is a more equitable way to administer those taxes; and 4) a better disclosure of annexation consent and when a taxpayer is consenting.

Representative Luker said that he has been hearing conflicting information about the role of sewer and water. He stated that he does not see why this is part of the discussion if it is a user-based system and when this whole discussion is revolving around property taxes. He added that part of the annexation consent provision is that the automatic consent comes by provision of water and sewer. Yet if it is a user-based system, why does that tie in here. **Senator Fulcher** said that maybe this would fall under the discussion of what consent is.

After committee discussion, it was decided that the date for the next meeting would be September 13, 2007 beginning at 12:30 p.m. The meeting room was not yet determined.

The meeting was adjourned at 4:35 p.m.