

House Local Government Committee

Minutes
2008



MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: January 24, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Pasley-Stuart, Bock, Killen

**ABSENT/
EXCUSED:** All present

GUESTS: Ken Harwood, Executive Director, Association of Idaho Cities (AIC); Leon Duce, AUC Lobbyist; Emily Anderson, Representative, Governor's Office; Sharon Burke, Lobbyist, Idaho Association of Counties (IAC); Dan Chadwick, Executive Director, IAC; Tony Poinelli, IAC.

Chairman Barrett called the meeting to order at 1:34; introduced the new Secretary, Donna Nelson and requested a silent roll be taken. **Tony Poinelli**, Idaho Association of Counties, requested that presentation of **RS17535** be put off until next meeting due to changes. There was unanimous consent to return **RS17535** to the sponsor (IAC). **Chairman Barrett** announced that she must leave by 2:00 because of a prior commitment with a constituent and indicated that **Vice Chairman Bayer** would be conducting the meeting from that point. **Chairman Barrett** welcomed **Dan Chadwick** of the IAC. He introduced **Sharon Burke** as new to IAC this year and requested her to present **RS17572**.

RS17572 **Sharon Burke** explained that the purpose of this legislation is to update the code to incorporate current methods of payment utilized by taxpayers. Currently payment of taxes only allows for the use of currency, checks and drafts. The bill incorporates the use of debit cards, credit cards and electronic funds transfer for payment of taxes. Counties are not required to accept these methods of payment but this legislation will provide the options which allow them to do so. **Rep Henderson** asked if there is a 3% discount to allow the processing fee charged by credit card companies. **Dan Chadwick** indicated that a processing fee is not authorized by the State and therefore is waived.

MOTION **Rep Clark** moved that **RS17572** be introduced for print.

On a voice vote the **MOTION** carried.

Dan Chadwick, Executive Director of **Idaho Association of Counties**, presented the 2008 legislative priorities for Idaho Counties, which are basically a laundry list of what Counties must do as governed by the Legislature: **Personal Property:** IAC requests that the Legislature strongly consider the fiscal impact to counties and other taxing districts in any proposal to eliminate property tax. IAC will oppose any elimination of the tax unless adequate funding is provided as a replacement.

Housing of State Inmates: He related that IAC supports an increase in the daily rate for housing state inmates from \$40 to \$45 per day. This rate has not been increased since 2001. The actual cost is \$53 per day, but IAC is settling on the \$45 rate. There are 640 county inmates at this time. **Chairman Barrett** asked how the bed spaces are holding up. **Dan Chadwick** said counties are full at this time. **Rep Clark** indicated he has heard the increase is not going to happen. **Rep Killen** inquired as to how these figures compare to out-of-state costs. **Dan Chadwick** replied that Oklahoma is \$48 and Texas is \$51. **Rep Bock** asked why counties don't refuse to accept inmates from other states. **Dan Chadwick** replied that everyone wants to get along so we will work through it and work is being done toward some increases over the next 4 years. The counties are receiving some money from inmates. **Chairman Barrett** inquired as to what happens if we build a new prison. **Dan Chadwick** responded that there will always be a need and that no more state inmates are being moved to county jails. **Rep Clark** indicated that bids have been put out for a "private-private" prison facility which would require a bid plus payment of property taxes. Some control would be imposed in that no violent sexual predators would be accepted; first right of refusal would apply and 6 months prior to being released, inmate would be sent back to home state. **Tax Deed Process:** IAC supports legislation that completely changes the tax deed process to: a) reduce the delinquency time from three (3) years to two (2) years; b) require the board of county commissioners to set the minimum bid for such property at all taxes plus costs; c) require the county to conduct an auction for such property no later than fourteen (14) months from the issuance of a tax deed unless it involves environmentally sensitive property and e) establish a process for distribution of any excess proceeds to the owner of record. **Urban Renewal:** IAC supports legislation to clarify that certain bond issues and elections for capital expenses are not to be shared by Revenue Allocation Areas thereby reducing a shift of taxes to other taxpayers. **Rep Killen** inquired as to the reason to reduce the Tax Deed process. **Dan Chadwick** indicated the change will ensure there are no windfalls to government and we are trying to keep the process out of the courts. **Rep Chadderdon** asked if there are any Bills being presented this year. **Dan Chadwick** responded that an absentee voting application will be presented. **Separate Levy for Catastrophic Cases:** IAC supports creating a fund with state appropriation to be matched with county payments or a special levy, outside the 3% cap and similar to the judgment levy that can be utilized by counties when unforeseen major felony criminal cases occur. **Misdemeanor Probation:** Updates the Idaho adult misdemeanor probation law by placing the appointment process in the hands of the board of county commissioners, requires specific training and imposes an increase to \$50 for the monthly fee in probationers to cover the cost of training and the service.

Ken Harward, Executive Director, **Association of Idaho Cities**, distributed the 2008 Directory of Idaho Government Officials. **Leon Duce**, lobbyist and Fiscal Officer for AIC presented a portion of a DVD titled "Nature & Power of Cities" which is used as training material for newly-elected city officials. He also distributed to each member of the committee 3 DVDS and 1 CD containing several training manuals along with microwave popcorn. **Mr. Harward** reminded the committee of the upcoming Association of Idaho Cities Legislative Luncheon on Thursday,

January 31, 2008 at noon at the Boise Center on the Grove.

ADJOURN

Rep Bayer thanked the presenters, guests and committee members for attending and adjourned at 2:30 p.m.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 4, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Pasley-Stuart, Bock, Killen

**ABSENT/
EXCUSED:** Rep Clark and Rep Bradford

GUESTS: Tony Poinelli, Idaho Association of Counties (IAC)

Chairman Barrett called the meeting to order at 1:35 p.m.

MINUTES: **Rep Pasley-Stuart** moved to approve the minutes of January 24, 2008 as written.

VOTE: Motion carried by voice vote.

Chairman Barrett welcomed Tony Poinelli, IAC, to present RS17535C1

RS17535C1 **Tony Poinelli**, IAC, stated that basically this legislation is to clean up the recording fee statute as follows: to repeal Idaho Code Section 31-3205(1)(n) The provision to perform and certify a lien search (I.C.31-2416) was repealed in 1976 and this bill would eliminate the reference to the associated fee in I.C.31-3205(1)(n). The bill will also amend I.C.31-3205(1)(i) by adding “, for each page”. I.C.55-1909 is quite clear that the charge to file record of survey is \$5.00 per page. However, I.C.31-3205(1)(i) does not indicate the fee is per page even though subsections (a), (b), (g), and (m) do say “for each page”. **Chairman Barrett** asked if there were questions.

MOTION **Rep Henderson** moved to send **RS17535C1** to print. He also indicated that there can be no charge by the counties of more than the cost of the service, otherwise, it is considered a tax. **Chairman Barrett** questioned how the charge of \$5.00 for a survey recording is calculated. **Tony Poinelli** was asked if he could report sometime in the future regarding how fees are calculated. **Chairman Barrett** asked for a vote.

VOTE Motion carried by voice vote to approve **RS17535C1** for print.

RS17624 Rep Jim Marriott was welcomed to present **RS17624**. He indicated that this legislation provides for the revision of Section 50-1305 Idaho Code, to require the entity of Jurisdiction who approves the survey plat, if not the county, to hire the examining surveyor and collect the fee for verification of the plat from the subdivider. There are no surveyors employed by the county and this step can be done prior to recording. **Chairman Barrett**

asked for questions. **Rep Bock** requested some background from IAC. **Tony Poinelli** agreed to do some research.

MOTION **Rep Collins** moved to send **RS17624** to print.

VOTE Motion carried by voice vote.

ADJOURN **Chairman Barrett** adjourned the meeting at 1:45 p.m.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 12, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Pasley-Stuart, Bock, Killen

**ABSENT/
EXCUSED:** Vice Chairman Bayer

GUESTS: Lynn Tominaga, Executive Director, Idaho Ground Water Appropriators (IGWA); Tony Poinelli, Deputy Director, Idaho Association of Counties (IAC); Roger Seiber, Lobbyist, Capitol West; Jerry Deckard, Lobbyist; Lee Heinrich, Senator, District 8; Justin Ruen, Lobbyist, Association of Idaho Cities (AIC); Leon Duce, Lobbyist, AIC); Joe Kunz, Lobbyist, Building Contractors Association of Southwestern Idaho (BCASWI); Lee Flinn, Lobbyist, Conservation Voters for Idaho; Jake Clark, Surveyor

Chairman Barrett called the meeting to order at 1:35 p.m.

RS17589 **Chairman Barrett** asked unanimous consent to return **RS17589** to sponsor. There was no objection.

H 461 **Chairman Barrett** asked unanimous consent to Hold **H 461** in committee. There was no objection.

MOTON **Rep Pasley-Stuart** moved to approve February 5, 2008 Minutes as written. Carried by voice vote.

RS17775C1 **Jerry Deckard** substituted for **Rep Moyle** to present **RS17775C1**. He indicated that this amendment to existing Idaho Code 67-6527, contained within Idaho's Local Land Use Planning Act, shall ensure that pre-existing property rights of private citizens are protected and preserved after a portion of their property is condemned by a condemning authority. The example used was of a strip of land taken for the purpose of widening a road. This amendment allows the owner to have the privilege of retaining the same zoning as prior to the exercise of eminent domain. All previous rights, including rights to future development of such properties are not impaired and are "grandfathered".
Rep Henderson asked how this amendment would affect a 5-acre residential unit regarding sanitation/septic system requirements; **Rep Killen** indicated the language is unclear; **Rep Bock** asked what this amendment is trying to resolve; **Rep Clark** inquired about Line 17 and why "civil penalty" was added. **Jerry Deckard** indicated that legal actions have occurred and the intent of the amendment is to insure against any diminished rights as to use of the property after eminent domain. It was agreed that the language could be made clearer.

MOTION **Rep Clark** moved to approve **RS17775C1** to print. Carried by voice vote.

S 1337 **Sen Heinrich** was welcomed to present **S1337**. He related that the bill amends Section 31-2307 by deleting the requirement for counties to publish their annual statement of fiscal condition. It moves that responsibility and clarifies an already established code section in Section 31-819. The counties will still be required to publish a summary of the balance sheet and statement of revenues and expenses within 30 days after the annual audit is prepared.

MOTION **Rep Killen** moved to send **S1337** to the floor with Do Pass recommendation. Carried by voice vote.

H 460 **Tony Poinelli**, IAC, presented **H460**. He indicated that basically this bill does some technical cleanup. It repeals lines 37-39 which dealt with the county performing and certifying a lien search - this was repealed in 1976. The second change is located on line 28 with the addition of "per page" located in Section 55-1909. **Mr. Poinelli** also related that he had been asked during the introduction if fees charged by counties cover the cost of recording. The answer is that in the majority of counties (small to medium) it does not cover the cost due to the volume generated. What is collected only covers a portion and then property taxes cover the remainder. Larger counties have a significant number of documents to record and the fees almost cover costs.

MOTION **Rep Bock** moved to send **H460** to Do Pass. Carried by voice vote.

ADJOURN **Chairman Barrett** adjourned the meeting at 1:55 p.m.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: FEBRUARY 14, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Pasley-Stuart, Bock, Killen

**ABSENT/
EXCUSED:** All present

GUESTS: Mike Kane, Attorney, Idaho Sheriff's Association

Chairman Barrett called the meeting to order at 1:54 p.m.

MOTION **Vice Chairman Bayer** moved to approve the minutes as written with one exception - he was late for that meeting, but he was present. Motion carried by voice vote.

S 1274 **Mike Kane** was welcomed to present **S 1274**. He indicated the purpose of this bill is to clarify the duty of the county sheriff to engage in search and rescue activities. This bill simply moves the law of search and rescue from its current location in Disaster Agencies and Services of Idaho Code to its proper place in the sections pertaining to the duties of the sheriff. In addition, it further clarifies the roles of county sheriff, Division of Aeronautics and Department of Homeland Security regarding searches for lost aircraft.

MOTION **Rep Killen** moved to send **S 1274** to the floor with Do Pass recommendation. Motion carried by voice vote.

ADJOURN **Chairman Barrett** adjourned the meeting at 2:05 p.m.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 20, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Pasley-Stuart, Bock, Killen

**ABSENT/
EXCUSED:** All present

GUESTS: Justin Ruen, Lobbyist, Association of ID Cities; Hal Simmons, Planning Director, City of Boise; Russ Hendricks, Legal Aide, Idaho Farm Bureau Federation; Steve Price, Legal Counsel, ACHD; Ray Schild, General Counsel, Osprey Ridge; Benjamin Davenport, Lobbyist, Evans Keane; Jessica McDonald, Lobbyist, Idaho Association of Realtors; Kim Gourley; Jerry Deckard, Lobbyist, Ada County Highway District

Chairman Barrett called the meeting to order at 2:12

H 524 **Chairman Barrett** asked unanimous consent to return **H 524** to sponsor. There was no objection.

MOTION **Rep Collins** moved to approve February 14, 2008 minutes as written. Carried by voice vote.

H 525 **Rep Moyle** was welcomed to present **H 525**. This amendment to existing Idaho Code 67-6527, contained within Idaho's Local Land Use Planning Act, ensures that pre-existing property rights of private citizens are protected and preserved after a portion of their property is condemned by a condemning authority. **Rep Moyle** introduced **Mr. Kim Gourley**, attorney-at-law, who supports this bill and has specialized in condemnation laws in the city for many years. **Mr. Gourley** stated that he represents private property owners and public entities involved in land-use issues. He indicated that the current laws are generally clear with the exception of one area, namely, preservation of property rights after the condemnation is effected. The current statute merely addresses the issue in the negative by stating that it shall not be a criminal violation to own a property that has been rendered non-conforming by the exercise of eminent domain. Some counties and municipalities have adopted ordinances providing that such existing properties after a partial condemnation shall not be deemed non-conforming and the property owner's rights in relation to such property are preserved or deemed "grandfathered." However, development rights or future uses are not addressed. This legislation clarifies that when a portion of such property is taken pursuant to the power of eminent domain, such property rights, including future development rights, are not being condemned or impaired by the condemning authority unless otherwise specifically stated. In addition to protection of property rights, this amendment will also avoid unnecessary litigation and acquisition costs relating to whether such

condemning authority has condemned or eliminated such “grandfathered” property rights. At this time neither the condemners nor the property owners know what future development rights are being impacted because of the “void” in the law. Thus, valuation experts have to guess or speculate as to what severance damages are appropriate in relation to these development rights that may or may not be impacted. **Rep Killen** posed a series of questions about whether this bill would override various public health and safety regulations tied to parcel size. **Mr. Gourley** confirmed that this bill would override various regulations. More questions arose regarding parking requirements and building size in relation to property remaining after partial taking; successive changes; restricted zoning modifications; the affect on planning & zoning. It was acknowledged by **Mr. Gourley** that these are valid questions which would be points of negotiation within the actual process and that this clarification of personal property rights is better than having nothing in place as is currently the case. More filing of lawsuits will be fostered without this clarification. **Mr. Hal Simmons**, Planning Director, City of Boise, testified against **H 525**. He indicated there are limitless numbers of zoning standards and is against automatically granting property rights. **Mr. Jerry Deckard**, Lobbyist, Ada County Highway District, urged support of **H 525**. **Rep Clark** inquired as to what problem does this bill solve? **Mr. Gourley** replied that property owners and condemning authorities do not know what the property rights are. Rising acquisition costs and just compensation are at stake.

MOTION

Rep Clark moved to send **H 525** to the floor with Do Pass recommendation. **Rep Henderson** inquired whether city zoning requirements and health requirements are trumped by this bill. **Mr. Gourley** indicated that property owner rights can be purchased by the condemning authority. **Rep Killen** expressed his opposition to the bill and stated that he considers it to be a “sledge hammer” approach and at the expense of public health and safety and it requires more delicate attention and consideration.

VOTE

A roll call vote was requested. Voting in favor of the Do Pass: **Vice Chairman Bayer; Reps Collins, Clark, Bradford, Chadderdon, Henderson; Chairman Barrett**. Voting in opposition: **Reps Killen; Bock; Pasley-Stuart**. Roll call vote on the **Motion to send to floor with Do Pass recommendation passed 7 to 3.**

ADJOURN

Chairman Barrett adjourned at 3:10 p.m.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 26, 2008

TIME: 1:30

PLACE: Room 316

MEMBERS: Chairman Barrett, Vice Chairman Bayer, Representative Collins, Representative Clark, Representative Bradford, Representative Chadderdon, Representative Henderson, Representative Pasley-Stuart, Representative Bock, Representative Killen

ABSENT Rep Clark

GUESTS: Russ Hendricks, Legal Aide, Idaho Farm Bureau Federation; Benjamin Kelly, Connolly & Smyser, Ctd.; Ken Harward, Executive Director, Association of Idaho Cities

Chairman Barrett called the meeting to order at 1:35.

Chairman Barrett was delighted to welcome and introduce Ruby Stone who was her predecessor as chairman of Local Government Committee at the time she first began serving in the Legislature.

MOTION: **Rep Pasley-Stuart** moved to approve February 20, 2008 minutes as written. Carried by voice vote.

H 545 **Rep Luker** was welcomed to begin his presentation of **H 545**. He indicated that under the amendments of this bill, cities are not prohibited from requiring consent to annexation as a condition of hooking the property owner up to sewer or water services, however, such consent must be given by written instrument, and not simply implied by the hook up. Currently, no notification is required to advise that hooking up to those services constitutes consent to be annexed. In addition, this bill clarifies that Category A annexation, which requires consent of all property owners, may extend beyond the area of impact, so long as the comprehensive plan includes the area of annexation. **Russ Hedricks**, Legal Aide, Idaho Farm Bureau Federation, testified in support of **H 545**. **Ken Harward**, Association of Idaho Cities, was welcomed and testified in support of **H 545**. He also thanked members of Local Government Committee for their support on city issues.

MOTION **Rep Henderson** moved to send **H 545** to the floor with Do Pass recommendation. Motion carried by voice vote.

Representative Lenore Barrett
Chairman

Donna Nelson
Secretary