

MINUTES
HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: Tuesday, March 20, 2012

TIME: 1:30 or Upon Adjournment

PLACE: Room EW05

MEMBERS: Chairman Barrett, Vice Chairman Marriott, Representative(s) Collins, Bayer, Chadderdon, Barbieri, Luker, Perry, Sims, Higgins, Buckner-Webb

**ABSENT/
EXCUSED:** Representative Higgins

GUESTS: Ken McClure, Givens Pursley; Elizabeth Criner, representing Northwest Food Processors Association; Alex LaBeau, representing Idaho Association of Commerce and Industry; Brent Olmstead, representing Milk Producers of Idaho; Jeremy Pisca, and John Eaton, representing Idaho Association of Realtors; Pam Eaton, representing Idaho Retailers Association; Miguel Legarreta, representing Ada County Association of Realtors

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

MOTION: **Representative Perry** made a motion to approve the minutes of March 14, 2012. **Motion carried by voice vote.**

H 691: **Representative Luker** presented **H 691**, which amends the statute governing Conditional Use Permits to address issues arising from the recent Idaho Supreme Court decision in Burns Holdings, LLC v. Teton County Board of Commissioners, January 25, 2012.

The court decision interpreted the law contrary to legislative intent and to practices that have been followed for over 30 years, and places in question prior permits issued through an otherwise valid hearing process. Consequently, **H 691** does three things: (1) It clarifies that the Legislature intended the conditional use permit to be a process through which waivers of or exceptions to zoning standards could be permitted; (2) It strengthens notice requirements to those owning property near a property for which a conditional use permit is being sought, and (3) It makes the application of the clarified conditional use permit language retroactive to demonstrate that this was the Legislature's original intent. Retroactivity, however, is only applied to the permitting standards originally intended, and does not retroactively extinguish causes of action for damages including diminishment of valuation.

Ken McClure, Givens Pursley, on behalf of several clients, spoke **in support** of **H 691** and pointed out the bill amends the same section of the Idaho Code twice: first, to cover conditional use permits retroactively, so that everyone can have assurances that their investments are sound and, second, to cover future conditional use permits, both of which will be codified together in accordance with legislative intent.

MOTION: **Representative Collins** made a motion to send **H 691** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Representative Moyle** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

Representative Barrett
Chair

Jeanne Clayton
Secretary