

TESTIMONY OF DAVID LYONS

TO: Interim Legislative Committee on Idaho Urban Renewal Law

FROM: David Lyons (Coeur d'Alene)

DATE: October 19, 2015

RE: URA Expenditure of Tax-Increment Money on Legislative Lobbying or Other Political or Quasi-Political Activity is Illegal and Should be Expressly Prohibited

Many Idaho URA's lobby the legislature, either individually or jointly through the Redevelopment Association of Idaho ("RAI"). This is paid for *entirely* by tax-increment money, since that is a URA's *only* source of money and RAI's *only* source of money is tax-increment money from its URA members.

In Coeur d'Alene, the URA ("LCDC") has budgeted to give \$10,000 to RAI during fiscal year 2016, and apparently gave RAI \$8,000 during 2015. That is in addition to the \$22,000 (plus expenses) it pays lobbyist Teresa Molitor annually.

Under the Idaho Constitution, public bodies such as URA's are prohibited from spending taxpayer dollars on anything that is not a "public purpose." The Idaho Supreme Court has defined "public purpose" as something "that serves to benefit the community as a whole." Idaho Water Resources Board v. Kramer, 97 Idaho 535, 559, 548 P.2d 35, 59 (1976).

Lobbying by RAI and URA's is *active advocacy* to manipulate legislators toward a particular outcome, *not the impartial providing of information*. See, for example, the attached 3/12/15 e-mail from Ryan Armbruster to RAI members virtually "high fiving"¹ them after the parliamentary defeat of HB 239. The persuasion and manipulation is subtle, under the guise of "assisting," but that's why they can charge so much money. The URA's themselves could easily "provide information" to the legislators.

Such lobbying by RAI and URA's is not for a "public purpose," and so, I believe, illegal. By definition, *it advocates for a position desired by one portion of the "public," which position is opposed by one or more other portion(s) of the "public"*. It serves only *one portion* of the community – not "the community as a whole."

Such lobbying violates the First Amendment rights of taxpayers who disagree with the RAI/URA position – by forcing them to subsidize (through their taxes) political speech to which they object.

And it gives an unfair advantage – a megaphone – the use of taxpayer money – to one

¹ "Special thanks to those who either contacted legislators directly or coordinated contact through others", and "another round of thanks to those who contacted legislators"

side of the political debate – the RAI/URA side. While RAI and the URA’s spend tens of thousands of taxpayer dollars to oppose any reduction of their power, there is no counterpart acting on behalf of the public.

In Coeur d’Alene, urban renewal has been a big issue in local elections the past several years.² This year, LCDC is spending nearly \$85,000³ of taxpayer money for an advertising campaign that is really just *disguised political advocacy* intended to influence local voters’ attitudes about urban renewal and LCDC.

LCDC is not a business. It does not sell a product or service to the public. *LCDC has no need to advertise.* Although it uses noble sounding words like “educate the public” and “improve our image,” that really makes no sense.

There’s *no reason* for LCDC to advertise – to try to influence the public’s attitude toward it – other than (1) personal vanity or ego of the commissioners, or (2) *to influence the public not as consumers but as voters.* Giving LCDC commissioners the benefit of the doubt eliminates the first reason – which, of course, is not a “public purpose” – leaving only the second.

The attached 6/3-4/15 e-mails between Eden Irgens (the principal at the advertising firm who originated and runs the advertising campaign) and Tony Berns (LCDC’s executive director) leave little doubt that the purpose of the \$85,000 advertising campaign is to influence local elections.

Irgens, who has dealt with the commissioners extensively on this and knows their thinking better than anyone, tells Berns:

I just locked up a billboard on NW Blvd.

The start date is 8/10/15. You can have it for two months, *but we will likely want to use it during the month of November for the city council election.* Cost is \$1120/mo.

You in?

Berns forwards Irgens’ e-mail to LCDC’s Communications Committee, and recommends that they “chat more about *this opportunity* at next Tuesday’s committee meeting.”

There have also been months of newspaper ads and TV commercials, as well as \$2,500 spent for a float in the 4th of July parade. City council elections are on November 3.

² As it has been in Nampa.

³ \$100,000 if you include the \$15,700 spent for the “Public Perceptions and Awareness Study” preceding the advertising campaign.

Tony Berns

From: Ryan Armbruster <rpa@elamburke.com>
Sent: Thursday, March 12, 2015 4:16 PM
To: Kim Kline; ryan@metageek.net; dlafollette@ccdcboise.com; pamb@spro.net; ssmart@cityofchubbuck.us; lcrowell@pocatello.us; russmeyers@gmail.com; ceckles@bellevueidaho.us; dbarton@bellevueidaho.us; potato@sunvalley.net; scady@ketchumidaho.org; midura2008@gmail.com; bcramer@idahofallsidaho.gov; klr@moffatt.com; rhopper@ci.caldwell.id.us; collinsrr@cityofnampa.us; wfn@whitepeterson.com; lroberts@landtitleandescrow.com; mmitton@pmt.org; dcmanning@pmt.org; priggs@mountain-home.us; ron.swear@gmail.com; LisaAnderson@uramountainhome.com; Marjorie.schmidt@labor.idaho.gov; tonyb@lcdc.org; dmd@witherspoonkelley.com; ckrueger@cityofhaydenid.us; postfallsura@gmail.com; john.p.mccabe@wellsfargo.com; griedner@ci.moscow.id.us; terry.butikofer@ecipda.net; ryhorner@msn.com; lvontersch@cityoflewiston.org; dmarsh@cityoflewiston.org; driggsurachair@gmail.com; driggsura@gmail.com; manderson@tfid.org; mhumble@tfid.org; randy.c@cityofbuhl.us; rfereday@mayhardware.com; shawn@twinfallschamber.com; Meghan Conrad; Russ@westerbergassoc.com; terry.butikofer@ecipda.net; epaul@watrust.com; yachthalo@yahoo.com; jeff@hamiltoncpas.com; rwilliams@pmt.org; dlloyd@dlevans.com; mgroenevelt@mccall.id.us; kent.rock@dpg.com; pjf@msbtlaw.com; seb@msbtlaw.com; tracistewart88@gmail.com; riggincity@gmail.com; glennascott@frontiernet.net; Cameron.Arial@zionsbank.com; connie@bannockdevelopment.org; lenourato@ketchumidaho.org; reneem@cableone.net; sgrigg@idahocities.org; jbrunelle@ccdcboise.com; pkushlan@fiberpipe.net; rskinner@skinnerfawcett.com; jmcdevitt@skinnerfawcett.com; llewis@ci.moscow.id.us; heather.dawson@haileycityhall.org; lisa.horowitz@haileycityhall.org; maustin@ketchumidaho.org; jkunz@cityofeagle.org; ed@littenekerlaw.com; eaglecitybutler@gmail.com; mayor@pocatello.us
Subject: RE: HB239 HCR17

Ladies and Gentlemen:

Meghan and I wanted to get a quick note to you on the results of the House Local Government Committee meeting this afternoon. We may have a bit more analysis as the smoke clears, but this should give you a broad overview of the current status. Some of you may have listened to the audio streaming and may have walked away with other observations. Special thanks to those who either contacted legislators directly or coordinated contact through others.

House Bill 239

Representatives Youngblood and Anderst testified in favor of the bill. Ron Harriman of the Tax Accountability Committee out of Canyon County and Wayne Hoffman from the Idaho Freedom Foundation spoke in favor of the bill.

Alan Dornfest of the Tax Commission presented some very detailed testimony concerning some of the technical deficiencies in the bill relating to how the withholding of revenue allocation would work without additional statutory changes which would require amendments to the bill. He also questioned some of the dates in the bill and how those dates work with the levy process.

We presented our points as outlined in our letters to the Committee. Ray Stark from the Boise Metro Chamber of Commerce asked for some discretion on the authority to fund library projects. John Watts of the Idaho Chamber Alliance asked the Committee to more closely study the content of the bill and not rush to judgment.

Seth Grigg on behalf of AIC echoed our points and focused on the bill's deficiencies including consideration for allowing flexibility to fund library projects. Cameron Arial from Zions Public Finance focused on the impact of the potential loss of revenue allocation funds as a result of the penalty provisions. He also encouraged a larger discussion on how to encourage economic development with the limited tools available to local government in Idaho.

Tommy Ahlquist, Jr. from the Gardner Company asked the Committee to not propose legislation to fix issues that should be resolved at the local level. He also asked the Committee to consider looking at the overall redevelopment program as opposed to piecemeal legislation focusing on the problem of the day.

From the outset there appeared some sentiment from several Committee members to perhaps put HB 239 on the back burner and allow the Committee to address proposed House Concurrent Resolution 17 which authorizes an interim committee to study urban renewal after the end of the session. However, because of the agenda sequence, Chair Luker indicated the Committee would need to address HB 239 first.

Rep. Redman from Athol moved to send HB 239 to the full House with a do pass recommendation. Rep. McCrostie from Garden City offered a substitute motion to table the bill until HCR 17 was considered. After some discussion with the Chair, the motion was modified to table the bill at the call of the Chair. The motion passed 6-5 with Reps. Luker, Horman, Collins, Kloc, McCrostie and Nye voting in favor and Reps. Sims, Perry, Malek, Cheatham and Redman voting against. Reps. Clow and Loertscher were absent. Rep. Barbieri attended most of the meeting, but was not present at the time of the vote.

The motion basically gives the Chairman the discretion to bring the bill back before the Committee for consideration at any time up until adjournment or leave it on the table until adjournment.

We will monitor the Local Government Committee regularly and try and get some indication from Chairman Luker as to his intentions. If the interim committee suggestion contained with HCR 17 progresses, there is some thought HB 239 may not re-surface.

HCR 17

This portion of the Committee meeting went very quickly. Rep. Youngblood encouraged the Committee to pass the HCR and establish an interim committee to study in more detail the urban renewal statutes. He described an effort in Utah a few years ago that completely overhauled those urban renewal agencies. Rep. Collins moved to send HCR 17 to the floor with a do pass recommendation.

On behalf of RAI, I asked the Committee to consider whether any other alternative might be available as opposed to the formal interim committee, but left the final decision in their discretion. After a short discussion the Committee voted unanimously in favor of the motion.

If HCR 17 passes both houses the Legislative Council is then authorized to appoint a committee to study urban renewal agencies, revenue allocation and urban renewal under Chapters 20 and 29, Idaho Code and make recommendations to the 2016 legislature.

The Legislative Council consists of leadership from both the House and the Senate. The Legislative Council would appoint the members of the Interim Committee. HCR 17 does allow non-legislative members to be appointed to the Interim Committee.

We will monitor the progress of HCR 17 through the rest of the session.

Before closing, another round of thanks to those who contacted legislators and assisted in today's committee meeting.

Tony Berns

From: Tony Berns <tonyb@lcdc.org>
Sent: Thursday, June 04, 2015 4:57 PM
To: 'Dave Patzer'; 'Deanna Goodlander (dgoodlander@gmail.com)'; 'Dennis M. Davis'; 'Scott Hoskins (shoskins@kmc.org)'
Subject: Comm. Comm. - NW Blvd Billboard

Communications Committee – FYI – Range has secured this billboard on NW Blvd for our use should we so choose. We can chat more about this opportunity at next Tuesday's committee meeting (4:00 pm at the Chamber). TB

From: Eden Irgens [mailto:eden@rangeus.com]
Sent: Wednesday, June 03, 2015 2:43 PM
To: Tony Berns
Subject: Fwd: NW Blvd - Mill Billboard Approach Photos 4 pictures for you

I just locked up a billboard on NW Blvd.

The start date is 8/10/15. You can have it for two months, but we will likely want to use it during the month of November for the city council election. Cost is \$1120/mo.

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