

MINUTES
Approved by the Committee
Urban Renewal Interim Committee
Monday, November 16, 2015
9:00 A.M.
WW17
Boise, Idaho

The meeting was called to order by Co-chair Senator Dan Johnson at 9:00 a.m. Members present were: Co-chair Representative Rick Youngblood, Senators Jeff Siddoway, Mary Souza, and Maryanne Jordan; Representatives Robert Anderst, Kathy Sims, Lance Clow, and Hy Kloc. Senator Chuck Winder was absent and excused. Staff present were Keith Bybee and Mike Nugent from the Legislative Services Office.

Others in attendance included: Russell Westerberg, Capital City Development Corporation; Richard Beck, Ada County; Ryan Armbruster, Renewal Association of Idaho; Carrie Foster, Lobby Idaho; Ken McClure, Givens Pursley; Teresa Molitor, Ignite CDA/Jerome URA; Megan Ronk, Idaho Department of Commerce; Larry Maneely, Ada County Board of County Commissioners; Anton Squyres, MDC; Jerry Beckaura, Ada County Highway District; Andrew Mitzel, Idaho Realtors; Tyler Mallard, Risch Pisca; Skip Smyser, Lobby Idaho; Jim Clark, Frontier Communication; Julie Hart, Westerberg and Associates and Capital City Development Corporation; Jonathan Parker, Holland and Hart; Meghan Conrad, Elam and Burke; Alan Dornfest, Idaho State Tax Commission; and George Brown, Office of the Attorney General assigned to the State Tax Commission.

NOTE: Copies of presentations, handouts, and reference materials can be found at www.legislature.idaho.gov and are also on file in the Legislative Services Office.

Senator Siddoway moved that the minutes from October 19, 2015, be approved and Senator Jordan seconded his motion. The motion passed unanimously by voice vote.

Co-chair Youngblood stated the intent of today's meeting is to have the members begin discussing conceptually possible recommendations. Representative Clow presented for committee review the following points that he and Senator Souza created:

- Election of URA – Board Members: Provide an "option," by local ordinance, for the local sponsoring government to establish elections. Elections would be held in the election cycle of the sponsoring local government. Board Members must live within the sponsoring local government. If a city council member, mayor, or county commissioner wishes to serve on the URA Board they should be allowed to be on the ballot for either the city or county, as well as the URA ballot.
- Board Members: URA Boards may allow for elected members of the sponsoring local government; however, in no case should the board include a majority of members from any particular elected commission or council. For purposes of a majority, a mayor would be included in the limitation of a majority.
- Appointments and Terms of URA Board Members: If an URA has an appointed board, the mayor shall appoint and the council shall confirm all appointments to the URA Board, including vacancies. The URA shall establish a limit on the number of consecutive terms any citizen may serve and the length of such terms. The limits established by local ordinance shall be within the following:
 - One term can be up to 3 years.
 - A maximum of three terms shall be allowed.
 - The appointment to a vacated term shall not count toward the number of terms established as a limit.

Representative Kloc stated that he did not have a problem changing the statute to allow a local city to elect or appoint from the city council. And, he added that it makes sense to have this be a local decision. Senator Jordan agreed, remarking that this would give cities opportunities to change. Senator Souza asked if the city could impose term limits of URA board members and Co-chair Youngblood answered yes, if it were a local decision.

Senator Siddoway cautioned that the committee needs to take small bites on this and he voiced his concern that if we have an election it could upset the working relationship between the current mayor and city council efforts to work through their urban renewal tasks. For example, he questioned whether the mayor could legally clean up a problem that might arise with an elected board or board member. Representative Clow questioned whether state law would need to change if the cities or counties allow an election. Following up on that question, Representative Sims asked if the Idaho Supreme Court decision on vacancies would be taken into account if we go from an appointed to an elected board. Co-chair Youngblood replied that the option of a city holding an election or using the current appointment process is simply under committee consideration.

Senator Jordan commented that growing communities need flexibility in redevelopment efforts and she suggested that this might be one way to do that and, if necessary, the Legislature can make modifications in state law. Representative Anderst commented that it makes sense to allow an election, as long as it falls on one of the four dates every two years that are detailed in Section 34-106, Idaho Code. Senator Souza asked how specific should the committee be in enunciating term limits, board makeup and the process for filling vacancies. Co-chair Youngblood replied that he would favor a local option to determine whether board members are elected or appointed, and he suggested that members would at least have to be a resident of the county where the URA is located. He also suggested allowing term limits if the local government enacted an ordinance to elect or appoint board members. Representative Kloc stated he does not have a problem with the city determining whether a board is elected or not. Co-chair Johnson stated that counties can use urban renewal as well. He suggested it might have to be a city or county option, because it depends on which entity is the home of the URA. Senator Siddoway stated he still has a problem with electing the board; for example, at present there are some communities that currently have a difficult time getting qualified persons to run for elective office and this might add one more layer to that.

Senator Jordan voiced her doubt that a Legislature-mandated election for everyone would work. She also suggested that Senator Souza and Representative Clow's approach would have to go through the ordinance process to start the mechanism for an election; as a consequence, this process would allow local input in the cases where it is a bad idea for a particular community. Representative Clow stated it is not his intent to mandate that a local government must make the change, simply, that they could opt to make the change. If there is an election, Senator Siddoway asked if the board members are subject to oversight from the mayor or city council. Co-chair Youngblood said the URA is still an independent body corporate politic. He added that the Attorney General has opined that a URA board can be appointed or elected city council members. Representative Clow asked if, given the Attorney General's opinion, could an elected city council member also be an elected URA member.

Use of Urban Renewal Agency to Construct Public Buildings. Co-chair Johnson introduced this next topic by stating he preferred that urban renewal agencies not be allowed to construct public buildings without a vote of the people, except where benefits can enure to the URA. He said he favors the "but for" test, with the exceptions being buildings like fire stations, water treatment plants and other infrastructure that is both for the benefit of the URA and specifically identified in the plan. Representative Anderst said there are certain uses that should be voter-approved. Addressing the community development versus economic development question, he added that he would like to incentivize the forging of public-private partnerships for certain types of buildings. Representative Kloc said part of the objective of urban renewal is economic development and he observed that at times the expansion of a fire station or expansion of a sewage treatment facility may be necessary to locate a factory in the urban renewal area. Representative Kloc commented that public libraries can be a magnet for economic development because their neighbors are shops and coffee establishments where people spend money.

Co-chair Youngblood noted that the Utah example has three silos in its urban renewal laws for blight, economic development and community development. He said certain infrastructure could be defined for economic development purposes. Representative Kloc harkened back to the classic chicken or

the egg question when he asked, "did economic development occur because of certain public buildings being provided or did public buildings get built as a result of economic development?" Senator Souza stated the committee is back to the question of whether three chapters are needed to cover the urban renewal issue. Senator Jordan observed that when we talk about public buildings, some projects are voted on and some may be the removal of blight. She noted there is always the opportunity for an advisory vote, similar to what occurred with the new Ada County Courthouse. She suggested that perhaps there is an opportunity to combine community development and blight. Co-chair Youngblood remarked that conceptually with blight and community development there would be a vote, and for economic development there would be no vote.

Senator Jordan asked what would be considered a voting majority and Co-chair Youngblood replied it could be fifty percent plus one, or it could be a fifty-five percent or a sixty percent vote. He also noted the requirement for indebtedness is two-thirds now. Representative Clow said he has always struggled with a vote for urban renewal projects, asking "what is the vote really for if you have a need in the blighted area?" Senator Siddoway stated he has heartburn over applying less than a two-thirds vote for public buildings. He said that the provision in the Idaho Constitution has served the taxpayers well over the years and he would not be in favor of allowing something less than that for a public building. However, he added that a less than two-thirds vote would be all right for infrastructure that is not a public building. Representative Anderst asked that if it is a need or want, shouldn't the community have a say on what TIF dollars are used for public infrastructure.

Senator Souza stated the committee is now addressing the question of what URA funds can be used for. Using blight, economic development and community development, she observed that urban renewal has constructed these buildings over the years without a vote of the people. She said it seems like the local community ought to have a say as to what TIF money can be used for. Co-chair Youngblood stated the TIF dollars are taxpayer dollars and the "but for" test really needs to be utilized. Representative Clow said he cannot remember when, in the early, formative stage of an urban renewal agency, that it has said "hey, let's build a city hall." He stated that initially there is no money for that from TIF and that it would be some number of years before TIF dollars would be available to use. Senator Souza said Twin Falls and Coeur d'Alene use URAs differently. She said in Coeur d'Alene \$17 million was used to upgrade a park. Co-chair Youngblood stated he could have a sliding scale of vote depending on the project - from 50 percent, to 55 percent, to 60 percent, to 66 2/3 percent.

Accountability Regarding Urban Renewal Projects. Moving on to the next topic, Co-chair Youngblood asked if urban renewal plans have a purpose with a specific budget and with detailed reports to the city and the taxpayers. Representative Sims said one of the problems is that it can be difficult to be definite and specific with a plan early on. She said that it is often when the TIF money starts to grow that you see plans getting modified. So, she stated her preference for having greater specificity early on with the plans. Senator Souza noted there are places where plans are specific early on, like in Post Falls and Twin Falls.

Senator Jordan stated that the members need to be cognizant of the Local Planning Act of 1975, and that urban renewal agencies need to comply with the city and county's comprehensive plan when undertaking an urban renewal plan. She suggested that it may be that the urban renewal agency does need someone on their governing board or staff that has some land use planning expertise. Following up on Senator Jordan's comment, Senator Souza stated that is why she would like to see specificity in urban renewal plans, so that they don't deviate with the local comprehensive plan. Senator Siddoway asked, given that local land use plans are usually creatures of city or county ordinance, would we need a city or county ordinance for the plans. Senator Souza remarked that the city council would be the oversight body to ensure that urban renewal plans were consistent with comprehensive plans. Co-chair Johnson commented that the details for economic development plan adoption and submission to the local governing body, to ensure that it complies with the local land use plan and ordinances, is located in Chapter 29, Title 50, Idaho Code.

Co-chair Youngblood said that some communities do not have tools for economic development, so at present Chapter 29, Title 50, Idaho Code, is their only tool. Representative Kloc stated that quite a bit is already in existing laws for an enforcement mechanism. Co-chair Youngblood noted that there was a provision in HB239 of 2015 regarding the increase in the increment in instances when certain procedures were not followed. Representative Anderst said he has to realize that at times one size does not fit all for the state. Senator Jordan said that sometimes flexibility needs to be in an urban renewal plan because opportunities come along that was not foreseen when the original plan was developed; for example, the College of Western Idaho's purchase of the old Bob Rice/Lithia Ford property to be used as a satellite campus.

Representative Anderst said he is all right with the statute today but he emphasized that accountability is the key. Senator Jordan stated she agrees with Representative Anderst that everyone needs to play by the rules and urban renewal agencies need to be held accountable to the public. Co-chair Youngblood said urban renewal agencies and their governing boards are accountable to the taxpayers and it is their dollars they are utilizing. Senator Souza remarked that she would like to see that penalties or fines collected from urban renewal agency board members be required to be paid individually but then without indemnification from the URA. Senator Siddoway cautioned that the committee needs to be careful in providing fines because in some areas it can be difficult to get persons to serve on boards. He emphasized that the goal is to get people to volunteer to serve on these boards without fear of jeopardizing their assets.

Attorney General's Opinion. Co-chair Johnson introduced the opinion from Mr. Brian Kane in the Attorney General's office dated November 12, 2015, by asking the question, "based on the definition of "base assessment roll" found in Idaho Code Section 50-2903, does the base value of a Revenue Allocation ("RAA") reset to current market value when an urban renewal plan is modified?" Mr. Kane's opinion stated that if Section 50-2903, Idaho Code, were the only statute analyzed the answer would be a definitive "Yes." The opinion cited statutes that were amended after Section 50-2903, Idaho Code, as enacted, and as State Tax Commission administrative rule states "when an urban renewal plan is modified ... the current value of property in the RAA shall be determined as if the modification had not occurred." Mr. Kane's conclusion is that "Section 50-2903, Idaho Code, requires the modification of an urban renewal plan result in the base value of any associated RAA being "reset" to the market value. However there are reasonable arguments that Section 50-2903, Idaho Code was modified by the later enactment of Section 50-2033, Idaho Code, not to reset a base value on every change to an urban renewal plan, and that interpretation of urban renewal law has resulted in administrative rulemaking and policies that reconcile the statute in this manner. Based upon the analysis in this letter and the current operation of the Urban Renewal under these statutes, this office recommends working closely with the Idaho Tax Commission to ensure the intent of the Legislature through statutory amendments is fulfilled through the practical application of those statutory amendments to Idaho's tax system." Co-chair Youngblood stated that if we draft legislation to fix this problem we need to be watching out for taxpayer dollars.

The committee recessed for lunch at 11:05 a.m. and reconvened at 12:50 p.m.

Central Repository for Urban Renewal Plans. Co-chair Johnson introduced the next topic under review by the committee and Representative Kloc asked if the Secretary of State's office was the best place to serve as a repository based on Representative Clow and Senator Souza's suggestion. Senator Siddoway commented that a couple of years ago legislation was passed making the Legislative Services Office (LSO) a repository for local government audit reports. He thought there were penalties for noncompliance with that. Mr. Bybee responded that the reports are filed with the Legislative Audits Division of LSO and that there can be revenue sharing withheld if a local government does not comply. Senator Souza observed that with the Ethics in Government Act and the Attorney General's Ethics Manual there are mechanisms in place in existing law to ensure that URAs and their boards do not violate the law.

Co-chair Johnson introduced Mr. Alan Dornfest, Idaho State Tax Commission, and Mr. George Brown, Attorney General's Office assigned the Tax Commission. They addressed the Attorney General's opinion written by Mr. Kane. Mr. Dornfest reviewed the 2011 enactment regarding what territory could be annexed into a revenue allocation area. Prior to 2011, there was no limitation on what property could be annexed into an urban renewal area. Mr. Dornfest stated that a strict reading of Section 50-2903, Idaho Code, would have made it untenable for an Urban Renewal Agency to annex land if the base were to be reset every time. He observed that the 2011 act seemed to be at cross purposes with Section 50-2903, Idaho Code. Representative Anderst asked if the statute needs to be fixed for clarity and Mr. Dornfest responded that there is a conflict in the statutes and the Tax Commission had taken the position that the latter enactment, the 2011 bill, was the policy choice that the Legislature wanted to follow. Representative Anderst asked, as we move into the next tax year, would the Attorney General's opinion give cause to the Tax Commission to look at modifications differently. Mr. Dornfest answered that the Commission really has no jurisdiction over plan modifications. He stated they are really looking for maps of the areas so that they and the counties can perform the necessary tasks for assessment of taxable property.

Representative Clow asked if we might try to align the two sections and Mr. Dornfest replied that to take a literal reading of Section 50-2903, Idaho Code, without the other sections would lead to a lack of certainty in the urban renewal law. Senator Siddoway asked what would cause a reset and, if it came about, would it be more advantageous to close the district and start a new one. Mr. Dornfest said a reset occurs when non-taxable property becomes taxable. The counties and the Tax Commission look at it by parcels. Mr. Dornfest stated that upon dissolution or expiration of an urban renewal agency a reset would occur. Senator Siddoway asked if a reset would be triggered in an urban renewal area when you had private property move to governmental ownership or when you had a governmental property move to private ownership. Mr. Dornfest said in both cases it would trigger a reset to the base.

Co-chair Youngblood said that Section 50-2903, Idaho Code, refers to a plan and he asked if the base resets when a plan is modified. Mr. Dornfest said that they looked at both the statute and the 2011 statute providing for annexation to the district. Representative Kloc asked why the Tax Commission was interested in obtaining maps of revenue allocation areas. Mr. Dornfest answered that the commission and the counties need to understand which parcels are in the revenue allocation area for assessment purposes. Representative Kloc asked what information the Tax Commission collects for urban renewal agencies. Mr. Dornfest responded that they keep the increment value for the three percent cap purposes, pursuant to Section 63-802, Idaho Code. They also keep contact information and some urban renewal plans if they have been provided.

Referring to a repository, Co-chair Youngblood asked if the plans should be in a central place and if the commission could be the host. Mr. Dornfest responded that they could be the host if there were caveats in place. There might need to be some mechanism to get the agencies to comply. Also, he added that when there is a boundary change they absolutely need to notify the State Tax Commission so that the property can be assessed and taxed correctly. Mr. Dornfest said the commission does not interpret plans other than for boundaries for property tax purposes. Senator Siddoway asked Mr. Dornfest if there was anything in Chapters 20 and 29, Title 50, Idaho Code, he would like to comment on. Mr. Dornfest remarked that for the sake of understanding the two chapters could be combined and the definitions made uniform.

Returning to the transparency issue, Senator Souza noted that some smaller cities do not have their plans on their website or any other website. She asked if the commission could provide either a PDF version or a link to a city's website if the commission was given the plans. Mr. Dornfest responded that the commission has never looked into that but either should work. He added that some things would probably go through the commission's mapping division.

Representative Anderst asked if Mr. Dornfest could report back to the committee with an assessment of what it would take for the commission to be a repository for the plans, maps, contact information or a link to the city's or URA's website. Representative Clow asked what the commission looks at when revenue allocation area information is submitted to the commission. Mr. Dornfest responded that they always check tax increment value and the boundaries of the urban renewal area. Representative Kloc asked if the commission has all the necessary powers required in this area. Mr. Dornfest said that the commission can turn down maps and boundaries if there is not an ordinance and they need to be contiguous. They can turn down the increase in the increment value if they do not have the necessary information for assessment and mapping purposes. Senator Souza stated she would like to see each urban renewal agency file the correct plan with the correct contact information. Senator Siddoway stated that he did not want to put an unfunded burden on the commission. Representative Anderst stated we need to give the commission resources to keep the plans and information current. He also suggested that perhaps some fees could come from urban renewal agencies to assist in this endeavor. Co-chair Youngblood remarked that current authority exists regarding mapping, assessment, and levies but that some authority might need to be added to the commission for capturing plans, modifications, and contact information.

The committee recessed at 2:05 p.m. and reconvened at 2:17 p.m.

Co-chair Youngblood stated that the term "modification," as it is used in the phrase "modification of an urban renewal plan," is somewhat loosely defined. He asked if the term needs to be further defined. Representative Kloc asked if we are looking at parcels or the plan as a whole when looking at modifications. Representative Anderst stated that we are not affecting moneys allocated to a particular project in an urban renewal area that have been planned for. Representative Sims stated that any penalties or resets should only be applied going forward. Senator Souza commented she is troubled by agencies that have vague urban renewal plans. Co-chair Youngblood stated that going forward there should be penalties and reset mechanisms for agencies that do not follow the law. Senator Souza said this area also dovetails with oversight.

Senator Jordan suggested that strict requirements on plans might be a problem in blighted areas, as there does need to be flexibility to arrive at a successful conclusion. She stated that the committee needs to agree on modification language in Section 50-2008, Idaho Code, so that we don't unnecessarily burden agencies dealing with blight. Co-chair Johnson agreed that there probably needs to be an amendment addressing what constitutes a modification and providing clarity as to when the base is to be reset. Senator Jordan cautioned that care needs to be taken in clarifying the resets so that debt service is not put into unnecessary chaos. Co-chair Youngblood stated that as a plan is completed the increment should be returned to the counties, rather than looking for another project to fund.

Senator Souza asked if the surplus can just go back to the city when plans are funded and sufficient funds are available to pay off expenses. Additionally, she requested that the members comment on suggestions offered by her and Representative Clow. Local government jurisdictions do have increased demands by growth within the RAA and should participate in the growth to generate a stream of revenue to help offset the costs of operating the local governments. Therefore, it is proposed that we consider some level of sharing revenues based upon the expected demands on services.

- **Residential Properties:** Single Family Residential Properties, which includes 1-4 family units, within an RAA shall have the taxes on the value of their improvements split between the RAA and the local taxing districts. It is suggested that the local taxing districts shall retain 70 percent of the improvements, plus the value of the land. The RAA would receive 30 percent of the improvements.
- **Multi-Family Residential Properties:** (Residential Properties with greater than 4 family units). It is suggested that the local taxing districts shall retain 50 percent of the improvements, plus the value of the land. The RAA would receive 50 percent of the improvements.
- **Mixed Use Residential/Commercial Properties:** (Properties with four or more residential units and commercial units). It is suggested that the local taxing districts shall retain 20 percent of the improvements, plus the value of the land. The RAA would receive 80 percent of the improvements.

- **Commercial Properties:** It is suggested that the local taxing districts shall retain 10 percent of the improvements, plus the value of the land. The RAA would receive 90 percent of the improvements.
- **Industrial Property:** It is suggested that the local taxing districts shall retain 5 percent of the improvements, plus the value of the land. The RAA would receive 95 percent of the improvements.

Co-chair Youngblood commented that this is getting very complicated. Representative Clow suggested that perhaps there needs to be a general statement in the law that moneys generated in a revenue allocation area need to be spent in the revenue allocation area and not outside of it. He added that he knows there are cases where money is spent outside a revenue allocation area but within the boundaries of the urban renewal agency.

Idaho Association of Counties Letter. Co-chair Johnson opened the conversation regarding a letter received from the Idaho Association of Counties that requested reimbursement for administrative costs in establishing an urban renewal agency. The letter defined "administrative costs" as those costs associated with a revenue allocation area incurred by a city or county. Administrative costs shall include, but not be limited to, the preparation of property tax notices, apportionment of property taxes, mapping or other reasonable charges, including municipal employee time, materials and overhead, related to a revenue allocation area or the implementation of an urban renewal plan. Administrative costs shall be payable to a municipality regardless of whether or not the city or county requesting payment for administrative costs created the urban renewal agency. Representative Kloc stated that this seems like a reasonable request.

Senator Jordan remarked that she is going to push back on this a little. She stated that this is the county assessor's responsibility to do these tasks; for example, when an annexation of land occurs in a city where county residents become also city residents you see something curious happen – county taxes never change. Senator Souza stated that the request from the Idaho Association of Counties was reasonable and Representative Sims agreed.

Co-chair Johnson indicated that he would like to see if urban renewal agencies can share surplus revenues with taxing districts without the use of grants for public buildings. Senator Souza stated she would like to see a limitation placed on urban renewal agencies lobbying specifically, rather than have the city where they are located lobby on their behalf. Co-chair Johnson stated he would like to see urban renewal agencies do what they are good at and stay away from things they are not good at. Senator Siddoway commented that urban renewal agency boards need expertise to help them accomplish their tasks and goals. He does not want to hamstring boards whether on purpose or inadvertently.

Public Building Issue. Senator Siddoway stated that traditional public buildings should not go through urban renewal, but should be put up to the will of the voters. Co-chair Youngblood, Representative Sims and Senator Souza agreed with Senator Siddoway. Co-chair Johnson stated that public buildings need to pass the "but for" test before urban renewal should be used. Representative Clow said he agreed with Senator Siddoway on public buildings but added there are instances where a URA can provide a parking garage for a voter-approved city hall. Senator Souza said she can see a role for urban renewal in providing necessary infrastructure for public buildings.

Enforcement. Senator Souza stated that the local governing body ought to be the policing entity. At the next meeting there will be draft legislation regarding a local option election for urban renewal agency board members, combining Chapters 20 and 29, Title 50, Idaho Code, and providing one set of definitions, a repository for plans, modification of plans, and reimbursement of administrative costs when an urban renewal agency is established.

The next committee meeting is scheduled for Monday, December 14, 2015, at 9:00 a.m. in Room WW17 in the State Capitol. The committee adjourned at 4:02 p.m.