

MINUTES  
**HOUSE LOCAL GOVERNMENT COMMITTEE**

- DATE:** Tuesday, March 10, 2015
- TIME:** 1:30 PM or Upon Adjournment
- PLACE:** Room EW05
- MEMBERS:** Chairman Luker, Vice Chairman Sims, Representatives Barbieri, Perry, Clow, Horman, Malek, Collins, Cheatham, Loertscher, Redman, Kloc, McCrostie, Nye
- ABSENT/  
EXCUSED:** None
- GUESTS:** Joe Stear, ISFCA; Jay Gibbons, City of Meridian; Jack Brennan; Justin Ruen, Assoc. of Idaho Cities; Darcy Hoellwarth; Steve Peel, Laguna Point HOA; Cynthia Gibson, Idaho Walk Bike Alliance; Steve Berch; David Maguire, Portneuf Greenway Foundation; Rob Shoplock, PFFI; John Eaton and Andrew Mitzel, Idaho Assoc. of Realtors; Meghan S. Conrad, RAI; Daren Fluke, City of Boise; Larry Maneely, Ada County; Russ Hendricks, Idaho Farm Bureau Federation; Steve Price, ACHD; Norm Semanko, Idaho Water Users
- Chairman Luker** called the meeting to order at 1:31 p.m.
- H 204:** **Chairman Luker** returned **H 204** to the committee for consideration, which was held for time certain from the meeting of Friday, March 6, 2015. Text from the bill was clarified after questions were raised at the last meeting.
- MOTION:** **Rep. Kloc** made a motion to send **H 204** to the floor with a **DO PASS** recommendation.
- In response to questions, **Mr. Joe Stear**, Idaho State Fire Commissioner Association, clarified the purpose of the legislation is to allow Fire Districts that have a difficult time maintaining five commissioners to reduce the membership of the committee to three commissioners by a 4/5th majority vote. **Rep. Clow** said although he does not have any issues with reducing the size of the Fire District Board, he has concerns with Section 4 of the bill.
- VOTE ON MOTION:** **Motion carried by voice vote. Rep. Clow and Chairman Luker** requested to be recorded as voting **NAY. Rep. Moyle** will sponsor the bill on the floor.
- S 1044:** **Senator Jim Guthrie** presented to the committee **S 1044**, that would place additional limitations on the use of eminent domain. He recounted a short history on eminent domain, specifically on private property rights. He acknowledged local governments want to maintain the ability to utilize eminent domain, but he felt that using eminent domain for greenbelts, walkways, bike paths and trails is not an appropriate use of that power. He spoke of 93 year old **Opal Douglas** from Boise, who is having difficulties with the Ada County Highway District (ACHD) in regard to her property.
- Rep. McCrostie**, reported that he communicated with **Ms. Douglas**. He had spoken to ACHD about the situation and was informed that she was eligible to appeal of the decision.

**Jay Gibbons**, Project Manager for the City of Meridian testified **in opposition** to the bill. He stated eminent domain is a tool that has only been used three times. Most situations are able to be resolved through negotiation and eminent domain has not been abused locally. The City of Meridian chooses not to use eminent domain in this manner. In response to a question regarding how the city handles easements, he said the city won't use force. **Jack Brennan**, volunteer in the greenway project in Pocatello, testified **in opposition** to the bill. He discussed property rights vs. public rights in these situations.

**Darcy Hoellworth**, Laguna Pointe Subdivision, Eagle, testified **in support** of **S 1044**. She explained the situation she and fellow residents found themselves in with the city of Eagle and the easement along the river. After three years of negotiations the Home Owners Association (HOA) was served with eminent domain papers. They settled but do not feel the city is living up to their end of the bargain. In response to questions from the committee, Ms. Hoellworth said the homeowners were paid a flat amount based on a 2011 property assessment in 2013. **Steve Peel**, Laguna Pointe HOA President, also testified **in support** of the bill. In response to questions from the committee, Mr. Peel responded that the HOA did pay for the greenbelt between the river and the subdivision. **Russ Hendricks**, Idaho Farm Bureau Federation, testified **in support** of **S 1044**. He stated that eminent domain takes property rights away and that greenways are not a necessity.

**Steve Berch**, representing himself, testified **in opposition** to **S 1044**. He referred to contact he had with residents of District 15 that opposed the legislation. **David Maguire**, Portneuf Greenway Foundation, testified **in opposition** to the bill. He stated we should trust the local officials to make the correct decisions for their areas. In his experience he feels that eminent domain is a needed tool to be able to finish their greenway project. **Meghan Conrad**, Redevelopment Association of Idaho, spoke **in opposition** to the bill and asked that **S 1044** be held in committee.

**Steve Price**, General Counsel, Ada County Highway District, testified **in opposition** to **S 1044**. He has 15 years of experience and personal experience with eminent domain and states. He said there needs to be a balance between property rights and public use rights. Mr. Price was also in attendance to clarify issues regarding **Ms. Opal Douglas**. He stated her property was platted in 1940 for a public right of way and they are offering to pay to move her fence and irrigation system. **Daren Fluke**, Comprehensive Planning Manager, City of Boise, also testified **in opposition** to the legislation. He feels properties are more valuable with greenways and the Legislature should not hinder local governments from making decisions.

**Senator Guthrie** closed testimony by stating eminent domain puts people in a defensive posture and the Legislature should be proactive to prevent future problems.

**MOTION:** **Rep. Cheatham** made a motion to send **S 1044** to the floor with a **DO PASS** recommendation.

**Rep. Nye** debated **in opposition** to the bill. He referred to the Idaho Constitution, Article 1, Section 14, private property may be taken for public use. **Rep. Clow** debated **in opposition** to the bill and stated his negative personal experience with eminent domain. He is still able to recognize the importance of eminent domain as a tool.

**SUBSTITUTE MOTION:** **Rep. Clow** made a substitute motion to **HOLD S 1044** in committee.

**VOTE ON  
SUBSTITUTE  
MOTION:**

Roll call vote was requested on the substitute motion to **HOLD S 1044** in committee. **Substitute motion failed by a vote of 4 AYE, 9 NAY, 1 Absent/Excused. Voting in favor** of the substitute motion: **Reps. Clow, Kloc, McCrostie, Nye. Voting in opposition** to the substitute motion: **Reps. Luker, Sims, Perry, Horman, Malek, Collins, Cheatham, Loertscher, Redman. Rep. Barbieri** was absent/excused.

**VOTE ON  
ORIGINAL  
MOTION:**

Roll call vote was requested on the original motion to send **S 1044** to floor with a **DO PASS** recommendation. **Original Motion carried by a vote of 9 AYE, 4 NAY, 1 Absent/Excused. Voting in favor** of the original motion: **Reps. Luker, Sims, Perry, Horman, Malek, Collins, Cheatham, Loertscher, Redman. Voting in opposition** to the original motion: **Reps. Clow, Kloc, McCrostie, Nye. Rep. Barbieri** was absent/excused. **Rep. Perry** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 3:56 p.m.

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Representative Luker  
Chair

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Michele Jarvis  
Secretary