



City of Moscow Council Chambers • 206 E 3rd Street • Moscow, ID 83843

McGeehan called the meeting to order at 7:00 a.m.

Attendance:

Commission Members	Staff Present	Others
Steve McGeehan, Chair	Bill Belknap, MURA Executive Director	Victoria Seever
Art Bettge	Gary Riedner, City Supervisor	Scott Becker
Steve Drown	Anne Peterson, Deputy City Clerk	Brenda VonWondruska
Ron Smith		
Brandy Sullivan		
John Weber		

Absent: Dave McGraw

- Consent Agenda** - Any item will be removed from the consent agenda at the request of any member of the Board and that item will be considered separately later.

A. Minutes from January 21st, 2016

ACTION: Approve the consent agenda or take such other action deemed appropriate.

Bettge moved approval of the Consent Agenda, seconded by Smith. Motion passed unanimously.

- Public Comment for items *not on agenda*:** None.

3. Announcements

Belknap reported that he and Commissioners Smith and McGraw attended last week’s ULI meeting. He just received a copy of the study conducted regarding URAs in the State of Idaho and offered to share highlights at the next meeting.

4. Redevelopment Association of Idaho Report – Gary Riedner

Riedner provided copies of House Bill 404 and RAI’s letter to the House Local Government Committee requesting that the bill be held in Committee (attached). This is reintroduction of a bill that didn’t pass last year which is intended to reimburse telecommunication providers 100% for relocation expenses caused by an urban renewal project. Most franchise agreements require the utility to bear the cost of relocation when

a project conducted by the ROW-granting jurisdiction requires the utility to relocate, because the utility is making money from the use of public rights-of-way. The Supreme Court has upheld this practice. Riedner explained that since URAs are not the public entity granting the ROW, passage of this bill would require URAs to pay for relocations within their project areas. Riedner pointed out there has been no discussion on whether it's legal to use tax increment money for this expense. With regard to the latest Interim Committee discussions, Riedner said a compromise looks likely for URA board membership to be restricted to less than half of the members being comprised of elected councils, with the election vs. appointment of members being left to local choice. A short list of public buildings may be allowed to be funded by URA tax increment, such as a library as long as it's not more than 49% of the total cost. The conversation about resetting the tax base has not concluded.

Belknap asked if there was a definition of "project" regarding telecomm relocation, and whether it's only when the agency is the principal developer or if there's any financial participation. Riedner said the language is fraught with interpretation and his concern is that it will result in evaluation of every utility move to determine if agency funds are involved at all.

Sullivan said resetting the tax base doesn't seem to accomplish much because agencies could simply establish a separate district next to the current district rather than expand it. Riedner explained that small, single-project districts won't generate the same tax increment as broad districts with multiple projects. He added that legislators seem to want URA projects written in stone but by their nature districts often change focus over time.

Weber wondered why an agency would take on a public project that, as a non-taxable property, won't ever generate tax increment. Riedner explained that the legislature often looks to Utah as the "right" way to do urban renewal because they have a "Community Development" option in their legislation which very broadly could do anything that helps the city become what it wants to be. Currently in Idaho, urban renewal can address slum and blight (Chapter 20 of the Idaho Urban Renewal Law) and local economic development (Chapter 29). Often both situations exist and sometimes the redevelopment also helps community development (such as Idaho's improved wastewater treatment system when Chobani relocated there). Riedner said ultimately tax increment is meant to be used to enhance development rather than be used as a tool for cities to provide development that they should be covering with general taxes.

5. Appointment of Interim Treasurer – Bill Belknap

As the Agency is aware, Agency Treasurer Don Palmer recently resigned his position of Finance Director with the City of Moscow and therefore is no longer available to serve the role of Treasurer for the Agency. Per the Agency Bylaws, the position of Treasurer may be filled by Commissioners or by staff appointments made by the Commission. The City is proposing to have City Supervisor Gary Riedner serve as Interim Treasurer until such time as a permanent replacement has been secured. This matter is before the Agency for official appointment by the Board.

ACTION: Confirm the appointment of Gary Riedner as Interim Treasurer; or take other action as deemed appropriate.

Smith moved approval of the interim appointment, seconded by Drown. Bettge asked how long the interim appointment is expected to run. Riedner said he anticipated having a new Finance Director on board by late April. Sullivan asked what an Interim Treasurer would be required to do and Riedner said primarily monthly

oversight, as well as oversight through the audit process and to support staff in the Finance Department who are still learning their new positions. Smith's motion passed unanimously.

6. 6th and Jackson/Anderson Property Easement Release Agreement – Bill Belknap

The 6th and Jackson, Anderson, and University Pointe (Cobb) property were previously under the common ownership of the Latah County Grain Growers. In 2004 the Latah County Grain Growers recorded access easements across the three properties to the benefit of the three parcels. Staff has prepared a release agreement wherein all three parties agree to release and relinquish any rights in these access easements. In consideration of the Anderson's release of their interest in the existing easement upon the Agency's property, the Andersons have asked that the Agency agree to fund engineering design for street frontage public improvements on Jackson that would provide for the continuation of the planned improvements upon the Agency's 6th and Jackson Property.

ACTION: Receive report and provide direction as deemed appropriate.

Belknap explained the easements included a self-termination clause when the Anderson property ceased to be used for agricultural purposes. The Agency has attempted to clear the title for Agency property since approximately 2014 but Andersons have not agreed to sign a release. In addition, the Andersons have requested they be "cashed out" on any remaining balance of a 2009 Owner Participation Agreement in the amount of \$110,000. That agreement was to provide reimbursement for environmental remediation on the grain elevators and typical to other Agency OPAs, any payment was to come from tax increment but there has been little increment generation from the property. Andersons wish to begin engineering design for the street frontage and utility services in preparation of separating the property into four parcels. Hodge & Associates has estimated engineering design costs of \$4,850. Belknap recommended the Agency could participate in those costs if the Andersons would in turn sign the easement release. This would eliminate the time and legal expenses required to pursue a quiet title action to clear the Agency's title and allow that funding to go to a more productive use. Staff recommended the Agency agree to release its interest in the easement and to fund the engineering design, in exchange for the Anderson's release of easement on the Agency's property. Belknap stated that he had received an email from Clayton Anderson clarifying that their concern regarding the easement release was that they felt the release needed to be a 3 party release and that the Agency's participation in the engineering cost was not a condition of their participation in the easement release.

Sullivan asked about Cobb's willingness to enter into the three-way release. Belknap said he has heard Cobb is potentially interested but he didn't recommend entangling the Agency's property with a third-party transaction that the Agency has no control over. He reiterated that if Cobb doesn't wish to participate in the three-way release that Anderson's release on the Agency property should remain a condition of Agency's financial participation in the engineering design. Riedner said the cash-out of the OPA is limited to the increment generated on the property, so there's no liquidated amount owed to Andersons. He thought it was a great resolution to obtaining the release of easement upon the Agency's property. Belknap said the OPA obligation would remain in effect. Bettge said it was a better use of funds than paying attorney fees. Drown thought it was to the Agency's benefit to invest in frontage improvements that will benefit the entire corner area. Belknap said the City already has design work for the modification of the 6th & Jackson intersection and will share that with Anderson's engineer to provide design continuity. McGeehan thought paying for the engineering design certainly falls within the Agency's mission. Belknap was directed to draft an agreement for review at the next meeting.

7. MURA Subcommittee Organization Discussion

ACTION: Receive report and provide direction as deemed appropriate.

Belknap explained that Agency bylaws include the establishment of three standing committees but doesn't include any description of their purpose. With the exception of the Finance Committee, the others have rarely met so Belknap proposed to streamline the subcommittee format by collapsing the Government Relations Committee and Marketing Committee into one Administrative Committee to address administrative functions such as Agency bylaws, policy recommendations and marketing and government relations. The Finance Committee would continue with the charge of preparation and review of the annual audit, annual budget, owner participation agreements and other financial matters.

Drown thought this discussion might better evolve out of the strategic plan conversation as the Board determines what their goals are and therefore what the committee functions would be. Belknap's only concern was there will be some near-term activities for the Finance Committee. Staff will determine who is on that committee and schedule a meeting for review of the upcoming audit.

8. General District Updates – Bill Belknap

- Legacy Crossing District
 - Groundwater treatment construction was completed last week.
 - Finalized OPA with new owner of the Sharpe property should be coming to the Finance Committee and then the full Board. Clean-up planning should be moving forward soon.
 - Staff will meet with Gritman tomorrow to discuss the concept of a Hospital District.
- Alturas District
 - Belknap will discuss at the next meeting the expired listing agreement with Palouse Commercial and has invited Justin Rathmussen to present their thoughts on marketing strategies.
 - Very basic review of the Strategic Plan documents has begun and he will report more at the next meeting.

McGeehan declared the meeting adjourned at 8:10am.



Steve McGeehan, Agency Chair

2-18-16

Date

STATEMENT OF PURPOSE

RS24111

The purpose of this legislation is to place language in Idaho Code that will provide a mechanism to recover the cost of relocating telecommunication facilities. Additionally, this legislation sets forth the amount to be recovered and a description of how it would be calculated.

FISCAL NOTE

There is no fiscal impact on the General Fund.



Contact:

Representative Mike Moyle
(208) 332-1000

Statement of Purpose / Fiscal Note

H0404

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 404

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1
2 RELATING TO URBAN RENEWAL; AMENDING SECTION 50-2007, IDAHO CODE, TO PROVIDE
3 FOR REIMBURSEMENT OF TELECOMMUNICATIONS SERVICE PROVIDERS BY URBAN RE-
4 NEWAL AGENCIES FOR RELOCATION OF FACILITIES, TO DEFINE TERMS AND TO MAKE
5 A TECHNICAL CORRECTION.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 50-2007, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 50-2007. POWERS. Every urban renewal agency shall have all the powers
10 necessary or convenient to carry out and effectuate the purposes and pro-
11 visions of this act, including the following powers in addition to others
12 herein granted:

13 (a) To undertake and carry out urban renewal projects and related ac-
14 tivities within its area of operation; and to make and execute contracts and
15 other instruments necessary or convenient to the exercise of its powers un-
16 der this act; and to disseminate slum clearance and urban renewal informa-
17 tion;

18 (b) To provide or to arrange or contract for the furnishing or repair
19 by any person or agency, public or private, of services, privileges, works,
20 streets, roads, public utilities or other facilities for or in connec-
21 tion with an urban renewal project; to install, construct, and reconstruct
22 streets, utilities, parks, playgrounds, off-street parking facilities,
23 public facilities, other buildings or public improvements; and any improve-
24 ments necessary or incidental to a redevelopment project; and to agree to
25 any conditions that it may deem reasonable and appropriate attached to fed-
26 eral financial assistance and imposed pursuant to federal law relating to
27 the determination of prevailing salaries or wages or compliance with labor
28 standards, in the undertaking or carrying out of an urban renewal project and
29 related activities, and to include in any contract let in connection with
30 such a project and related activities, provisions to fulfill such of said
31 conditions as it may deem reasonable and appropriate;

32 (c) Within its area of operation, to acquire by purchase, lease, op-
33 tion, gift, grant, bequest, devise, eminent domain or otherwise, any real
34 property or personal property for its administrative purposes, together
35 with any improvements thereon; to hold, improve, renovate, rehabilitate,
36 clear or prepare for redevelopment any such property or buildings; to mort-
37 gage, pledge, hypothecate or otherwise encumber or dispose of any real
38 property; to insure or provide for the insurance of any real or personal
39 property or operations of the municipality against any risks or hazards, in-
40 cluding the power to pay premiums on any such insurance; and to enter into any
41 contracts necessary to effectuate the purposes of this act: Provided how-
42 ever, that no statutory provision with respect to the acquisition, clearance

1 or disposition of property by public bodies shall restrict a municipality
2 or other public body exercising powers hereunder in the exercise of such
3 functions with respect to an urban renewal project and related activities,
4 unless the legislature shall specifically so state;

5 (d) With the approval of the local governing body: (1) prior to ap-
6 proval of an urban renewal plan, or approval of any modifications of the
7 plan, to acquire real property in an urban renewal area, demolish and remove
8 any structures on the property, and pay all costs related to the acquisition,
9 demolition, or removal, including any administrative or relocation ex-
10 penses; and (2) to assume the responsibility to bear any loss that may arise
11 as the result of the exercise of authority under this subsection in the event
12 that the real property is not made part of the urban renewal project;

13 (e) To invest any urban renewal funds held in reserves or sinking funds
14 or any such funds not required for immediate disbursement, in property
15 or securities in which savings banks may legally invest funds subject to
16 their control; to redeem such bonds as have been issued pursuant to section
17 50-2012, Idaho Code, at the redemption price established therein or to pur-
18 chase such bonds at less than redemption price, all such bonds so redeemed or
19 purchased to be canceled;

20 (f) To borrow money and to apply for and accept advances, loans, grants,
21 contributions and any other form of financial assistance from the federal
22 government, the state, county, or other public body, or from any sources,
23 public or private, for the purposes of this act, and to give such security
24 as may be required and to enter into and carry out contracts or agreements
25 in connection therewith; and to include in any contract for financial as-
26 sistance with the federal government for or with respect to an urban renewal
27 project and related activities such conditions imposed pursuant to federal
28 laws as the municipality may deem reasonable and appropriate and which are
29 not inconsistent with the purposes of this act;

30 (g) Within its area of operation, to make or have made all surveys and
31 plans necessary to the carrying out of the purposes of this act and to con-
32 tract with any person, public or private, in making and carrying out such
33 plans and to adopt or approve, modify and amend such plans, which plans may
34 include, but are not limited to: (1) plans for carrying out a program of vol-
35 untary compulsory repair and rehabilitation of buildings and improvements,
36 (2) plans for the enforcement of state and local laws, codes and regulations
37 relating to the use of land and the use and occupancy of buildings and im-
38 provements and to the compulsory repair, rehabilitation, demolition, or
39 removal of buildings and improvements, and (3) appraisals, title searches,
40 surveys, studies, and other plans and work necessary to prepare for the un-
41 dertaking of urban renewal projects and related activities; and to develop,
42 test, and report methods and techniques, and carry out demonstrations and
43 other activities, for the prevention and the elimination of slums and urban
44 blight and developing and demonstrating new or improved means of providing
45 housing for families and persons of low income and to apply for, accept and
46 utilize grants of funds from the federal government for such purposes;

47 (h) To prepare plans for and assist in the relocation of persons, in-
48 cluding individuals, families, business concerns, nonprofit organizations
49 and others displaced from an urban renewal area, and notwithstanding any
50 statute of this state to make relocation payments to or with respect to such

1 persons for which reimbursement or compensation is not otherwise made, in-
2 cluding the making of such payments financed by the federal government;

3 (i) To exercise all or any part or combination of powers herein granted;

4 (j) In addition to its powers under subsection (b) of this section,
5 an agency may construct foundations, platforms, and other like structural
6 forms necessary for the provision or utilization of air rights sites for
7 buildings and to be used for residential, commercial, industrial, and other
8 uses contemplated by the urban renewal plan, and to provide utilities to the
9 development site; and

10 (k) To use, lend or invest funds obtained from the federal government
11 for the purposes of this act if allowable under federal laws or regulations.

12 (l) In the event that a telecommunications service provider is re-
13 quired to relocate its facilities to accommodate an Idaho urban renewal
14 agency project within its area of operation as described in subsection
15 (b) of this section, an urban renewal agency shall directly reimburse the
16 telecommunications service provider one hundred percent (100%) of the cost
17 of relocation of its facilities. The provisions of this subsection shall
18 also apply to any such facility relocation in the process of being conducted
19 on the effective date of this act if such relocation cost has not previously
20 been agreed upon in writing between the agency and service provider.

21 (m) As used in this section:

22 (1) "Cost of relocation" means the entire cost incurred by the telecom-
23 munications service provider attributable to the relocation of the
24 utility facility after deducting any salvage value derived from the old
25 utility facility.

26 (2) "Telecommunications service provider" means any provider of
27 telecommunications services in the state of Idaho as defined in section
28 62-603(13), Idaho Code.



February 3, 2016

VIA EMAIL

House Local Government Committee
The Honorable Lynn Luker, Chairman
Room EW05
Boise, ID 83720-0038

RE: Redevelopment Association of Idaho, Inc.'s Response to **HB404**

Dear Chairman Luker:

I am the current President of the Redevelopment Association of Idaho, Inc. (RAI). The members of RAI include a majority of the urban renewal/redevelopment agencies in the State. The RAI was formed for the purpose of, and is committed to, facilitation of communication between and among Idaho redevelopment practitioners, education and encouragement of best practices in the redevelopment enterprise, facilitation of compliance with applicable state laws, and improvement of accountability and advancement of the effectiveness of the redevelopment tool. Since RAI's incorporation in late-2010, RAI has regularly advised and updated its membership as to all changes to the urban renewal laws and/or laws impacting urban renewal agencies. RAI also has had the opportunity to assist representatives of the Idaho State Tax Commission with the collection of data. RAI works closely with representatives of the Association of Idaho Cities.

For the reasons set forth below, RAI opposes **HB404** and respectfully requests you **hold HB404 in Committee**. RAI's concerns are as follows:

- The constitutionality of the proposed language in HB404 is unknown. In *State v. Idaho Power Co.*, 81 Idaho 487, 346 P.2d 596 (1959), the Idaho Supreme Court held a statute purporting to change the common law rule by requiring the Idaho board of highway directors to pay relocation costs of utilities violated Article VIII, § 2, of the Idaho Constitution, which prohibits the State from lending its credit.¹

¹ The Court also held the statute unconstitutional as a violation of Article VII, § 17, which limits the expenditures of gasoline taxes.


- The Idaho Supreme Court later reaffirmed the common law rule that utilities are permissive users of the right-of-way and are required to bear the expense of relocating their facilities in *Mountain States Telephone and Telegraph Co. v. Boise Redevelopment Agency*, 101 Idaho 30, 607 P.2d 1084. In *Mountain States*, the Court did not address the constitutionality of whether urban renewal agencies are able to pay the costs of relocation, as the Court held there was no clear legislative direction requiring payment of the relocation costs. As a result, whether an agency's payment of relocation costs violates Article VIII, § 4 of the Idaho Constitution remains an open question.
- Similarly, in *Ada County Highway District v. Idaho Public Utilities Commission*, 151 Idaho 1, 253 P.3d 675 (2011), the Court acknowledged when ACHD requires a utility to relocate its facilities that are within a public right-of-way, ACHD is not required to bear any of the utility's relocation costs.
- The anticipated source of repayment is not clear, as the proposed language is included in the Idaho Urban Renewal Law of 1965, Chapter 20, Title 50, Idaho Code, as amended (the "Law"), and there is no reference to the ability to pay relocation costs using tax increment/revenue allocation funds as authorized by the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, as amended (the "Act"). Very few urban renewal agencies have any revenue sources outside of tax increment/revenue allocation funds.
- The proposed language creates a requirement to pay relocation costs, but is not limited by an "ability to pay." Urban renewal agencies have no authorization to levy funds to pay for relocation costs and new districts have zero revenue stream. Why should a private telecommunications service provider be entitled to guaranteed repayment when other partners are limited by the agency's anticipated revenue stream?
- Pg.3, ll: 12-15: The trigger for pursuing an agency for repayment of relocation costs is overly broad and likely would include any relocation made in an urban renewal area even if not specifically tied to an agency project. In some instances, the boundaries of the urban renewal area are larger than the boundaries of the revenue allocation area, and the ability to use tax increment/revenue allocation funds outside of a revenue allocation area are limited.
- Pg. 3, ll: 17-20: The intent to apply payment of relocation costs retroactively is inappropriate. These costs were likely not contemplated in current, existing projects, and therefore, it is not reasonable to force unanticipated relocation costs on an agency, which may be detrimental to existing obligations.
- Pg. 3, ll: 22-25: The definition of "cost of relocation" is overly broad and would allow a telecommunications service provider to demand payment for upgrade costs in addition to relocation costs. Language should be added providing "any increase in the value of the new facility" should also be deducted from the cost of relocation.

- During the 2015 Legislative Session, an ad hoc group of Legislators and stakeholders met to address issues concerning urban renewal, and ultimately, HCR 17 passed, mandating the creation of the Urban Renewal Interim Committee, which started meeting in August 2015. The issue of requiring urban renewal agencies to pay relocation costs was not raised or addressed by the working group or the Interim Committee. HB404 is an end-run around the working group and the Interim Committee efforts.
- It is not good policy to single out an urban renewal agency for repayment of relocation costs using public dollars when no other public entity is required to pay. In the end, the funds expended to relocate facilities will not be owned by the public. The risk of relocation is solely on the telecommunications service provider, and there is no reason to transfer that risk to a public entity. To the extent negotiated voluntary payment of relocation costs is contemplated by the Law and the Act, that should continue, but payment should not be mandatory.
- Relocation presents an opportunity to the telecommunications service providers and allows them an opportunity to upgrade equipment, and if associated with an economic development project, may increase the potential customer base.

Based on the foregoing, there is simply no basis to overturn the common law rule which acknowledges utility providers are permissive users and do not have a property interest in the right-of-way, and therefore, upon demand must move its facilities at its expense. RAI respectfully requests you **hold HB404 in Committee**.

Please feel free to contact me at 208.883.7006 or griedner@ci.moscow.id.us should you have any further questions or concerns.

Sincerely,



Gary Riedner
President

c: The Honorable Kathleen Sims, Vice Chairman
The Honorable Vito Barbieri
The Honorable Christy Perry
The Honorable Lance Clow
The Honorable Wendy Horman
The Honorable Luke Malek
The Honorable Gary Collins
The Honorable Don Cheatham
The Honorable Thomas Loertscher
The Honorable Eric Redman
The Honorable Hy Kloc
The Honorable John McCrostie
The Honorable Mark Nye
Chelsea Cantrell, Secretary