

POCATELLO DEVELOPMENT AUTHORITY
Training and Work Session Minutes for January 5, 2022
9:00 AM to 4:00 PM
Grand Idaho Inn & Suites
1399 Bench Road, Pocatello, ID 83201

**AGENDA ITEM 1: CALL TO ORDER, DISCLOSURE OF CONFLICT OF INTEREST, AND
ACKNOWLEDGMENT OF GUESTS.**

Chair Villarreal called the training to order at 9:18 AM

PRESENT: Heidi Adamson, Victoria Byrd, Greg Gunter, Jim Johnston, Rob Lion, Terrel Tovey,
Scott Turner and David Villarreal.

EXCUSED: Brian Blad.

STAFF: Brent McLane, Executive Director, Aceline McCulla, Secretary, Meghan Conrad, PDA Attorney
(Via Zoom), MiaCate Kennedy, Ex officio, Jeff Mansfield City of Pocatello PW Director, Jared
Johnson, City of Pocatello Attorney, Rick Cheatum, City of Pocatello Councilman.

AGENDA ITEM 2: MEGHAN CONRAD.

The Board will receive training from Meghan Conrad of Elam and Burke on roles, limitations, and responsibilities of redevelopment agencies as defined by law and state statute.

Megan Conrad gave a presentation on the Urban Renewal Project implementation and answered Board members' questions. The PowerPoint will be sent to PDA Board members and stored digitally for records retention.

AGENDA ITEM 3: TRAINING WITH MIACATE KENNEDY

The Board will receive training from MiaCate Kennedy I of the Bannock Development Corporation (BDC) on how to coordinate efforts to increase and enhance economic development in the City of Pocatello.

MiaCate Kennedy identified the who, what and why of the BDC. The BDC's plan is to vet companies interested in coming to our City.

High level revitalization of downtown dynamic is in the top five requirements for cities to grow and succeed.

Kennedy is working on a five-step plan to vet companies and see if they strategically follow the BDC's plan, if they are a match, may move to the PDA if a TIF District is a good fit for the business and they may utilize assistance to complete a transition to Pocatello. The **5-Step Process** includes **1) Financials and Business plan; 2) Strategic plan; 3) Location; 4) Timeline; and 5) Commitment level – length of time.**

BDC has their own legal team and liability insurance to cover their team. Kennedy noted that companies are sent to the State of Idaho to identify fund incentives available and then create agreements with the State prior to coming back to BDC and then to the PDA for qualifying programs.

Kennedy emphasized that being transparent is vital as well as bringing in all the stakeholders to get companies motivated to move their company to Pocatello. For Pocatello to understand that high technology is a requirement for residents and businesses.

AGENDA ITEM 4: LUNCH BREAK - 12:30 p.m. – 1:00 p.m.

AGENDA ITEM 5: WORK SESSION

The Board will discuss vision, goals, and policies of the PDA.

Chair Villarreal introduced Rob Lion as the facilitator for the work session and began the work session at 1:00 PM.

Rob Lion stated the PDA needs to discuss and design the change the Board wants to see and revise plans to take the PDA in a new direction. Lion would guide the group on Vision, Goals, and add to the “Policy Parking Lot” to work through later as they pop up.

Lion asked Conrad to please review the street improvements from her earlier presentation. **Conrad** highlighted street improvements in other cities in her Urban Revitalization PowerPoint. (Aceline would emailed the Presentation to PDA Board members).

The PDA planning document would limit some things in different TIF Districts, which are all predated of 2016.

Conrad discussed information on TIFs and downtown areas, as a downtown initiative is an important part. The PDA has the ability to create a revitalization area. The area desired would be studied by a third-party agency, the findings would then be presented to the PDA Board and worked through and then the information would be brought before the City of Pocatello Council.

Funding in part comes from the City as a grant with reimbursement over a time frame.

Conrad explained that URA is an area determined as deteriorated or deteriorating. Communities would choose to have funds allocated to restore these areas. TIF (tax increment revenue generator) and URA (not an increment revenue generator) as of 2016 an URA can be overlaid with a TIF and they may have the same boundary.

Tovey noted a government entity must be the grantee and allocate funds accordingly.

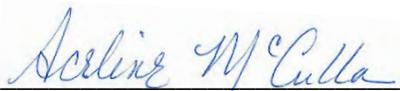
Conrad clarified that a closed TIF district can be opened as a new TIF district in whole or part.

Conrad discussed borrowed funds and noted that agencies could budget for operational expenses. If PDA borrows funds from another TIF district, the funds must be reimbursed to that TIF District. When you look at businesses that require infrastructure, a TIF could be created. This may create a ripple effect where other businesses, within the area specified, want to improve their buildings and may ask for limited funds.

AGENDA ITEM 6: ADJOURN.

With no further business, the work session ended at 4:00 PM.

Submitted by:



Aceline McCulla, Secretary

Approved on February 16, 2022

URBAN RENEWAL: PROJECT IMPLEMENTATION

Presented by Meghan
Sullivan Conrad

Elam & Burke, PA

January 5, 2022



POCATELLO DEVELOPMENT AUTHORITY

THE FUNDAMENTALS

OPENING COMMENTS

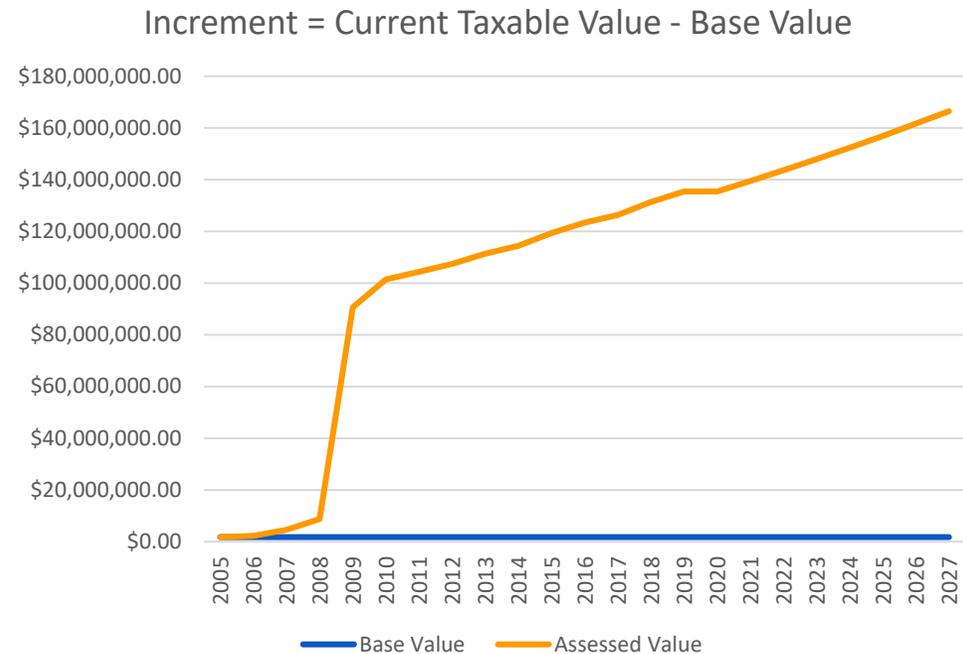
Urban Renewal Agency Authority

- Local Economic Development Act, Title 50, Chapter 29, Idaho Code
- Idaho Urban Renewal Law of 1965, Title 50, Chapter 20, Idaho Code
- Separate and distinct legal entity with independent authority—*Yick Kong v. BRA*, (entirely lay person board) *Hart v. Rexburg URA* (mix of lay persons and council members). These two Idaho Supreme Court decisions also authorize urban renewal agencies to incur long- term debt without the necessity of a public vote (2/3 majority) as required of other public entities; Article VIII, § 3 of the Idaho Constitution.
- Agency models throughout the state vary widely; though with HB606 (2016), models should become more uniform, mix of lay appointees and elected officials; but latter cannot constitute a majority.
- *Hoffman et al v. City of Boise*

Urban renewal is one of the only local economic development tools available in Idaho.

- TIF is how Urban Renewal Agencies (URA) are funded
- Boundaries of revenue allocation area (RAA) are established.
- Value of each parcel of real property within RAA is set (Base Value).
- Property values in the RAA increase and generate additional property tax proceeds.
- Property taxes generated by incremental increase above the Base Value are allocated to the agency and are used to pay for public improvements and other revitalization activities in the district.

Tax Increment Financing



How it works – Additional Detail

- When a revenue allocation area is formed, property valuation is calculated on a parcel-by-parcel basis. This is the base assessment roll of the revenue allocation area.
- **Base assessment roll for the geographic area under consideration (or collectively if more than one district) cannot exceed 10% of the current assessed value for the entire city.**
- Due to redevelopment, it is anticipated the property values will rise. If property values increase above the base value, the added value is called the increment.

Revenue Allocation Financing, Continued

- **Budget capacity increases for City, County, and other non-school taxing districts further limited by HB273. Taxing Districts cannot use new construction values within a RAA to increase budget capacity until termination.**
- County Assessor sets property values.
- County determines tax rate needed to produce budget submitted by City, County, and other taxing districts.
- Tax rates applied to full value of property outside revenue allocation areas; to the base value of property inside revenue allocation areas.
- Taxes from base value go to the taxing districts.
- Property tax revenue from the incremental value, if any, goes to the urban renewal agency for a limited period of time (20 year max, except for “grandfathered” projects primarily 24 years; a few are 30 years).

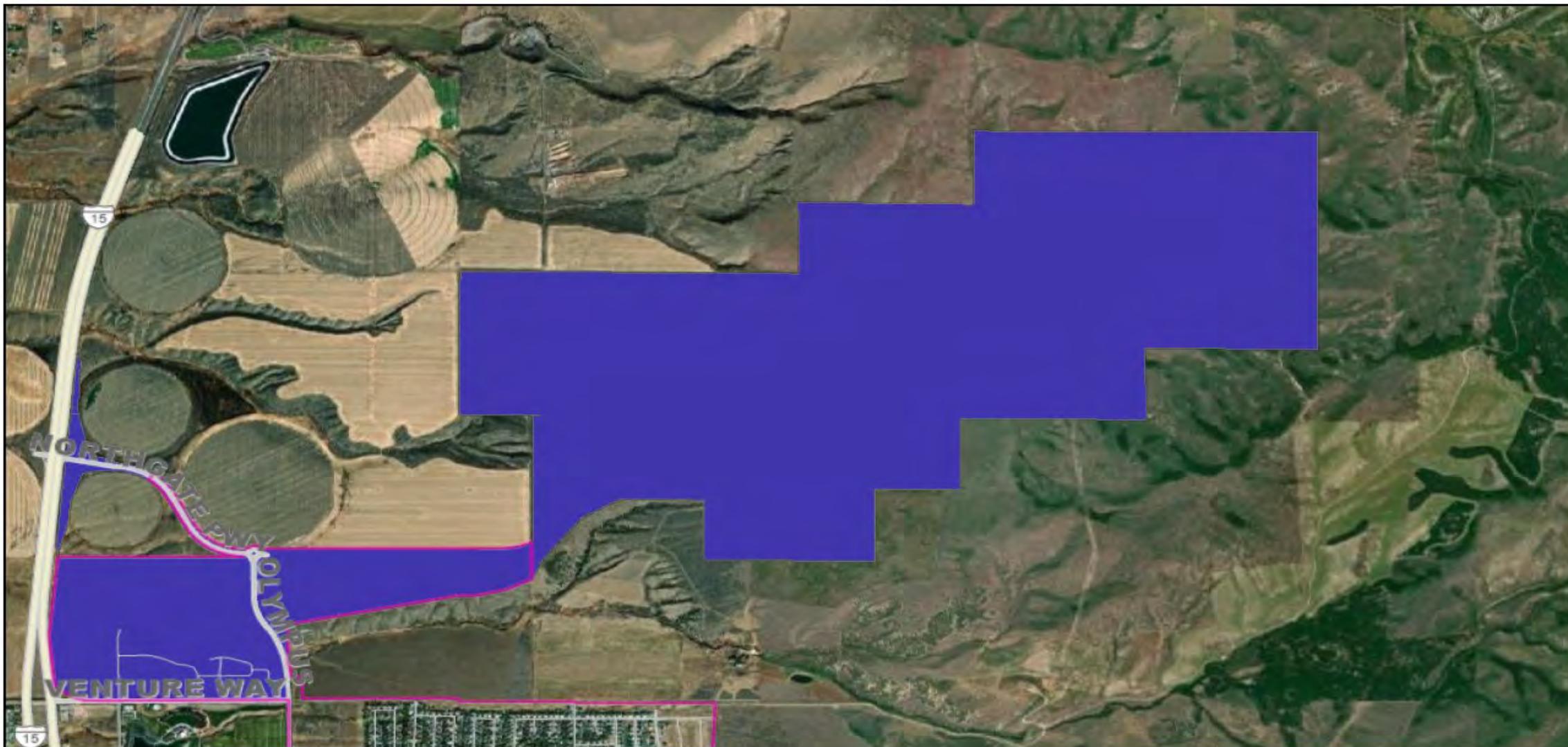
Revenue Allocation Financing, Continued

- The increment or revenue allocation that goes to the urban renewal agency is used to pay for improvements within the urban renewal area.
- An urban renewal agency does not determine property valuation or tax rates.
- **Funds received by an urban renewal agency for a given revenue allocation area must be spent in that revenue allocation area with limited exception.**
- Funds are invested in activities that are intended to increase prosperity of the revenue allocation area.
- Result is an increase in property values which would not have otherwise occurred but for redevelopment.
- **For project areas established after 2008 and voter approvals after 2008, the urban renewal agency will not receive taxes generated by voter approved levies, such as general obligation bonds, school district plant facility levies, and supplemental levies.**
- In general, school district levies no longer generate revenue for an agency – there are exceptions.

Project Areas Administered by PDA

- Northgate (12/31/39)
 - Streets, Sewer, Water

Pocatello Planning Map



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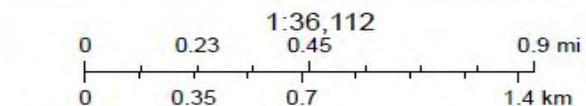
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 Airport

 Naval Ordnance Plant

 North Portneuf

 Northgate District



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

- Naval Ordnance Plant (2030)

TABLE 2. Project Costs and Revenues

ITEM	AMOUNT	TOTAL
<i>REVENUES</i>		
Revenue Allocation Proceeds	\$4,274,255	
Sub-Total		\$4,274,255
<i>COSTS</i>		
Building Façade and Equipment Upgrades and Enhancements	\$2,300,000	
Rail Line refurbishment	\$500,000	
Road reconstruction	\$500,000	
Contingency Cost (10%)	\$330,000	
Subtotal		\$3,630,000
Ending District Balance		\$644,255

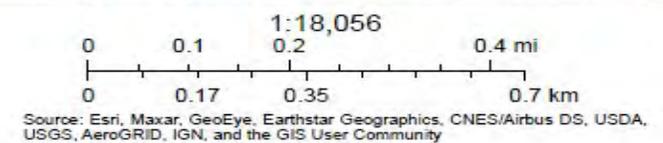
Pocatello Planning Map



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TIF_Districts

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- Airport
- NavalOrdnancePlant
- North Portneuf
- Northgate District



North Portneuf (2030)

TABLE 1. Project Costs

PROJECT EXPENSE ITEM	COST	Total
Main Water Re-use Line (4,500/ft x \$100/Ft)	\$450,000	
Main and Lateral Water Line (\$3,500/ft x \$50/ft)	\$175,000	
Main and Lateral Sewer Line (1,000/ ft x \$50/ft)	\$50,000	
Rail Spur, Dbl. Track (4,000/ft x \$220/ft)	\$880,000	
Rail Switch	\$2,000,000	
Roadway Construction (5,000/ft x \$150/ft)	\$750,000	
Property Access (Acquisition and Construction)	\$3,215,000	
Environmental Remediation and Site Preparation	\$250,000	
Power	\$8,500,000	
Natural Gas	\$1,000,000	
Cable/Fiber Optics	\$1,000,000	
Subtotal		\$18,270,000
Water/Sewer Connect Fees	\$291,029	
Contingency @ 20%	\$3,654,000	
Engineering/Administration @ 20%	\$3,654,000	
Total		\$25,869,029
Taxing Entity Operational Costs		\$16,029,830
City Capital Cost Reimbursement		\$1,361,528
PDA Administration		\$1,393,898
Company Employment Reimbursement		\$17,423,728
FINAL PROJECT COST TOTAL		\$62,078,013

- **Infrastructure, Access, and Site Work**—any necessary and eligible costs related to infrastructure enhancement, construction of facilities, upgrades of utilities, site preparation work, and other associated work to facilitate development;
- **Contingency costs**--additional cost calculated for work related to other administrative or construction related costs associated with the project;
- **Taxing Entity Operational Costs**— taxing entities will receive a reimbursement percentage to occur in the tenth year of the district to cover administrative and operational costs thereby lessening the burden of service delivery for the entities associated with this urban renewal area. Funding may also be used for property acquisition for economic development purposes;
- **City Capital Cost Reimbursement**—City of Pocatello costs incurred for acquisition of property for location of HOKU Scientific.
- **PDA Administration**—An administrative cost will be allocated to the PDA for ongoing operational needs;

Company Employment Reimbursement—In year 2016, provided that tax increment financing revenue is collected as projected, HOKU Scientific will be reimbursed funding percentages if they obtain and maintain at minimum 200 new jobs in the community. If they do not have 200 or maintain that number of jobs, then the amount of the reimbursement will be proportionately reduced downward on a prorated sliding scale. There is no increase in reimbursement for jobs in excess of 200.

Pocatello Planning Map



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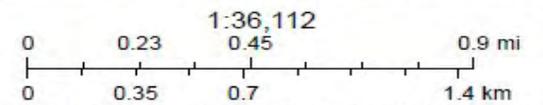
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Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Pocatello Regional Airport (2033)

TABLE 1. Project Costs

GENERAL PROJECT LIST	COST
Development Master Plan Creation	\$ 50,000
Surveying and Platting Work	\$ 30,000
Landscaping	\$ 0
Franchise Utility Upgrades (sites 'A' and 'B')	\$ 515,000
General Project List Sub-Total	\$ 595,000
<i>PROJECT LIST – Project Site 'A' (Fortnes and Ball Streets)</i>	COST
Site Utilities: Water, Sewer, Storm Water Systems	\$ 256,700
Roadway Construction/Improvements – Turning Radii (gravel)	\$ 12,500
Rail Spur Rehabilitation/loading-unloading crane/hoist	\$ 0
Construction Engineering/Surveying/Management Services/Contingencies	\$ 110,000
Project Financing Charges	\$ 212,432
Project List – Project Site 'A' Sub-Total	\$ 591,632
<i>PROJECT LIST – Project Site 'B' (Boeing Street)</i>	COST
Site Utilities: Water, Sewer, and Storm Water Systems	\$ 720,400
Roadway Construction/Improvements	\$ 12,500
Rail Spur Rehabilitation/Extension	\$ 365,000
Construction Engineering/Surveying/Management Services/Contingencies	\$ 219,000
Project Financing Charges	\$ 737,743
Project List – Project Site 'B' Sub-Total	\$2,054,643
<i>PROJECT LIST – Project Site 'C' (Westside Industrial Park)</i>	COST
Site Utilities: Water, Sewer, and Storm Water Systems	\$ 0
Water Tank	\$1,500,000
Franchise Utility Upgrades	\$ 0

Construction Engineering/Surveying/Management Services/Contingencies	\$ 300,000
Project List – Project Site 'C' Sub-Total	\$1,800,000
ALL TOTAL	\$5,041,275
PDA Administrative Costs	\$ 0
FINAL TOTAL	\$5,041,275

- **Master Planning:** This would include the hiring of professional planning and engineering services to plan the entire 589 acres so that utilities are provided adequately for full build-out, that areas for development are properly identified, and that proposed uses are compatible with one another.
- **Surveying and Platting:** Hiring an engineering firm to survey and plat an approximate 589 acre area of land in order to create parcels for marketing purposes.
- **Site Utilities: Water line and Water System Upgrades—**Install main water and sewer lines for fire and industrial water service. Install a 1,000,000 gallon storage tank and additional pump station(s) to accommodate fire water service requirements.
- **Site Utilities: Storm Water Upgrades –** Enhancements to storm water retention/detention capacity.
- **Landscaping—**Design and implement a landscaping plan for the area installing needed trees, grass and plants to beautify the area and to comply with City codes.
- **Roadway Improvements—**Widen roadways where needed and improve and/or expand roadway system and to accommodate future developments in the area. Reinforce roadway at rail spur intersections. Install curb and gutter and intersection radii and other necessary improvements to enhance access and transportation to the site.
- **Rail Spur Rehabilitation/Extension –** Upgrade rail spur system to accommodate industrial expansion in the area including the loading and off-loading of material.
- **Franchise Utility Upgrade--** Utility upgrades required to facilitate full development of sites within this area.
- **Contingency costs--**Additional cost were calculated for work related to increase in costs of the work and other administrative expenses associated with the project.
- **PDA Administrative Costs –** Eligible costs for reimbursement to the PDA for management, legal, financial and other oversight responsibilities of the district formed and projects undertaken.
- **Other--**Any costs or tasks related to, construction or reconstruction of roads, extensions of water, sewer, or storm water lines, street lighting, public landscaping, location of electrical transformers, construction of fire lanes or provision of fire flow, construction of wells, location of railroad spurs, switches, or signals within the project area, demolition or clean up of sub-standard buildings or other “horizontal” debris, management of property acquired by or in control of the agency, disposition of property for public or private uses in accordance with the Plan, including sale of property at fair value but below market value, assembly of adequate sites for development, any construction including foundations, platforms, and other structural forms, issuance of bonds, notes or other obligations to finance all or any part of the projects, and all other actions as necessary under State Law to accomplish this Plan, funded through Tax Increment Financing. Any additional costs related to any of the prioritized or alternative projects which the PDA and Council propose to be used to complete or enhance a project may also be used.

Pocatello Planning Map



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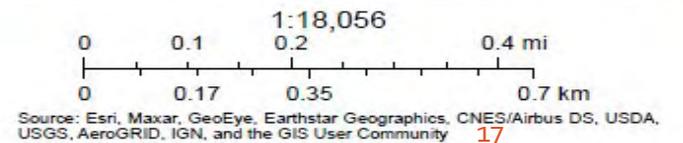
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 Airport

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Types of Projects

- Traditional Downtown Revitalization
- Economic Development Projects

Project Funding - Generally

- Pay-as-you-go
- Developer reimbursement agreements
- Owner participation agreements
- Conventional bank loans
- Bonds
- Note: Often no tax increment available to fund projects on a pay-as-you-go method until at least two years after plan creation. Many projects require infrastructure immediately in order for a project to go – requiring financing of improvements. Advance funding from city, developers or others.

Project Funding - Generally

- Agency decisions regarding project financing are: properly noticed on agendas, decisions are made in open, public meetings, and by agency resolution.
- Before financing occurs, there must be a showing the project is economically feasible and a determination that an agency is credit worthy.

Development within a RAA

- Pre-formation of a RAA (developer driven)
 - Developer presents an economic development opportunity (primarily commercial/industrial developments)
 - Significant public infrastructure improvements present an impediment to development
 - But for revenue allocation financing project would not be financially feasible
 - Developer may enter into a MOU with the Agency to fund the creation of a RAA; Agency can fund; City can fund
 - Typically, Agency will not have available funds, or access to financing to fund necessary public infrastructure improvements
 - Developer may pay for eligible public infrastructure improvements reimbursed over time through a reimbursement agreement
 - Is development consistent with the plan and statutes?
 - Agency/City can also initiate a new project area – more common in a downtown core

Authorized Activities under the Law and the Act

- Urban Renewal Project as defined by the Idaho Urban Renewal Law of 1965 (the "Law") and
- Project or Urban Renewal Project as defined by the Local Economic Development Act (the "Act")
- The definition of "urban renewal project" contained in the Law is nearly identical to the definition contained in the Act
- The definition of "project costs"



The Act: Title 50, Chapter 29, Idaho Code

(13) "Project" or "urban renewal project" or "competitively disadvantaged border areas" may include undertakings and activities of a municipality in an urban renewal area for the elimination of deteriorated or deteriorating areas and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include:

See also – I.C. 50-2018(10)

- (a) Acquisition of deteriorated area...
- (b) Demolition and removal of buildings...
- (c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, open space, off-street parking facilities, public facilities, public recreation and entertainment facilities or buildings and other improvements necessary for carrying out, in the urban renewal area ... the urban renewal objectives of this act in accordance with the urban renewal plan ...
- (d) Disposition of property at its fair value for uses in accordance with the plan except for disposition of property to another public body...
- (a) Carrying out plans for...repair...
- (b) Acquisition of real property ... to be rehabilitated
- (c) Acquisition of other property ...to eliminate unsafe conditions, etc. ...
- (d) Lending or investing federal funds...
- (e) Construction of foundations...

The Law: Title 50, Chapter 29, Idaho Code

14) "Project costs" includes, but is not limited to:

- (a) Capital costs, including the actual costs of the construction of public works or improvements, facilities, buildings, structures, and permanent fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and permanent fixtures; the acquisition of equipment; and the clearing and grading of land;
- (b) Financing costs, including interest during construction and capitalized debt service or repair and replacement or other appropriate reserves;
- (c) Real property assembly costs, meaning any deficit incurred from the sale or lease by a municipality of real or personal property within a revenue allocation district;
- (d) Professional service costs, including those costs incurred for architectural, planning, engineering, and legal advice and services;
- (e) Direct administrative costs, including reasonable charges for the time spent by city or county employees in connection with the implementation of a project plan;
- (f) Relocation costs;
- (g) Other costs incidental to any of the foregoing costs.

What Powers Do URA's Have?

Consistent with the urban renewal plan, to:

- Construct/reconstruct streets, utilities, parks, recreation facilities, off-street parking and public facilities, public buildings and other improvements.
- Acquire and dispose of property or buildings.
- Improve, renovate, clear and prepare for redevelopment properties or buildings.
- Acquire property to eliminate unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to public welfare.
- Invest and borrow money, issue bonds, and accept loans and grants.
- Work cooperatively with other public entities.
- Facilitate Local Improvement Districts (LIDs) and Business Improvement Districts (BIDs).
- Potential lease conduit financing in appropriate circumstances. *Greater Boise Auditorium District v. Frazier*

Steps to Create a RAA

- Designate a study area for potential creation of an urban renewal district
- Determine whether conditions within the study area meet the criteria established in State Law (Idaho Code §§ 50-2903(8), 50-2018(8) and (9)) and make the requisite findings in an eligibility report
- Best Practice: Consider retaining independent, third party consultant to review area and prepare study report. Supports credibility of findings.

Definition of Deteriorated Area – I.C. § 50-2903(8)-see also, I.C. §§ 50- 2018(8) and (9)

"Deteriorated area" means:

(a) Any area, including a slum area, in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.

(b) Any area which by reason of the presence of a **substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, results in economic underdevelopment of the area, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use.**

(c) Any area which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or improvements, or otherwise, results in economic underdevelopment of the area or substantially impairs or arrests the sound growth of a municipality. The provisions of section 50-2008(d), Idaho Code, shall apply to open areas.

(d) Any area which the local governing body certifies is in need of redevelopment or rehabilitation as a result of a flood, storm, earthquake, or other natural disaster or catastrophe respecting which the governor of the state has certified the need for disaster assistance under any federal law.

(e) Any area which by reason of its proximity to the border of an adjacent state is competitively disadvantaged in its ability to attract private investment, business or commercial development which would promote the purposes of this chapter.

(f) "Deteriorated area" does not mean not developed beyond agricultural, or any agricultural operation as defined in section 22-4502(1), Idaho Code, or any forest land as defined in section 63-1701(4), Idaho Code, unless the owner of the agricultural operation or the forest landowner of the forest land gives written consent to be included in the deteriorated area, except for an agricultural operation or forest land that has not been used for three (3) consecutive years.

Steps, Continued

- Agency Board concurs with the conclusions of the eligibility report and forwards it to the City Council
- If the City Council adopts the findings in the eligibility report, then the City Council directs the preparation of an urban renewal plan for the area; plan must include certain information with specificity – see I.C. § 50-2905
- Agency prepares and approves the plan and forwards it to the City Council
- City Council receives the plan and refers it to the Planning and Zoning Commission for a determination that the plan is consistent with the City's Comprehensive Plan

Steps, Continued

- City refers the plan to the affected taxing entities and provides at least 30-days' notice of the public hearing
- Planning and Zoning Commission determines that the plan is consistent with the City's Comprehensive Plan
- City Council holds public hearing; determines whether to adopt plan and form revenue allocation area
- City Council adopts the plan, including a revenue allocation financing provision, by ordinance
- Those cities/counties that did not already have an urban renewal agency established prior to July 1, 2011, must seek voter approval to establish the agency
- Generally, the plan approval process takes about 6 months for a clearly defined project; typically 9-12 months for a project with a complex scope

Additional Considerations

- Must demonstrate that the proposed area and plan of work is financially feasible
 - Best Practice: Obtain an independent, third-party consultant to prepare the economic feasibility study. Supports credibility of the findings.
- Must determine that the combined base assessment value of all existing urban renewal districts and any proposed urban renewal districts does not exceed 10% of the total city assessed value (recommend use of “taxable value comparison”)
- Owners of “agricultural lands” and “forest lands” must provide written consent

Urban Renewal Plan - Generally

- A revenue allocation area exists for 20 years (pre-2011 plans grandfathered for longer term of 24 years)
- The urban renewal plan provides the Agency with a process and a basic framework within which to consider and proceed with specific projects
- Due to the length of time a plan is in existence, the plan maintains some flexibility to allow the Agency to respond to changing market and economic conditions
- Amendments are limited by I.C. § 50-2033 and 50-2903A
 - Cannot amend plan to extend term beyond max term allowed by law
 - Can amend plan one time to add geographic area – limited to 10% of existing RAA
 - Permissible to amend plan to add new projects
 - Plans adopted post-2016 cannot be amended without resetting the base value to current value; limited exceptions

Development of Developer-Owned Parcel within an Existing RAA

- Developer seeks to develop a parcel within the RAA
- Formal request to the Agency to reimburse certain eligible public infrastructure improvements
- But for revenue allocation financing project would not be financially feasible; consistency with plan goals (specificity); statutes
- With revenue allocation financing Agency may seek certain enhanced design requirements
- Developer and Agency enter into a reimbursement agreement
- Developer may pay for eligible public infrastructure improvements reimbursed over time through a reimbursement agreement (or a lump-sum agreement if funds are available); often reimbursement generated from revenue allocation funds generated from the new development
- Note: Impact of Idaho Code § 63-602NN and other property tax exemptions on RAA and ability to reimburse; may need to choose

Development of Agency-Owned Parcel within an Existing RAA

Property Acquisition

- Agency has the authority to acquire property; however, the definition of “urban renewal plan” in the Law requires identification of property to be acquired by the Agency. See, I.C. § 50-2018(12)
- The Agency may acquire property by negotiation or condemnation. See, Idaho Code § 50-2010. The Agency has the authority to exercise the power of eminent domain subject to the limitations set forth in Title 7, Chapter 7, Idaho Code, specifically I.C. § 7-701A.

Property Disposition

- Procedures for the disposition of property are set forth in Idaho Code § 50-2011. Property cannot be given to a private person/entity/non-profit without going through a competitive bidding process.
- Idaho Code § 50-2011(f): Property previously acquired or acquired by an agency for rehabilitation and resale shall be offered for disposition within three (3) years after completion of rehabilitation, or an annual report shall be published by the agency in a newspaper of general circulation...listing any rehabilitated property held by the agency in excess of such three (3) year period, stating the reasons such property remains unsold and indicating plans for its disposition.

DDA

- Agency issues RFP
 - RFP can be specific or broad
 - Proposals are reviewed; Agency selects winning response
- Agency and Developer enter into an exclusive right to negotiate
 - Refinement of design; other project related information
 - Work towards agreement on the terms of a disposition and development agreement
- Agency and Developer enter into a Disposition and Development Agreement
 - Certain contingencies not typical in a standard PSA
 - Prior to disposition, Agency will confirm financing is in place
 - Closing will not occur until project is entitled/permitted; financing is in place; construction contract is ready to be signed;
 - Agency wants to make sure the project selected will be built prior to disposition
- Land write down/fair re-use appraisal

Idaho Code § 50-2905A: Limitation on use of TIF to fund construction of municipal buildings and multipurpose sports stadium complex

- Three-part test:
 - After July 1, 2019, revenue allocation funds or revenue allocation funds aggregated with any other “public funds” may not contribute to 51% or more of the total “project cost” (excludes federal funds and federal funds administered by a public body); AND
 - the project is for construction of a “municipal building,” or a “multipurpose sports stadium complex,” or a remodel of either; AND
 - the total project cost exceeds \$1M
- Voter approval: if triggered, 60% of the participating qualified electors residing within the borders of the qualified municipality; election subject to consolidated election laws

I.C. § 50-2905A - Exception

- Exception to “project cost” – certain infrastructure improvements are not subject to 51% limitation
 - “any infrastructure or belowground improvements including, but not limited to, water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, or unoccupied auxiliary structures.”
 - presumably exception applies to hard costs, soft costs, admin costs and professional service costs

Other Limitations?

- Article VIII, Section 4, Idaho Constitution. COUNTY, ETC., NOT TO LOAN OR GIVE ITS CREDIT.
- No county, city, town, township, board of education, or school district, or other subdivision, shall lend, or pledge the credit or faith thereof directly or indirectly, in any manner, to, or in aid of any individual, association or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any individual, association or corporation in or out of this state.
- Article XII, Section 4, Idaho Constitution. MUNICIPAL CORPORATIONS NOT TO LOAN CREDIT.
- No county, town, city, or other municipal corporation, by vote of its citizens or otherwise, shall ever become a stockholder in any joint stock company, corporation or association whatever, or raise money for, or make donation or loan its credit to, or in aid of, any such company or association: provided, that cities and towns may contract indebtedness for school, water, sanitary and illuminating purposes: provided, that any city or town contracting such indebtedness shall own its just proportion of the property thus created and receive from any income arising therefrom, its proportion to the whole amount so invested.

Limitations, Continued

- Article VIII, Section 4/Article XII, Section 4, Idaho Constitution provide good sideboards in analyzing projects

Best practice: urban renewal agencies should not grant tax money to private interests for development or to lend its credit to back loans to private interests.

Idaho law does not distinguish non-profit from other private entities

Limitations On Urban Renewal Agencies

- The Idaho Supreme Court has held the purpose behind Art. VIII, § 4 of the Idaho Constitution is to prevent private enterprises from gaining any competitive advantage at the expense of the taxpayers.
- An urban renewal agency should be able to demonstrate that such improvements were primarily beneficial to the public.
- An urban renewal agency should strongly analyze funding real property improvements to privately owned property (which includes non-profit entities) and granting funds to private entities (again, including non-profit entities).
 - An urban renewal agency can fund real property improvements to real property owned by another public entity (either local, state, or federal) and may grant funds to another public entity.
- Urban renewal agencies may only expend public funds for the benefit of the public. The agency should be very cautious in considering funding improvements to private property. Funding could be ultimately deemed a loan or grant or gift of public funds to the private property owner and thus a violation of the Idaho Constitution. [Art. VIII, § 4, Art. XII, § 4, Idaho Constitution]

Examples

- Yes

- Public infrastructure improvements within the ROW
 - Sidewalks, curb, gutter, street lighting
 - Water/sewer improvements (main)
 - Streets (arterials/collectors)
 - Fiber and power

- Maybe

- Site preparation costs: rock removal, environmental remediation, demolition

- No

- Cannot buy real property and give it to a developer
- Cannot build a building for a private entity
- Avoid improvements that primarily benefit the developer
- Private parking

Best Practice Tips – Considering a New Project

- Is the proposed project within the boundaries of an existing RAA?
- Is the proposed project permitted by the Urban Renewal Law or the Local Economic Development Act?
- Is the proposed project a municipal building or a multipurpose sports stadium complex?
- Is the proposed project consistent with the urban renewal plan?
- Is the plan a pre-or-post July 1, 2016, plan?
- Is a plan amendment possible or necessary?
- Is the proposed project within the jurisdictional boundaries of the city?
- Is the proposed project consistent with the City's comp plan?
- Does the property at issue have an ag exemption, or has the property been used for ag purposes within the last 3 years?
- Funding?

Agency Development of Real Property - Procurement Rules and Procedures

- Title 67, Chapter 28, Idaho Code
 - Public Works Construction Bidding
 - SB1074 – increased threshold amounts for both formal and informal bidding processes
 - Best interests of Agency from \$0-\$25,000 to \$0-\$50,000
 - Informal bidding from \$25,000-\$100,000 to \$50,000-\$200,000
 - Formal bidding from over \$100,000 to over \$200,000
 - Public Procurement of Goods and Services Bidding
 - Best interests of Agency from \$0-\$25,000 to \$0-\$50,000
 - Informal bidding from \$25,000-\$50,000 to \$50,000-\$100,000
 - Formal bidding from over \$50,000 to over \$100,000
 - Exceptions

Procurement Rules and Procedures, Con't

- Idaho Code § 67-2320
 - Professional Service Contracts with Design Professionals, Construction Managers, and Professional Land Surveyors
- Idaho Code § 54-4511
 - Construction manager/general contractor

General

- TIF funds should be used within the boundaries of the TIF district
- Exceptions

Naval Ordnance Plant Urban Renewal Area



PUBLIC OVERSIGHT

OPEN MEETINGS ■ PUBLIC RECORDS ■ REPORTING REQUIREMENTS

Transparency and Accountability

- Public Record Law – Idaho Code §§ 74-101 to 74-126
- Open Meeting Law – Idaho Code §§ 74-201 to 74-208
 - Notice of Meetings – Agendas, Idaho Code § 74-204
 - Executive Sessions – When Authorized, Idaho Code § 74-206

Compliance Requirements, Generally

- Public entity compliance with open meetings, public records, audited financial statements, budgets, and annual reports
- Public bidding and contract compliance

Financial Reporting Requirements: Audit, Annual Report, Budget and Other

- Idaho Code §§ 50-2006(c) and (d)
 - Audit
 - Annual Report
- Idaho Code §§ 50-2903(5) and 50-1002; see also 50-2006(d)
 - Budget
- Idaho Code § 67-450E
 - Central registry and reporting portal
- Idaho Code § 50-2913
 - State Tax Commission reporting portal
- Idaho Code § 50-2903A (For plans adopted post-July 1, 2016)
 - Amendment certification

REPORTING REQUIREMENTS

Type of Filing	Where to File	Filing Deadline	Statutory Penalty	Code Section
Annual Report	Local Governing Body (City or County Clerk)	March 31	None	LC, § 50-2006(c)
Plan Modification Attestation or attestation of no modification (Currently, 14 Post-July 1, 2016, RAAs only)	Idaho State Tax Commission	1 st Monday in June	Base value reset to current values in the year following modification	LC, § 50-2903A
Audit (from preceding year)	Upload to the Legislative Services Office Portal	June 30	LSO advises BOCC of non-compliance, BOCC determines appropriate penalty, including fee not to exceed \$5000	LC, § 50-2006(d); 67-450B; 67-450E
Annual budget	Local governing body (City or County Clerk)	September 1	None	LC, § 50-2006(d); 50-1002
Urban Renewal Plans	Idaho State Tax Commission – Urban Renewal Registry	December 1	Loss of revenue exceeding prior year's receipts; withholding of property tax replacement dollars; BOCC could impose a fee of not to exceed \$5,000	LC, § 50-2913

REPORTING REQUIREMENTS (CON'T)

Type of Filing	Where to File	Filing Deadline	Statutory Penalty	Code Section
General Financial and Administrative Information	Legislative Services Office (LSO)- Local Governing Entity Central Registry and Reporting Portal	December 1; Many upload information earlier upon completion of the audit	LSO advises BOCC of non-compliance. BOCC determines appropriate penalty, including fee not to exceed \$5000	I.C. § 67-450E

Agency Budget

- Statutory requirement to adopt an annual budget
- Agency budgeting practices differ significantly around the State
- HB73 – May provide greater consistency among Agency budgets/content
- Separate fund should be established for each RAA
 - Budget should identify expenditures for each RAA

Pocatello Regional Airport Urban Renewal Area



IMPLEMENTATION

BOARD ■ CREATION ■ PLAN ■ RECENT CHANGES ■ TAX COMMISSION

Conflict Of Interest Laws

- Urban Renewal Law – Interested Public Officials, Commissioners or Employees, Idaho Code § 50-2017
- Ethics in Government Act of 2015 – Chapter 4, Title 74
 - Gifts/gratuities/events
- Prohibitions against Contracts with Officers – Chapter 5, Title 74

Ethics in Government Act of 2015: Describes the Public Trust and Fiduciary Obligation

POLICY AND PURPOSE. It is hereby declared that the position of a public official at all levels of government is a public trust and it is in the public interest to:

- 1) Protect the integrity of government throughout the state of Idaho while at the same time facilitating recruitment and retention of personnel needed within government;
- (2) Assure independence, impartiality and honesty of public officials in governmental functions;

- (3) Inform citizens of the existence of personal interests which may present a conflict of interest between an official's public trust and private concerns;

- (4) Prevent public office from being used for personal gain contrary to the public interest;

- (5) Prevent special interests from unduly influencing governmental action; and

- (6) Assure that governmental functions and policies reflect, to the maximum extent possible, the public interest.

I.C. § 74-402

Ethics in Government: Defines Conflict of Interest

- A serving board member has an important fiduciary duty to that entity.
- The Ethics in Government Act defines a conflict of interest.

“Conflict of interest” means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person’s household, or a business with which the person or a member of the person’s household is associated

I.C. § 74-403(4)

Ethics in Government: Exception to Conflict of Interest Provision

- Exceptions to the conflict of interest provision:
 - Where the actions of the public body provide a benefit to a certain class of people, and a public official happens to be a member of that class.
 - There is a de minimis value of goods and services that a public official may receive without violating any of these provisions.
 - A specific exception for non-compensated public officials is set out in I.C. §74-405. This exception applies only when the contract for services has been subject to public bid and the appointed official submitted the lowest bid.

When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section 18-1361A, Idaho Code.

I.C. §74-405.

Urban Renewal Law: Contains a Broader Conflict of Interest Prohibition

- I.C. § 50-2017 prohibits board members from having an interest in a contract connected to an urban renewal project, whether or not the urban renewal agency itself is a contracting party or not.
- Provision has not been amended since the Urban Renewal Law was enacted in 1965.
- Provision likely based on a model act required by HUD to receive federal funding assistance.
- Provision was likely intended to prevent a board member from investing in real estate in an urban renewal area.

...voluntarily acquiring any personal interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project in such municipality or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the agency and such disclosure shall be entered upon the minutes of the agency.

I.C. § 50-2017

Urban Renewal Law: Exception to Conflict of Interest Prohibition

- There is an exception created for board members that own property in the urban renewal project area at the time the member is appointed.
- Provision is likely intended to address those situations of appointing a board member who may own property within the urban renewal project area.

...If any such official, commissioner or employee presently owns or controls, or owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this fact in writing to the agency, and such disclosure shall be entered upon the minutes of the agency, and any such official, commissioner or employee shall not participate in any action by the municipality (or board or commission thereof), or urban renewal agency affecting such property.

I.C. § 50-2017

Conflict of Interest Under I.C. § 18-1359: Criminal Misdemeanor

- Care must be taken that information obtained in your position as Board Member be disclosed or used which would benefit you or a person in whose welfare you have an interest (i.e. family members).
- Violation of I.C. § 18-1359 is a criminal misdemeanor.

“No public servant shall:

(a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.

(b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial benefits not to exceed a value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

(c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves

(d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.

I.C. § 18-1359(1)(a) through (d)

Idaho Code § 50-2903A

Plans adopted post-July 1, 2016, are subject to base reset upon modification except in limited circumstances.

The effect of a base reset is the loss of the increment value resulting in an immediate loss of revenue to an urban renewal agency leading to default on existing obligations. This statute will impact plans adopted post-July 1, 2016, and subsequent modifications to those plans.

Idaho Code § 50-2903A

A New Section (continued)

A modification shall not be deemed to occur in the following limited circumstances:

- (1) To make technical or ministerial plan amendments
- (2) To make a plan amendment that increases the revenue allocation area boundary by up to 10%
- (3) To de-annex parcels from a revenue allocation area. Provides statutory justification and process; though, the Tax Commission had considered this process.
- (4) To make a plan amendment to support growth of an existing commercial or industrial project in an existing revenue allocation area

“With specificity” Idaho Code § 50-2905

Idaho Code § 50-2905 is amended to address the contents of a plan

- a. Requires that a revenue allocation area plan must state with specificity details about the types of projects that are contemplated [no definition of specificity].
- b. Requires that any changes to an urban renewal plan be noticed and completed in an open public meeting.

Plan specificity – what does that mean?

- Requiring “specificity” will limit an agency’s ability to respond to new economic development opportunities.
- Additionally, as a plan is implemented, it is not uncommon for there to be changes to the location of improvements. At what point does a change deviate from the specificity requirement to require a plan amendment?

Idaho Code § 50-2913 State Tax Commission Repository

Idaho Code § 50-2913 established urban renewal reporting requirements and penalties for non-compliance.

Best Practice Tips

- If you receive a communication from the STC or from LSO (soon to be comptroller's office) – RESPOND EVEN IF YOU THINK THE COMMUNICATION IS IN ERROR!
 - The penalties for non-compliance with Idaho Code §§ 50-2903A and 50-2913 can be significant.

North Yellowstone Urban Renewal Area



ISSUES IDENTIFIED OVER THE YEARS

BY THE IDAHO LEGISLATURE AND URBAN RENEWAL CRITICS

Issues

- Definition of blight/deteriorating conditions
- The development of open land/Greenfield development
- Board composition/qualifications /conflict of interest/election
- Enforcement of the 10% rule/compliance/punishment if the limit is exceeded
- Perceived lack of accountability/transparency to the general public
- Long-term debt without vote
- “Distinguish TIF use for “blight” from economic development/mixed use projects
- Provide taxing entities with meaningful input/comment/consultation
- Rebates to taxing districts
- Property tax impact
- “Giveaways”
- Penalties for non-compliance
- Limitations on types of projects that can be funded

Pocatello Regional Airport – Road and Utility Upgrades



URBAN RENEWAL PROJECTS VARY

DEPENDING ON THE NEEDS AND RESOURCES OF THE COMMUNITY

Street Improvements

Rexburg: Traffic Signal to Improve Safety



Sandpoint: Street Reconstruction



Eagle: Right-of-Way Improvements



Public Art

**Sandpoint: Bridge
Street Fish Walk**



**Boise: Traffic
Box Art**



**Lewiston: Street Scape/
Public Art**

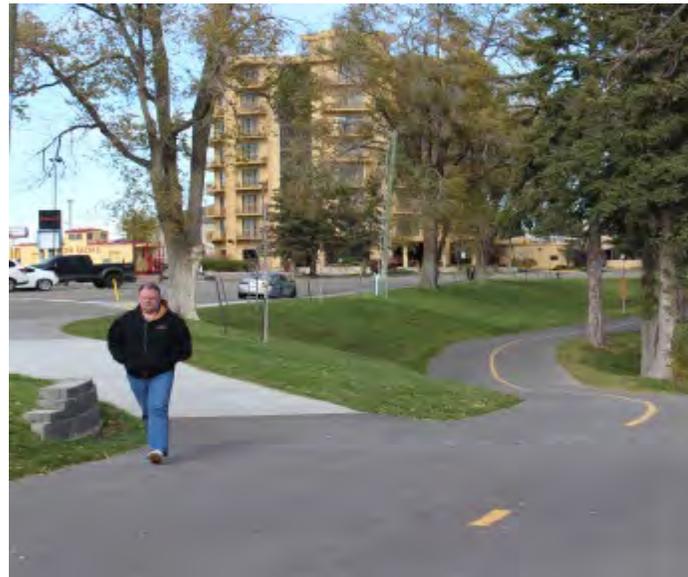


Interpretive Signs and Public Pathways

Meridian: Historical Walking Tour



Idaho Falls: Greenbelt Reconstruction



Coeur d'Alene: Prairie Trail



Public Infrastructure Improvements

Boise: Extension of Geothermal System



Garden City: City Well Rehab



Rexburg: Moving Power Transmission Lines

