

Eagle Urban Renewal Agency

Tuesday March 3rd, 2015

6:00 p.m.

Eagle City Hall

660 E. Civic Lane, Eagle, Idaho

1. Call to Order: Chairman Jeff Kunz called the meeting to order at 6:04PM.
2. Roll Call – Present: Butler, McFarland, Kunz, Ridgeway, Reynolds. A quorum is present.
3. Pledge of allegiance.
4. Amendments to agenda. Mark Butler made a motion to move agenda item number 14 (“Possible executive session”) to new agenda number 11 and to add a new item at the end of the agenda to discuss the conditional use permit for the parking lot concept plan for the Tri-City Meats and Smith properties and moving it forward through the city’s processes. The item is being added at the last minute because Butler did not mention it to the chairman and demolition on the Tri-City Meats properties has already started. This item needs to be addressed in order to decide how to move forward. Mary McFarland seconded the motion. All ayes – motion carried.
5. Reports by board members, attorney and secretary. No reports.
6. Public comment on matters not on the agenda: (Please limit comments to 3 minutes maximum.)

Dave Frizzi, 1409 E. Rivers End Dr., Eagle, ID. Mr. Frizzi expressed concerns about the barbed wire fence (termed a “very attractive nuisance”) constructed along one-half mile of the Laguna Pointe pathway. Kunz asked why he approached the Eagle Urban Renewal Agency (EURA) with this matter. Frizzi spoke with the Parks & Recreation Department and wanted to share this land issue. Kunz suggested it might be more appropriate to bring this matter to the next Eagle City Council meeting.

Shane Curry, 299 S. Harlan Pl., Eagle, ID. Mr. Curry expressed concerns about State Highway 44 and right turn traffic patterns northbound onto Eagle Road. Turning cars are not yielding appropriately and his car has almost been swiped three times in the last month. He didn’t know whether he should speak to the Ada County Highway District (ACHD) or the City of Eagle about this. McFarland said it might be more appropriate to bring this matter to the next Eagle City Council meeting.

No other public comment.

7. Correction and approval of February 3rd, 2015 meeting minutes. Approval of February 10th 2015 meeting minutes. McFarland made a motion to correct and approve the meeting minutes. Stan Ridgeway seconded the motion. All ayes – motion carried.
8. Treasurer’s Report – Lindsey Pretty Weasel gave the report. There were no questions.
 - a. Review of vouchers and checks
 - b. Bank statement review
 - c. Review Profit and Loss and Balance Sheet
9. Consideration and possible action on development of a prioritized project list. Kunz spoke with Ashley Ford. She was unable to attend this meeting due to other commitments. Kunz asked if he, attorney Todd Lakey and Ford could meet to explore the possibility of getting her help on public outreach for development of a prioritized project list. He also asked whether the Eagle Urban Renewal Citizens Advisory Committee might want to be involved. McFarland stated it is important to have a roadmap and thought starting with Ford would be the good first step. The board expressed no objections to Kunz, Lakey and Ford holding a meeting to discuss public outreach for development of a prioritized project list.

10. Consideration of and possible action on Authorization and Order of Condemnation of land necessary for the construction of a downtown public parking lot project and for the removal of blight. The property is located at 35 W. State St., is identified as Ada County parcel numbers R0238260007 and R0238260008 and is located in Township 4N, Range 1E, Section O8. The property is the Richard and Sandy Smith property consisting of the old Chevron station site and a section of vacated alley at the southwest corner of Old State St. and Eagle Rd. PUBLIC COMMENT WILL BE TAKEN ON THIS ITEM.

Kunz explained the ground rules for public comment.

Chad Lamer, 251 E. Front St., Boise, ID. Mr. Lamer is the lawyer representing the Smiths. The Smiths talked to Mr. Lamer about the issues they have had with developing their property. He suggested that the Smiths work with the EURA initially. He asked them what they could do to facilitate the assemblage and development of the property. They hired Rick McGraw to assist with marketing efforts, removed the jersey barriers, painted the building, fixed the broken windows and hired an architect and a general contractor to do the work. This all took place from December to the present day. McGraw has received offers on the property including the potential for a lease or sale. Lamer stated that Sandy Smith doesn't envision the property as a parking lot. He asked the agency to not proceed with condemnation and allow Smith's team to move forward. He stated that the Smith's property is not necessarily required to create the parking lot. He asked that no contractors or construction debris be allowed on the Smith property due to easement, indemnification and insurance concerns. Butler stated the surveyor thought that there was a statute that allowed him to be on the property. After that, Intermountain Gas also felt like they had a right to be on the property. Butler asked that the agency's attorney inform everyone associated with the demolition of Tri-City Meats properties to not trespass on the Smith's property.

Kunz read the names on the sign-up sheets and whether they favored, opposed or were neutral on condemnation. Those wanting to offer public comment were invited to do so.

Robert Grubb, 2400 E. Hill Rd., Eagle, ID. Mr. Grubb is in favor of condemnation. He has been voluntarily involved with our city government and community for years. Within Eagle, the statutes allow for higher standards. The Smith's new Chevron gas station is able to charge four cents more per gallon because of these higher standards and demographics. It is hard work for everyone in the community to have higher standards; however, the Smiths benefit from the higher standards but do not accept their responsibility to contribute to and comply with the higher standards. An example is the current sign on the corner. The Smiths did not get the necessary sign permit or follow city code. He implored the agency to move forward. The Smiths don't play by the rules and have been given enough time. Things need to change.

Carl Thomas, 284 N. 1st St., Eagle, ID. Mr. Thomas asked why the Smith's property is being set aside for possible eminent domain action and the Tri-City Meats properties were not. Butler stated the Tri-City Meats property owners agreed to work with the EURA to clean-up the properties. Thomas asked if the Smiths agreed to work with the EURA, would the EURA have worked with them. Butler stated the EURA would have worked with the Smiths in order to remove blight and provide parking for downtown. Thomas asked if the Tri-City Meats property owners had been willing to demolish the buildings but had been unwilling to enter into a lease to provide public parking, would the EURA have pursued eminent domain action. Ridgeway stated the EURA explored many options with the Tri-City Meats property owners and explained the terms of the lease agreement. Thomas asked if it was all about removing the buildings or providing public parking. Ridgeway stated the EURA's objectives are to remove blight and encourage development. The Tri-City Meats property owners came to the EURA and asked for help. Ridgeway explained the constraints (e.g., a public purpose and use) on the EURA's ability to help. Lakey stated that while it is okay to provide some background, the purpose of tonight's meeting is to consider the condemnation decision. This is probably not the appropriate time for one or two board members to answer questions. Kunz asked Thomas if he had specific public comments. Thomas believed his questions were public comments.

Rick McGraw, 408 S. Eagle Rd., Eagle, ID. Mr. McGraw is the commercial broker engaged by the Smiths. He contracted with the Smiths on December 16th, 2014. They started marketing the property and got their first offer on January 4th, 2015. They received an offer from the EURA on January 25th, 2015. They are

currently negotiating on a separate offer. He has received dozens of inquiries and sent information packets to everyone with genuine interest. His marketing efforts have been hampered quite a bit by the rumors and innuendos that the property could be condemned. People have expressed concerns that if they showed an interest in the property, it would be difficult to get anything approved through the city. Inquiries have been received from microbreweries, wineries, restaurants, professional offices, automotive shops, retailers and several developers.

Nancy Merrill, 690 N. Opuntia Way, Eagle, ID. Mrs. Merrill is in favor of condemnation. She commended the EURA for what it is doing and stated the Smith property has been a thorn in Eagle's side. There have been accidents on that corner. A little girl was nearly decapitated by the chains before the jersey barriers were erected. Doing something with the property has been a shared goal of many mayors and city councils. The urban renewal agency has the plan, power and authority to do what is right for the community. She supports the decision to move forward. She would love to see a wonderful business on the property. If there is truly a party interested in leasing or purchasing the property, the agency should consider specifying a timeline for development; otherwise, the agency should move forward with condemnation.

Shane Curry, 299 S. Harlan Pl., Eagle, ID. Mr. Curry is opposed to the use of eminent domain because the agency is overreaching its authority. He understands the need for additional downtown parking, but this is not an absolute need. How does providing temporary public parking justify taking someone's property? He understands it wasn't the greatest-looking building before it was painted; however, he doesn't think the property is blighted. He sees commercial properties that have been vacant for several years. He asked if the EURA would start listing other vacant commercial properties in order to force the property owners to sell to developers. He doesn't feel like condemnation is the right action. With the Tri-City Meats properties, he wanted to know if the soil clean-up will be paid for with tax dollars.

Shawn Nickel, 1589 N. Estancia Pl., Eagle, ID. Mr. Nickel is a long-time resident, business owner and current chairman of the Eagle Chamber of Commerce and Eagle Historic Preservation Commission. He is not here to represent either of these groups; however, he is invested in this community and he feels like that corner is an embarrassment. The first question he gets is what is happening on "that" corner. He feels like the EURA is doing the right thing and should move forward. It isn't just about parking; it is about more than that. The parking lot will be a benefit to the community.

Jimmy Miller, 1865 N. Eagle Rd., Eagle, ID. Mr. Miller is a real-estate broker and can see both sides of the equation. He noted that 15, 16 or 17 years have gone by without people taking care of their property. He concurs the property is an embarrassment and blighted. He is concerned with the environmental impact. Butler noted the Phase 1 environmental assessment was completed and the property is clean. Miller stated that he didn't agree with the property owners not doing anything with the property for 15 years and listing it for sale at \$800,000 is unrealistic. He disagrees that the parking lot is the best use for either of the properties, but favors what the EURA is doing.

Pat Minkiewicz, W. Deerfield Ct., Eagle, ID. Mrs. Minkiewicz is neutral on condemnation. She agrees with the previous comments that it is about time the property was properly maintained. It is a snub to the taxpayers and residents to not maintain one's property. She discouraged further bond issuance (due to the bond already issued to purchase Eagle City Hall). Taxpayers may not want to fund another bond for a less important project such as a parking lot. Eagle residents may prefer a wait-and-see approach. The paint job on the old building, while overdue, demonstrates some positive progress toward property maintenance. When the Tri-City Meats structures and trees are demolished, the old Chevron site will be an eyesore. ACHD is another concern since they will probably take some of the property when the Eagle Rd./State St. intersection is enlarged. She suggested the Smiths take what they can get now.

Jim Band, 209 S. Eagle Rd., Eagle, ID. The Smiths asked Mr. Band to give some background and investigate what it would take to get the project off dead-center. When the roundabout went through its little session, he contacted the Planning & Zoning Department and ACHD regarding how to handle ingress/egress in order to come up with preliminary designs and costs. There is some "gray matter" as to what the Planning & Zoning Department and ACHD will do. He put together a packet from a contractor's point of view. The

Smiths have hired an architect as well. He feels like it is an extremely valuable corner. There have been a lot of questions and he feels like the Smith's efforts are in earnest.

Ron DeRoest, 291 N. Yellow Pine Pl., Eagle, ID. Mr. DeRoest is opposed to condemnation. He doesn't understand how the city can spend the kind of money they will spend to take someone else's property. He feels like the property is blighted; however, he feels like taking the property for a parking lot is appalling and outright theft.

Kunz emphasized that the EURA, not the City of Eagle, is considering condemnation.

Jane Kramer, 57 E. Ranch Dr., Eagle, ID. Ms. Kramer is opposed to condemnation. She believes the Smiths have the right to continue with plans for their property before further decisions are made through the EURA.

Dean Hovde, 408 N. Cove Colony Way, Eagle, ID. Mr. Hovde has lived in Eagle for 8 years. He said the Smiths have had plenty of opportunities to develop their property. The property owners have been offered the appraised fair market value for their property by the agency. He is in favor of condemnation.

Paula Davina, 332 E. Pebble Beach Ct., Eagle, ID. Mrs. Davina felt like there was confusion as people came in the door and were instructed to sign-in only if they will offer public comment. (The sign-up sheets asked people to indicate whether they favor, oppose or are neutral on condemnation and/or whether they will offer public comment.) Given this confusion, she felt like the audience should be polled on whether they favor, oppose or are neutral on condemnation. She is opposed to condemnation and would like to see something done with the historically-significant property. The corner is a potential focal point for the community.

Kunz asked if anyone else would like to sign in and indicate whether they favor, oppose or are neutral on condemnation and/or will offer public comment. No one else signed in.

Ian Burnett, 1417 N. Foresto Bello Way, Eagle, ID. Mr. Burnett is in favor of condemnation and agrees the property is blighted. He understands it is a prime piece of property and that many things could be done with the building. He agrees a temporary parking lot is a good interim use until a bigger plan can be figured out.

Nolan Prescott, 154 S. Harlan Pl., Eagle, ID. Mr. Prescott has lived in Eagle almost his entire life. He is unhappy with removing the gas station and feels the site is a historical landmark. He feels like just because someone doesn't like the way the building looks shouldn't be a reason to invoke eminent domain. The building is not a safety hazard. There is no reason to go down the road of eminent domain.

Sandy Smith, 503 S. Eagle Rd., Eagle ID. Mrs. Smith and her husband, Rick, own the old Chevron property. There are a multitude of issues that will not be addressed tonight and many people are not aware of the history and what the property owners have tried to accomplish (and the number of meetings attended) by working with the former and current Eagle Urban Renewal Agency boards. For whatever reason, getting a multiple tenant or building situation going with Tri-City Meats has not happened and then the economy fell apart. The Tri-City Meats properties have separate issues from their property. If they had removed their building years ago, all people would have seen was the horrible Tri-City Meat buildings. They've taken the brunt of the comments. That's fine because sometimes people can't see the forest for the trees. The Tri-City Meats property owners have three buildings (maybe four with the garage) and trees that need to be removed. It makes sense for the urban renewal agency to go in and clean up the Tri-City Meats properties. She is glad the Tri-City Meats property owners are moving forward to clean up the properties. The Tri-City Meats properties are large enough by themselves for use as a parking lot. How much parking does Eagle need? The Goldman's property is vacant and is located on the east side of the intersection where businesses need more parking. Most businesses on the west side of the intersection have their own parking and don't necessarily need more parking. Why is the city allowing businesses to come in without adequate parking? Smith stated they have had no code violations except for the barriers – they went to court with the city and the city lost. She said the property has been vacant for only 14 years (since her husband moved out of the building in 2001). And yes, it has been long overdue. There have been multiple traffic issues (e.g., the roundabout) and she feels nothing else needs to be done with the intersection. There has been a lot of interest in their "quaint" building. They're trying to make things happen. It doesn't matter that the building has sat there for

14 years – there have been reasons why it has sat there. They would like more time and have put together a team to get things done. They feel like the city is throwing another barrier in front of them. She didn't realize there was going to be a public vote tonight and feels like people would like to provide more public comment. She asked that people that have not been informed about what has been going on over the last 14 years should maybe get informed. There are reasons why the property sat there for 14 years. It is not all due to the property owners, ACHD or the city. It's been a conglomeration of all three. She asked that people not trespass on their property.

Chad Lamer, 251 E. Front St., Boise, ID. Mr. Lamer moved here 2 years ago from Kansas. He loves the local passion for the importance of property rights. How does the EURA want to define itself? Will they use eminent domain as a sledgehammer to cure this situation rather than a more appropriate method? If the Smith's property is truly blighted, why have there been no code infractions? The property owners have never had code violations. After learning of the intentions with the Tri-City Meats properties, the Smiths removed the barriers, painted the building and fixed the windows. He appreciates the public comments, but feels like the situation could have been remedied via code enforcement rather than condemnation. The threat of condemnation is killing possible deals and interfering with development efforts. He would like the building to be considered for designation as a possible historic structure. He suggested the Smith's property could be marketed and developed similarly to Big City Coffee. His client has a great case and will go to the mat. If the condemnation proceeds, the next time the EURA will see him will be in court.

Kunz closed the public comment.

(A brief recess was taken in order to discuss and clarify the purpose of the possible executive session.)

Kunz calls the meeting back to order.

11. Possible executive session. PUBLIC COMMENT WILL NOT BE TAKEN ON THIS ITEM. Attorney Lakey explained that in order to hold an executive session, the appropriate Idaho Code section(s) must be cited on the agenda and were inadvertently omitted from the agenda. Consequently, an executive session cannot be held tonight. An executive decision is not required in order to make a decision.
10. (Continuation of) consideration of and possible action on Authorization and Order of Condemnation of land necessary for the construction of a downtown public parking lot project and for the removal of blight. The property is located at 35 W. State St., is identified as Ada County parcel numbers R0238260007 and R0238260008 and is located in Township 4N, Range 1E, Section O8. The property is the Richard and Sandy Smith property consisting of the old Chevron station site and a section of vacated alley at the southwest corner of Old State St. and Eagle Rd. PUBLIC COMMENT WILL BE TAKEN ON THIS ITEM.

Lakey said that if the board is comfortable making a decision on condemnation tonight, they could do so; otherwise, they could take the matter under advisement and make the decision at a future date.

As the previous agency chairman, Butler explained he has been working with the agency's attorneys on the "legal backing" of how the urban renewal agency was created, what the plan is and what a project is and helped draft this (with legal counsel) into the current draft order. He has been in close communication with the current chairman and the agency's attorneys.

Butler explained the purpose and procedures of executive session. All decisions must occur in public meetings.

Butler explained that if the agency were to vote to initiate an Order of Condemnation, the next step would be to file a complaint. He noted a lot of time could transpire before a court hearing and there could be opportunities for a settlement. He stated if the agency did move forward, he felt like it would be because the agency is at its wit's end. He said the agency has done so much in other ways (e.g., a lease proposal) to try and encourage something to happen.

McFarland clarified that this is actually at least the fourth urban renewal agency board that tried to negotiate some type of agreement with the Smiths, the first attempt being in December 2009. Just as it was a difficult

process to negotiate an agreement with the Tri-City Meats property owners, the agency put at least as much effort into the attempts to negotiate an agreement with the Smiths. Five years of negotiating and getting nowhere has led the agency to this point. At least four separate boards have tried and failed to come to a workable agreement. The fact that the agency made an offer based on the appraised fair market value and the counteroffer came back at double the fair market value demonstrates just how far apart the parties are from an amicable agreement. The agency has been trying for a long time to make something happen.

Butler made a motion that the agency move forward with the Authorization and Order of Condemnation of land necessary for the construction of the downtown public parking lot project and removal of blight as referenced on the agenda for parcels numbers R0238260007 and R0238260008. McFarland seconded the motion.

During discussion on the motion, Ridgeway asked how much time would elapse between voting to approve the condemnation order and doing the take. Heather Cunningham (199 N. Capitol Blvd., Boise, ID), the eminent domain attorney retained by the agency, stated it is at the board's direction. If the agency decides to enter an order, the attorney will be directed to prepare a complaint and to file a complaint immediately or at a certain point in time. Taking possession of the property is a separate question. She gave a general description of the entire process. If a condemnation action is filed, a complaint must be served. It takes a certain amount of time to serve a complaint, followed by 20 days for preparation and filing of an answer. Thereafter, at whatever point the agency may deem appropriate, the agency could make a motion to take possession, which requires that the agency make a financial deposit with the court. There are two ways to take possession. If the property owner stipulates to possession, there is an agreement (without a court hearing) and negotiation of a timeframe for taking possession. If the property owner does not stipulate to possession, then a hearing must be scheduled with the court (at the court's convenience), the hearing is conducted and a judge renders a decision, after which the agency could take possession (subject to a favorable decision). If the agency were to enter an order and direct that a complaint be filed forthwith, the earliest the agency could take possession could be 2-3 months. Butler asked whether it is up to the judge or a jury to decide the value of the property when court proceedings become necessary. Cunningham said that, ultimately, the only question would be the fair market value of the property. Whether to ask for a bench or jury trial is up to the defendant. The entire process could take 18 months to 2 years, depending on the judge, the court calendar, the number of hearings, whether the defendant requests a bench or jury trial and how long the trial is anticipated to take. Basically, at this point, the process is in the court's hands, not the attorney's hands. McFarland asked if the agency were to move forward with condemnation and in the interim, someone were to make an offer to the Smiths they were willing to accept, could the agency withdraw. Cunningham stated it depends on when (at what stage of the process) and how the agency wanted to withdraw. If a complaint has not been filed, the agency could simply not act on the order. If a complaint has been filed, the agency could either dismiss the action or settle with the property owner. However, if the agency were to abandon the action without the property owner's consent, the agency could have to pay the property owner's costs up to that point in time. If the agency were going to make such a decision, they should account for such risks and consequences.

Butler gave a brief overview of how the EURA receives money, tax increment financing and the process of bond issuance.

McFarland called for the question.

A roll call vote was taken: Ridgeway: pass; Butler: yes; McFarland: yes; Reynolds: yes; Kunz: no; Ridgeway: no. Motion passed 3-2.

Butler asked if a month out was a workable timeframe for the next meeting and for possible consideration of the condemnation complaint. The agency's attorneys were directed to prepare the complaint. A special meeting will be tentatively scheduled for March 31st, 2015. This item will be on the agenda.

12. Discussion and possible action on proceeding with bond issuance for funds. The possible amount is about \$1.2 million, but the agency may consider an amount closer to \$400,000. McFarland made a motion that this item be moved to the March 31st, 2015 meeting. Butler seconded the motion. All ayes – motion carried.
13. Discussion of co-op signs for the business owners in Eagle. McFarland made a motion to continue this item to a future meeting to coincide with consideration of possible hiring of a public outreach consultant to assist with development of a prioritized project list. Jim Reynolds seconded the motion. All ayes – motion carried.
14. Discussion and possible action on agency's website management responsibilities, issues and costs. Kunz discussed Valice's unwillingness to provide the agency with a full-administrative capabilities login. Pretty Weasel stated that due to concerns about who could change what on the website, Valice doesn't want that confusion and would completely step away from providing services, leaving the agency fully responsible for security, licensing, file backups, software updates, maintenance, etc. Kunz mentioned he doesn't have time to fully manage the website. McFarland stated that it makes sense to let Valice continue with website maintenance. The agency will instruct Valice to upgrade the WordPress software after all content has been backed up. The agency is responsible for backing up the contents on its website.
15. Discussion of the conditional use permit for the parking lot concept plan. Butler met with city staff three or four months ago and asked if the EURA could submit one conditional use permit that included both the Tri-City Meats and Smith properties. The city staff said no since the agency doesn't control the Smith's property. Since then, Butler met with Planning & Zoning Administrator Bill Vaughan and the city attorney who said that the EURA could submit one conditional use permit that includes both properties in order to save money. He requested permission to have South Landscape Architecture proceed with one conditional use permit that includes both properties. Lakey asked that this be discussed in an executive session. Butler made a motion that this concept be put on the March 31st, 2015 agenda with an executive session that includes a discussion of potential litigation and acquisition of private property. All ayes – motion carried.
16. Adjournment. McFarland made a motion to adjourn. Multiple seconds. All ayes – motion carried.