

Eagle Urban Renewal Agency

**Friday, July 17th, 2015
Special Meeting
Eagle City Hall
660 E. Civic Lane, Eagle, Idaho**

1. CALL TO ORDER – The meeting was called to order at 5:30PM.
2. ROLL CALL – Ridgeway, Butler, Kunz, McFarland, Reynolds. All members present. A quorum is present.
3. PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was recited.
4. ADDITIONS, DELETIONS OR MODIFICATIONS TO THE AGENDA – None
5. REPORTS BY BOARD MEMBERS, ATTORNEY AND SECRETARY – None
6. APPROVAL OF MINUTES – July 7, 2015 and July 13, 2015 minutes.

Jim Reynolds made a motion, seconded by Mary McFarland, to approve the minutes. A voice vote was taken. The motion passed unanimously.

7. EXECUTIVE SESSION – NO PUBLIC COMMENT WILL BE TAKEN ON THIS ITEM.

I.C. §74-206(c): To consider acquisition of an interest in real property; and/or

I.C. §74-206(f): To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated.

McFarland made a motion, seconded by Mark Butler, to go into executive session pursuant to Idaho Code 74-206(c) and (f). A roll call vote was taken: Ridgeway: yes; Butler: yes; Kunz: yes; McFarland: yes; Reynolds: yes. All yeses. The motion passed unanimously.

(After the executive session, the meeting is called back to order.)

8. UNFINISHED BUSINESS:

- A. Discussion and possible action on settlement of condemnation litigation with Rick and Sandy Smith.

Attorney Heather Cunningham (of Davison, Copple, Copple & Copple, representing the agency) summarized the litigation, recent events and the stipulation for settlement. She stated the agency made repeated settlement offers to the Smiths. On July 16, 2015, there was a possession hearing scheduled. Last week and this week, the agency made a last ditch effort to reach an agreement with the Smiths where they would keep and develop their property and the agency's primary concern with eliminating blight would be addressed. On July 14, 2015, a mediation presided over by the Honorable D. Duff McKee took place. The mediation was successful and resulted in a stipulation for stipulation that was filed on July 15, 2015. The stipulation for settlement is a public record.

Under the terms of the settlement, the Smiths will retain ownership of their property and will demolish the existing building and asphalt on the property within 60 days (no later than September 12, 2015). After demolition, the agency will dismiss its lawsuit without prejudice (meaning it can be refiled in the future). The Smiths will dismiss their related lawsuit with prejudice (meaning it cannot be refiled in the future) against the agency and the City of Eagle within five days of the agency dismissing its lawsuit. Each party will bear their own costs and attorneys fees in this litigation. The Smiths will keep the property free of blight and in a clear and clean condition in compliance with all city codes. Any violation of city codes, including failure to properly maintain the property, will result in a breach of this agreement and will subject the Smiths to a penalty of \$250 whether or not a code enforcement citation is

issued. The agency has an independent ability to enforce the terms and ensure blight does not reoccur on the property. The Smiths will have 15 days after notice to cure any defects and, if they fail to do so, not only will they pay the penalty, they will also pay the costs to cure the violation. Condemnation will not be reinstated for such a violation – this language was included to make clear that such a violation will not result in recondemnation, but that penalties exist for failure to comply with city codes. The Smiths will develop the property, or sell to a developer, and have a development under construction (defined as all entitlements in place and ground broken) no later than December 31, 2016. Otherwise, the property could again be the subject of a condemnation action, for any public purpose, on or after January 1, 2017. The agency will pay the Smiths an administrative settlement of \$67,500 – half that amount, or \$33,750, will be paid within 20 days after demolition is completed and inspected by the agency, and the remaining half will be paid upon the start of construction for a development on the property, or upon closing of the sale of the property, if the Smiths elect to sell rather than develop. Part of the administrative settlement will reimburse the Smiths for demolition costs; the remainder will provide an incentive to proceed with development or sale of the property. Cunningham characterized the stipulation for settlement as a “win-win” for both parties.

McFarland made a motion, seconded by Butler, to ratify and approve the stipulation for settlement. Butler stated it is always a very difficult situation when the government is out to take somebody’s property and that he fully respected the Smiths’ position to protect their property. He felt like the agency was at its wit’s end after dealing with this for so long and that condemnation was a last resort. He personally feels awful that both parties had to go through this; however, he feels like the result serves in a positive manner for not only for the Smiths being able to keep their property, but for the city’s population being able to see blight cleaned up and a potential development on the property. After further discussion, a roll call vote was taken: Ridgeway: yes; Butler: yes; Kunz: yes; McFarland: yes; Reynolds: yes. All yeses. The motion passed unanimously. (Copies of the ratified and approved stipulation for settlement were made available to the public.)

B. Consideration and possible action on the updated site/landscape plan for the public parking lot and related improvements on the former Tri-City Meats properties.

Consultant Bonnie Harper (retained by the agency) presented the updated site/landscape plan reflecting recommendations made by the Design Review Board. She said John Roters of South Landscape Architecture met with City of Eagle staff today to obtain their feedback on the updated plan. The original plan had access off of State Street. Not all of the issues have been resolved; however, the updated plan does address comments received after preliminary discussions with the Ada County Highway District (ACHD) and City of Eagle staff. Harper noted the storm drain information for the corner that would affect plantings is still needed from the ACHD engineer. There are 26 parking spaces due to the plan revisions. She observed some improvements would require a waiver from ACHD (due to the temporary nature of the facility) and would need to be submitted by July 22, 2015.

Butler asked whether ACHD required additional dedicated right-of-way along S. Olde Park Place. Harper said that during preliminary discussions, ACHD was requesting additional right-of-way.

Harper summarized the Design Review Board’s recommendations, including that (a) the right-in/right-out access point on State Street be eliminated (this is actually an ACHD requirement); (b) the metal barrier between the gravel parking lot and the grass areas be replaced with a cement barrier (to keep gravel out of the grass); and (c) a sidewalk be provided from the temporary parking lot to the State Street sidewalk to deter trespassing on the adjacent property. (Attorney Todd Lakey noted the property owners must participate in the decision on dedication of additional right-of-way; this decision would not be made by the agency.) Three Design Review Board members have been identified to review and approve the updated site plan.

Stan Ridgeway stated things have changed recently and expressed his desire to minimize costs associated with the temporary parking lot by simply grading the properties and putting down road mix. He noted the property owners are actively trying to sell and that the temporary parking lot should be

constructed to minimum standards. Butler concurred with Ridgeway's comments and summarized an informal price quote he received.

The property owners will be contacted by the agency to review and approve the minimal design concept. Harper will continue working with ACHD to preserve the waiver request. McFarland requested that proper weed control management occur prior to construction. Attorney Lakey will investigate the liabilities of constructing a temporary parking lot to minimum standards (a Request for Proposals (RFPs) is not required for amounts under \$25,000) and not signing the properties for public parking and will contact Butler regarding construction price quotes for the temporary parking lot.

This matter will be taken up at the agency's next meeting.

- C. Consideration and possible action on a Request for Proposals (RFPs) for the design and construction of a public parking lot and related improvements on the former Tri-City Meats properties.

The agency's desire to construct a temporary parking lot to minimum standards and at minimum cost may render this agenda item moot. McFarland made a motion, seconded by Reynolds, to table this matter indefinitely. The motion passed unanimously.

- D. Consideration and possible action on the proposed FY 2015/16 budget.

Attorney Lakey explained the legal notice for publication of the draft budget and the draft budget resolution, including the estimated revenues and expenditures.

Kunz made a motion, seconded by Ridgeway, to approve the legal notice as written and to approve publication of the legal notice of the public hearing on the proposed FY 2015-16 budget in the *Valley Times* and *Idaho Statesman* during the next two weeks. A roll call vote was taken: Ridgeway: yes; Butler: yes; Kunz: yes; McFarland: yes; Reynolds: yes. All yeses. The motion passed unanimously.

(The budget public hearing will be held at the agency's regular meeting on August 4, 2015.)

- 9. ADJOURNMENT. Reynolds made a motion, seconded by Butler, to adjourn. A voice vote was taken. The motion passed unanimously.