

From: [Suzanne Frick](#)
To: [Tara Fenwick](#)
Subject: Fwd: PUBLIC COMMENT/ KURA MEETING May 16 2022
Date: Monday, May 16, 2022 8:08:41 AM

Tara—will you please post this on the agenda and get to KURA before their noon meeting.

Thank you

Begin forwarded message:

From: James Hungelmann <jim.hungelmann@gmail.com>
Date: May 15, 2022 at 11:20:58 PM MDT
To: Participate <participate@ketchumidaho.org>, Amanda Breen <ABreen@ketchumidaho.org>, Suzanne Frick <sfrick@ketchumidaho.org>, Jim Slanetz <jslanetz@ketchumidaho.org>, Neil Bradshaw <NBradshaw@ketchumidaho.org>, Courtney Hamilton <CHamilton@ketchumidaho.org>, Michael David <mdavid@ketchumidaho.org>, Participate <participate@ketchumidaho.org>
Cc: rpa@elamburke.com, "Matthew A. Johnson" <mjohnson@whitepeterson.com>
Subject: PUBLIC COMMENT/ KURA MEETING May 16 2022

Date May 16, 2022

To Ketchum Urban Renewal Agency Board (Susan Scovell, Chair)

CC Ketchum Mayor and City Council

Re **Public Comment/** KURA Meeting May 16, 2022

NOTIFICATION OF ILLEGALITY AND DEMAND TO COLLAPSE KURA

KURA agenda items –

5 - Review of Community Outreach Summary for 1st and Washington Site

6 - Discussion and action on requesting a contribution of \$1.5 million from the City of Ketchum for 1st and Washington Project

8 -Review and direction to staff on Request for Proposal for 1st Street and Washington Avenue and review of information on land ownership structure.

Dear Madam Chairperson and Board:

The purpose of this is to alert to the illegality of Ketchum Urban Renewal Agency and all its projects, certainly including “1st and Washington”, and to demand that city officials reverse course, collapse KURA, and return to the rule of law for Ketchum governance.

1

The Idaho Constitution absolutely prohibits cities (and counties, boards of education, school districts, and other subdivisions of the State of Idaho) from incurring indebtedness or liabilities without (i) a vote of two-thirds of the qualified electors, and (ii) an annual tax sufficient to pay principal and interest on such debt as it becomes due. Article VIII, Section 3.

2

The Idaho Urban Renewal Law, Idaho Code Section 50-2001 et seq., (“the Law”) provides a means by which municipalities may legally “end-run” this limitation, provided that qualifying conditions of “deteriorated” or “deteriorating” are in place that are sought to be remedied or alleviated by a municipality taking on ‘urban renewal’.

A qualifying "Urban renewal project" 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.

If such deteriorated or deteriorating, blight-ridden conditions are not in place, Urban Renewal may not be used.

3

“Deteriorated” or “deteriorating” are terms that are thoroughly, precisely and unambiguously defined in the Law (Idaho Code Section 50-2018) to describe conditions broken down and dangerous that constitute a bona fide threaten to public health, safety and morals:

(8) "Deteriorated area" shall mean an 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. . . .

(9) "Deteriorating area" shall mean an 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, 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; . .

4

Idaho law requires that the language of a statute be given its plain, usual and ordinary meaning. Where a statute such as the Idaho Urban Renewal Law is clear and unambiguous, the expressed intent of the legislature shall be given effect without engaging in statutory construction. The literal words of a statute are the best guide to determining legislative intent. Idaho Code Section 73-113.

5

So, to be considered "deteriorated" under the Law, each of these four preconditions **must** exist:

i) **Predominance** of buildings or improvements in the urban renewal area **that**

ii) **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;**

iii) **Is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime,**

and

iv) **is detrimental to the public health, safety, morals or welfare in its present condition and use.**

Idaho Code Section 50-2018 (8).

6

To be considered "deteriorating" under the Law, the level of dilapidation must constitute a **menace to the public health, safety, morals or welfare in its**

present condition and use.

7

It is factually indisputable that from the inception of KURA in 2007 through the present date, never has there existed anywhere with the City of Ketchum any conditions even remotely constituting dire danger and a menace or threat to public health, safety, morals or welfare, as the Law requires for the existence of an urban renewal agency.

8

Ketchum's Urban Renewal plan adopted in 2006 and reaffirmed in 2010, in City Council Resolution 10-026, is fatally flawed. It cites as its *raison d'être* the following factual assertions that are hotly disputed by many if not most in this community and, most importantly, are legally irrelevant under the Law:

- "Substantial amount of deteriorated or deteriorating structures" to include
- "A lack of affordable workforce housing"
- "A lack of affordable downtown retail space"
- "Stalled population growth at 3000"
- "Weekday traffic congestion and parking difficulty"
- "A preponderance of defective and inadequate street layouts"
- "Leading to an unsafe pedestrian environment and difficulty way finding"
- "Unsafe conditions"
- "Substantial economic underdevelopment"

Even if true, none of these conditions qualifies as "deteriorated" or "deteriorating" under the Law. Whether such alleged conditions constitute "an economic and social liability" as the Council asserts in the Resolution is legally irrelevant. Moreover, the Resolution's assertion that these conditions constitute "a *menace* to public health, safety, morals and welfare" is an outrageous deception that must be exposed and set aside.

9

Therefore, as a matter of law, Idaho Urban Renewal may not be used in Ketchum. The City may pursue a capital project involving indebtedness such as envisioned at 1st and Washington only if it first secures a vote of two-thirds of the qualified electors with an annual tax sufficient to pay principal and interest on such debt as it becomes due. Idaho Constitution Article VIII, Section 3.

10

This proposed 1st and Washington affordable housing project has been sought by KURA to further the Master Goals of the Ketchum Urban Renewal Plan as revised, dated November 15, 2010, and specifically,

“c. The revitalization, redesign and development **of undeveloped areas which are stagnant or improperly utilized** especially through the creation of affordable workforce housing, a central town plaza and parking lots and structure” (Plan, p2)

However, it is a wild concoction to suggest, considering its history, that 1st and Washington can be deemed “stagnant” or “improperly utilized”. **More importantly, the fact that a property may be considered by some to be stagnant or improperly utilized, with a “higher and better use” than current conditions, is legally irrelevant.** As a matter of law, the URA vehicle is not available for perceived do-gooder projects or social engineering of any type. Again, the conditions must be *deteriorated or deteriorating* as those terms are precisely defined in the Law, in order to empower an urban renewal agency to become involved in the first place.

11

Ketchum City Council and KURA itself have grand plans to involve themselves in solutions to what they consider to be societal problems including a perceived affordable housing crisis. For example, its Plan states that the development of the 1st and Washington site aims to meet the following goals:

- Goal 1. Provide local, affordable workforce housing downtown, particularly for professionals and those essential to a strong, diverse downtown economy.
- Goal 2. Provide structured public parking in anticipation of long-term downtown growth and development.
- Goal 3. Provide active ground floor opportunities to maintain the vibrancy of downtown

These Goals are not legally compelling in any way. Again, unless conditions are dire and dangerous, blighted and slum ridden, URA may not be used as a vehicle. Close inspection of the subject property at 1st and Washington fails to find a shred of evidence supporting a claim of deteriorating or deterioration. In 2017 this property was procured and converted by KURA into a paved parking lot, something that KURA insisted at the time was essential to undertake. It is safe, easily accessible, centrally located and well used – and not deteriorating in any way.

12

The only serious “deteriorating conditions” constituting a grave Menace to public health, safety and morals in Ketchum, Idaho, is the mere existence of KURA and the modus operandi of officials in City Government to cut corners, cheat at the rules, hide from public view, and shamelessly misuse and abuse the law as they see fit, for their own political benefit and to the detriment of ethical governance and the public treasury. Witness also two of its most notable “undertakings” – “The Grand Hole (Hotel)” at the south entrance to town, now going on a decade of eyesore and “economic underdevelopment”, and the highly controversial “BB” Bluebird project intending to wastefully dedicate premium location, highest value

city property for affordable housing. And now, per KURA Meeting Agenda item 6, the City Council plans to divert \$1.5 million of taxpayer money to help finance a wildly illegal KURA project.

Accordingly, I respectfully insist that the City of Ketchum cease and desist from its pattern of deceptive maneuvering in Violation of law. It is the legal and ethical duty on the part of agencies and officials of city government to model for the citizenry a respectful compliance with the law. at all times.

KURA has absolutely no legal justification in Ketchum, Idaho. It is time to drag KURA and its books and records out into the spotlight, stop all projects/cut the damage, and roll up its tent. And then the City must hit the Reset - Pay as we go within operating budgets free of indebtedness, and for any major capital project deemed especially important, float it for a 2/3 vote of the citizenry, in full compliance with a reinstated rule of law.

Thank you.

Jim Hungelmann

Ketchum