

Urban Renewal: Overview, Current Law, and Role of Board

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February 22, 2018

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Statutory Authorization

- C.R.S. § 31-25-101 et seq.
- Purpose: eliminate slum and blight



- **Not:**
 - job creation
 - economic development
 - increase tax revenue



BUT . . .

- Elimination of slum and blight through redevelopment almost always results in:
 - job creation
 - economic development
 - increased tax revenue



How does urban renewal work?

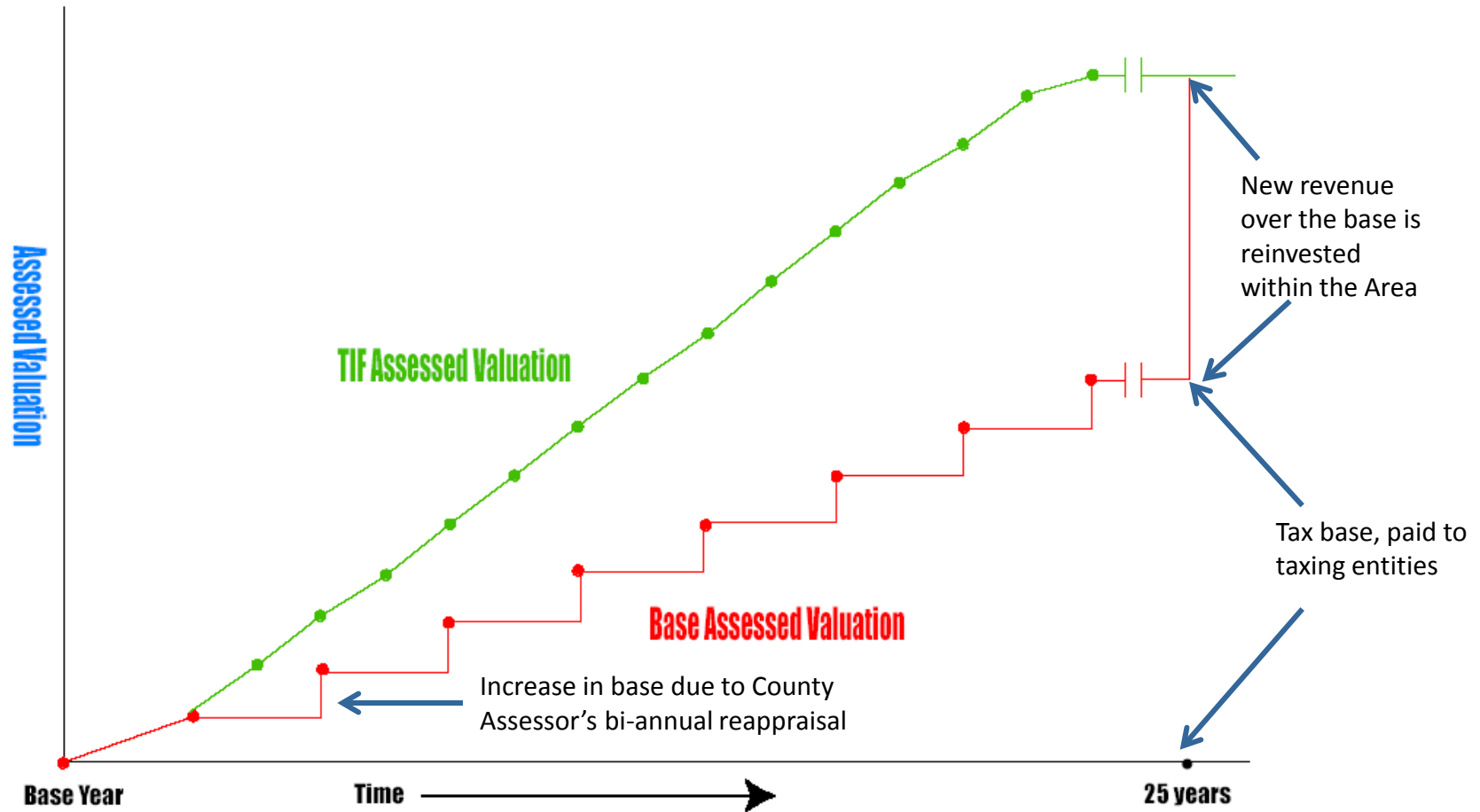
- May use powers to remedy and prevent slum and blighted conditions
- Remedying slum and blighted conditions is a **public purpose**
 - Two principal powers
 - Tax Increment Financing (TIF)
 - Financing tool to redevelop property within an Urban Renewal Area
 - URA works hand-in-hand with private property owners and developers to rehabilitate or redevelop a designated area or particular property
 - Eminent Domain

What is TIF?

- TIF can be property, sales, use and/or lodging tax
- When an Urban Renewal Plan is adopted the tax **base** for that Urban Renewal Area is established
- The existing taxing bodies receive that base amount for the next 25 years
- If any of the taxes revenues increase over the base amount, URA receives the revenue that is in excess of the base – this is **increment**

How is TIF Calculated?

TIF CHART




Tax Increment Financing


2. URA
makes the
catalyst
investment
in a
building or
project



3. That
project
results
in an
increment in
property
and/or sales
taxes



1. URA
receives a
share
of District
property
and sales tax
revenues



Why does redevelopment need TIF?

- Environmental contamination – soil, water, building, asbestos
- Costly demolition or infill
- Complicated property assemblage
- Number of tenants
- Aging infrastructure/utilities
- Topography
- Floodplain/way issues
- City/URA requirements



The “But-For” Argument

- Absent the investment by the Urban Renewal Authority, development may not happen
- **Without** development, tax revenues stagnate or decline
- **With** URA investment, development occurs, and sales and property tax revenues increase
 - Incremental increase available for URA to reinvest in the district to remedy blight

How to ensure that tax increment revenues are properly used?

- URA Policies
- Intergovernmental Agreements (IGAs)
- Tax Increment Reimbursement Agreements/Public Finance Agreements with Property Owner/Developer
 - list of approved “Eligible Improvements”
 - process for URA verification
 - BUT cannot include clawback – must design other penalties

Boundaries

- Authority's boundaries same as municipality
- May have multiple areas, the boundaries of which shall be “narrowly drawn to accomplish purposes of Act”
- Can only have one authority, but can have multiple areas
- Generally, must be within municipal boundaries
 - BUT may now include contiguous unincorporated areas, with consent of county

Roles and Responsibilities

City Council

- Cause urban renewal plans and amendments to be prepared, approved and implemented
- Acquire real property by eminent domain, if that is the will of the City Council
- Enter into agreements with urban renewal authority

Planning Commission

- Review urban renewal plan for consistency with comprehensive plan
- Consider (and opine on) proposed projects within the urban renewal district as part of typical land use review process

Recent New Urban Renewal Legislation

- HB 15-1348
 - Add new Board Members – County, school district, special district “seat at the table”
 - Negotiate/Mediate with Taxing Bodies re increment
- SB 16-177
 - “Cleanup”/”consensus” legislation
 - Address technical issues in HB 15-1248
 - Fix TABOR Language
- Specify procedures for mediation
- Did not change applicability language
- SB 17-279
 - Clarifies applicability language
 - “Bright line” test
 - 30 days to challenge substantial modification
 - 45 days for anything else

HB 15-1348 Compliance

Expand LURA Board

- Letter to County, School District and Special Districts requesting appointees

Prepare Urban Renewal Plan and Impact Reports

- LURA staff handle or coordinate with necessary consultants
- No condition survey required as Eastern Corridor area was previously studied as part of 2015 condition survey; may need to perform confirmation analysis

Negotiate Intergovernmental Agreements re Sharing of Tax Increment with Taxing Entities

- Request meetings
- 120 day negotiation period, then mediation if agreement not reached
- Note, prior School District request for IGA on TIF shareback

Approval of Urban Renewal Plan

- LURA Board Meeting – Resolution recommending approval of Urban Renewal Plan
- Planning Commission Meeting - Resolution finding conformance with Comprehensive Plan
- Town Board Meeting – Resolution approving Urban Renewal Plan

Challenges

- Identifying appropriate **contacts/coordination** with other taxing bodies
- Identifying and gathering appropriate **data** to gather and share to facilitate negotiation
- **Time** required to initiate conversations, gather data, share data, and bring conversations to conclusion



Addition of Commissioners

- Three additional commissioners representing the following taxing bodies:
 - counties
 - special districts
 - school districts
- If the boundaries of the municipality extend into multiples of any of these, then the taxing bodies decide among themselves who the appointee is

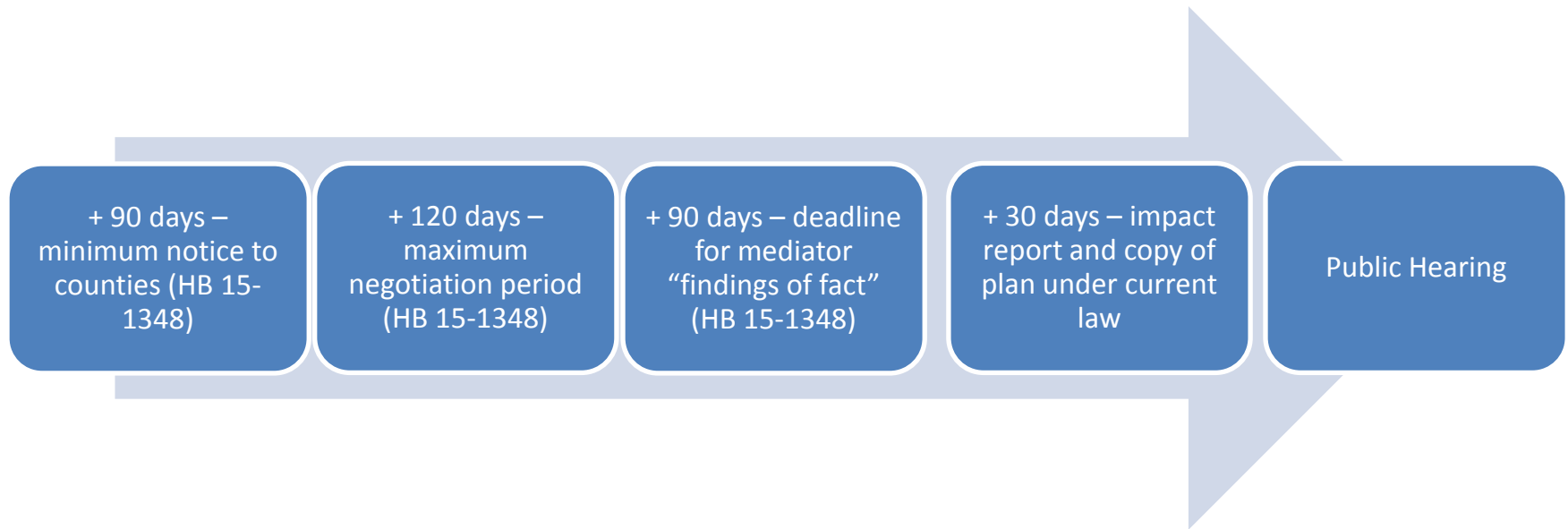
Who can sit on the Board?

- **Anyone** appointed by the Board of County Commissioners, regardless of whether the urban renewal Board of Commissioners consists of appointed citizens or the governing body.
- While the county representative may be anyone appointed by the county or counties, the special district and school district representatives must be an **elected board member**.
- If the appointment of the three taxing body representatives creates an **even** number, the Mayor may appoint an additional board member to create an **odd** number.

These Activities Require Time

- Time to initiate conversations
- Time to gather data
- Time to negotiate/discuss data and reach conclusions
- Time to draft and negotiate documents
- Time to prepare agendas and staff memos
- Time to bring new board members up to speed

Timelines



Negotiation with Taxing Bodies

- Notice no later than 90 days prior to public hearing at which urban renewal plan is scheduled to be adopted
- Then representatives of each such governing body and the municipality “meet and attempt to negotiate an agreement” concerning what tax revenues may be included in the plan and how they will be spent
- Agreement may be in the form of a master agreement among all taxing bodies, or individual agreements with each taxing body, or can be incorporated into urban renewal plan

Legal Powers and Responsibilities of Urban Renewal Authority Board

- Prepare conditions survey, urban renewal plan and financing plan for area and present to City Council for authorization
- Tax Increment Financing (TIF)
- Eminent domain
- Carry out “urban renewal projects”
- Plans to assist the municipality...to eliminate and prevent the development or spread of slum and blighted areas to encourage needed urban rehabilitation
- Provide for the redevelopment of such areas
- Provide public improvements
- Enter into agreements to implement plan including for – the acquisition of property, reimbursement to developer, sale of land, issuance of bonds, etc.
- Encouraging rehabilitation and repair
- Relocation of individuals and families
- Plans for voluntary repair and rehabilitation
- May own or operate property for public uses which are in accordance with the urban renewal plan or transfer property to municipality or other public entity for same

Other Governance Issues

- Colorado Sunshine Act (C.R.S. 24-6-401 et seq.) applies to urban renewal authorities
- Colorado Open Records Act (CORA) (C.R.S. 24-72-201 et seq.) applies to urban renewal authorities
- Adoption of bylaws not expressly required, but advisable
- Adoption of other policies or form documents
 - Intergovernmental Agreement with City
 - Grant Guidelines
 - Public Art
 - Grant Agreement Template
 - TIF Agreement Template
 - Relocation Policies



Putting on the Right Hat



- Duties are to the urban renewal authority and its purposes, policies and goals pursuant to state law and its adopted plans
- Fiduciary responsibility
- Conflict of interest differs:



C.R.S. 31-25-104(3) “No commissioner, other officer, or employee of an authority nor any immediate member of the family of any such commissioner, officer, or employee shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner, other officer, or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, he shall immediately disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure, such commissioner, officer, or other employee shall not participate in any action by the authority affecting the carrying out of the project planning or the undertaking of the project unless the authority determines that, in the light of such personal interest, the participation of such member in any such act would not be contrary to the public interest. Acquisition or retention of any such interest without such determination by the authority that it is not contrary to the public interest or willful failure to disclose any such interest constitutes misconduct in office.”

URA Board Responsibilities

- Attendance
- Preparedness
- Conflict of interest/ethics
- Confidentiality (e.g. executive session)
- Fiduciary duty



Fiduciary Responsibility of URA Board

- Stewards of taxpayer funds, just as other elected officials
- Urban Renewal Conflict of Interest provisions
 - C.R.S. 31-25-104(3)
 - “No commissioner . . . shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project . . .”
 - Different than municipal/county/special district conflict of interest provisions

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Governance of Urban Renewal Authority

- Any odd number of commissioners, at least 5, no more than 11
 - Under HB 1348, if certain triggers occur, 3 additional commissioners are added (county, school board, special district)
- Governing body may appoint board, or appoint itself as the board
 - Board of Trustees sits as Lyons Urban Renewal Authority
- Initial appointment for staggered terms; five-year terms thereafter (generally follow elected body term)

Property Owner Questions

What will the urban renewal plan do for you?

- Allow more flexibility in what you can do with your property in the form of mixed-use opportunities (e.g., residential)
- Allow your taxes to be spent on improvements in your immediate “neighborhood”
- Address land use and transportation planning issues
- Identify capital improvements needed to accommodate future investment
- Potentially provide property redevelopment / expansion financial assistance

What won't the urban renewal plan do for you?

- Prevent you from continuing your current business or land use
- Raise property tax mill levy sales tax rate
- Force you to improve your property (especially at a higher standard than outside the area)
- Diminish the value of your property
- Prevent you from selling your property

Revenue Raising Tools

- Statutory authorization – authorized in Lyons UR Plan
 - TIF
 - incremental sales taxes (municipal only)
 - incremental property taxes (all taxing entities)
- No specific statutory authorization
 - Administrative Fee
 - Participation Fee



Ways to Leverage Increment



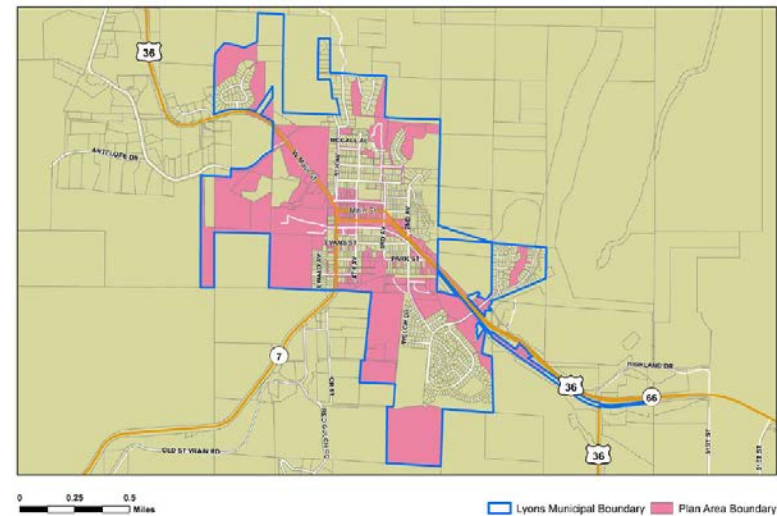
- Traditional “back end” financing
- “Up front” financing via loans and grants
- Intra-fund lending
- Bonds – taxable v. non-taxable
- Bank loans
- Special districts
- Community partners
- Combo platter

Bonding Authority

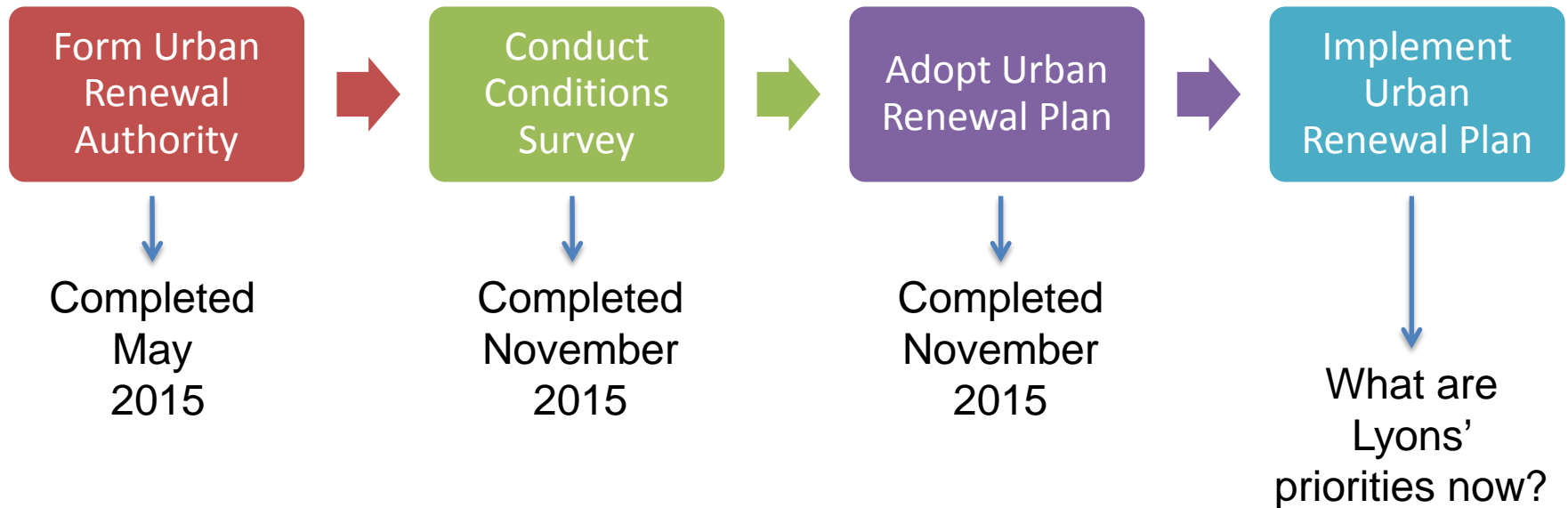
- Authority has authority to issue bonds
- Urban Renewal Authorities not subject to Taxpayer's Bill of Rights (TABOR)
 - *Olson v. City of Golden*, 53 P.23d 747 (Colo. App. 2002)
 - *Bd. of Comm'rs v. Broomfield*, 7 P.3d 1033 (Colo. App. 1999)
- Authority may spend bond proceeds directly on urban renewal projects, or may enter into agreements with developers to implement projects
- URA bond obligation is not a debt of the municipality

Lyons Area Urban Renewal Plan – November 2015

- Plan is general – supported by findings of blight (conditions survey) and impact report
- Elements include description of –
 - area
 - purpose
 - conditions of blight
 - relationship to comprehensive plan
 - objectives
 - implementation approach
 - financing approach
- Supplemented by - overlay plans, zoning, design standards, etc.



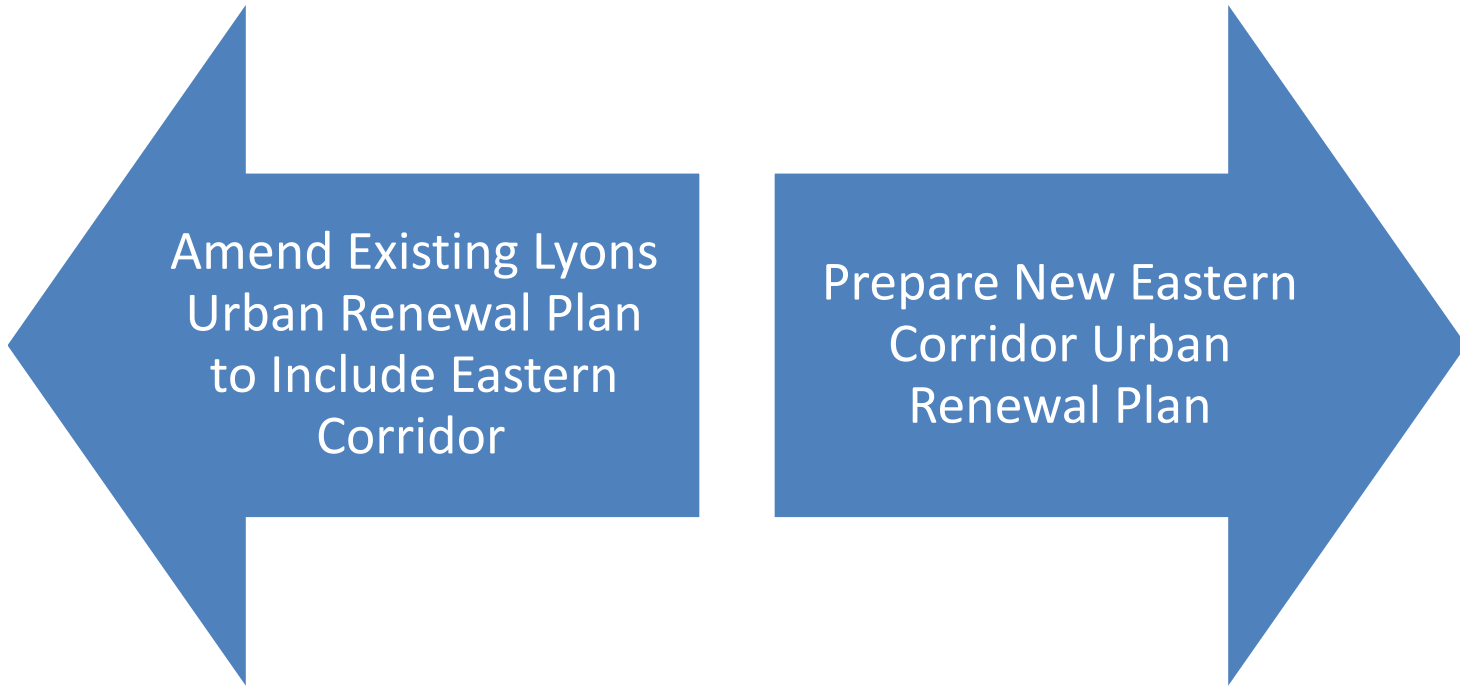
What's the process and where are we at?



- Mission and Goals
- Priority Projects for LURA



Eastern Corridor – Key Question



Amend Existing Lyons
Urban Renewal Plan
to Include Eastern
Corridor

Prepare New Eastern
Corridor Urban
Renewal Plan