



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of
Supervisors

105 E. Anapamu Street, Suite
407

Santa Barbara, CA 93101
(805) 568-2240

Department Name: Redevelopment Agency
Department No.: 993
For Agenda Of: August 9, 2011
Placement: Departmental
Estimated Tme: 60 Minutes
Continued Item: 8/2/11
If Yes, date from:
Vote Requirement Majority

TO: Board of Directors, Santa Barbara County Redevelopment Agency
Board of Supervisors, County of Santa Barbara

FROM: Department
Director: Chandra L. Wallar, County Executive Officer
Contact Info: Glenn Russell, Ph.D., Director, Planning & Development (x 2085)
Errin Briggs, Program Manager, Redevelopment Agency (x 2047)

SUBJECT: Impacts of Recent Legislation on the County Redevelopment Agency

County Counsel Concurrence

As to form: Yes

Other Concurrence:

N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

1. That the Board of Supervisors take the following actions:

Take no action so as to allow the County to automatically become the Successor Agency to the Redevelopment Agency in the event the Board later decides to allow the Agency to be dissolved pursuant to Assembly Bill ABX1 26.

And

2. That the Redevelopment Agency Board of Directors:

Adopt a Resolution adopting the Enforceable Obligation Payment Schedule [Attachment 3] pursuant to Health and Safety Code Section 34169(g)(1).

And

3. That the Board of Supervisors:

Determine whether to direct the County Executive Officer to appeal the amount of the remittance to the State Director of Finance by August 15, 2011.

And

4. Direct staff to return on September 6th with recommendations on additional actions.

Background:

This item is on the agenda to inform your Board about recent State legislation affecting the County Redevelopment Agency (RDA), identify important deadlines contained in the legislation and to articulate the options available to the Board in deciding the RDA's future in response to this legislation.

On June 28, 2011, California Governor Brown signed into law two new bills affecting all California Redevelopment Agencies including the Santa Barbara County Redevelopment Agency. ABX1 26 (i.e. the "Dissolution Bill") eliminates all redevelopment agencies effective October 1, 2011. ABX1 27 (i.e. the "Continuation Bill") would allow Redevelopment Agencies to continue to exist if certain payments to the State are made (an initial one-time payment and then subsequent annual payments).

The California Redevelopment Association and others filed a writ petition directly in the California Supreme Court on July 18th, alleging that ABX1 26 and ABX1 27 are unconstitutional including inconsistency with 2010's Proposition 22 and asking the Supreme Court to stay their implementation by August 15th.

Under ABX1 26, the Redevelopment Agency would cease to exist as a corporate governmental entity as of October 1, 2011. Until that date, the County Redevelopment Agency "RDA" is prohibited from taking essentially any actions other than "Enforceable Obligations" entered into prior to June 28, 2011. Enforceable Obligations consist of contractual payments on existing bonds and loans, payments to the federal government or those imposed by State law, and contracts necessary for the continued administration and operation of the RDA. If RDA continuation under ABX1 27 is not chosen by the Board, all RDA property and obligations would be transferred to a "Successor Agency" and overseen by a local oversight board, the County Auditor-Controller and the State Department of Finance.

An exhibit identifying the key deadlines for ABX1 26 & ABX1 27 decisions is included with this Board Letter as Attachment 1.

The decisions that your Board is considering on August 9th require a majority vote. However, if your Board later elects to adopt an ordinance to continue the RDA under ABX1 27, the commitment to pay initial remittance payments required by that legislation will require a County budget revision requiring a 4/5 vote.

This Board Letter distinguishes between decisions that the Board must consider in August and those that could be deferred into September or later, so the Board can receive and consider more detailed financial information and analysis, and also know whether the California Supreme Court stays implementation of these recent amendments, on or after August 15th.

Discussion of Actions to be Taken on August 9th:

The items discussed in this section must be acted upon prior to the deadlines identified in each subsection below. August 9th is the last regularly scheduled Board hearing prior to these deadlines. Future actions required by this legislation which can be acted upon by the Board at a later date are discussed under the “Future Options for Board Consideration” header below.

The Successor Agency under RDA Dissolution

If the Board ultimately chooses to dissolve the RDA under ABX1 26, September 1, 2011 becomes a critical date, by which County of Santa Barbara automatically becomes the “Successor Agency” to the Santa Barbara County Redevelopment Agency. Alternatively, the County may elect not to serve as the Successor Agency to the RDA by filing a resolution (Attachment 2) with the County Auditor-Controller no later than September 1, 2011. If the County elects not to become the Successor Agency of the dissolved RDA, the first city or special district in the County submitting to the County Auditor-Controller a duly adopted resolution electing to become the Successor Agency shall be designated as such. If no local agency elects to serve as the Successor Agency, a “designated local authority” shall immediately be formed with all of the powers and duties of a Successor Agency with a governing board comprised of three local residents appointed by the Governor.

The Successor Agency is required to expeditiously wind down the affairs of the former RDA after October 1, 2011 when the former RDA’s assets are transferred to it. It is also required to dispose of those assets and to make payments and perform other obligations of the former RDA, which include:

- Repayment of bonds;
- Repayment of loans borrowed by the RDA;
- Payments required by federal or state government or for employee pension obligations;
- Judgments or settlements; and
- “Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy” (at Oversight Board direction, a Successor Agency may terminate existing agreements and pay required compensation or remediation for such termination).
- Effectuate the transfer of housing functions of the former RDA to the County (or applicable Housing Authority within the County of Santa Barbara if so chosen)

As part of these responsibilities, existing RDA fund balances and proceeds from the sale of RDA assets would be redirected and distributed to local taxing entities (proceeds to be distributed similar to normal property tax proceeds). The Successor Agency is required to dispose of the former RDA’s assets or properties expeditiously and in a manner aimed at maximizing value.

ABX1 26 also requires the establishment of an Oversight Board which is generally intended to supervise the activities of the Successor Agency and ensure the RDA’s assets are distributed to the taxing entities as discussed above. The Oversight Board has a fiduciary responsibility to holders of Enforceable Obligations and to the taxing entities that would benefit from the distribution of revenues generated by the liquidation of RDA assets. The Oversight Board of the Successor Agency would consist of 7 members appointed by/representing:

- the County Board of Supervisors – (2 members, one of which must be a member of the public);
- the County Fire District (one member);
- the County Superintendent of Education (one member);
- the Chancellor of the California Community Colleges to represent community college districts (one member);
- the Chair of the County Board of Supervisors to appoint one member representing the employees of the former Redevelopment Agency;
- the City of Goleta¹ (one member).

While the overarching decision to continue the RDA's activities can be delayed to a future Board hearing (no later than November 1, 2011), the decision for the County to become the Successor Agency in the event the RDA is dissolved must be made prior to September 1st. Because the County would maintain control of the RDA's assets during the dissolution period, staff recommends that the Board of Supervisors take no action so as to allow the County to automatically become the Successor Agency to the RDA in the event that the Board does not adopt an ordinance under ABX1 27.

Enforceable Obligation Payment Schedule

In order to fulfill the requirements of ABX1 26, the RDA must disclose at a public hearing all existing contractual obligations including the payee, the amount of the obligation and a brief description of each obligation. The RDA's Enforceable Obligation Payment Schedule is included with this Board Letter as Attachment 3. Once the Enforceable Obligation Payment Schedule is adopted by the RDA Board of Directors, it is required to be posted on the RDA's website and provided to the County Auditor-Controller and the State Department of Finance by August 28, 2011. All future RDA payments could then be cross-checked against the adopted Payment Schedule to ensure the RDA is obligating funds only for those projects in effect prior to adoption of ABX1 26. [§34169(g)]

Adoption of the Enforceable Obligation Payment Schedule is a mandatory requirement of ABX1 26, regardless of whether or not the Board ultimately decides to continue the RDA. As such, staff recommends that the RDA Board of Directors adopt a Resolution adopting the Enforceable Obligation Payment Schedule [Attachment 3].

Appeal of Remittance Payment Amount

Notwithstanding the provisions of ABX1 26, above, ABX1 27 allows redevelopment agencies to continue to exist and carry out redevelopment activities under the California Redevelopment Law if they pay an amount calculated from a predetermined 9-step formula. The State's Director of Finance must notify cities and counties of that calculated amount by August 1, 2011 and cities and counties then have until August 15, 2011 to appeal that calculation to the Director of the Department of Finance.

The amount of the Remittance Payment Amount was released on August 1, 2011. The remittance payment is \$1,952,832 (See Attachment 4, State Remittance Payment Calculation). Staff does not anticipate the need to appeal the amount as it was calculated by using a pre-determined formula. However, staff is still analyzing the calculation and if at the time of the August 9th Board Hearing, the amount set forth by the State Director of Finance is determined to be calculated incorrectly, staff would recommend the Board of Supervisors direct the County Executive Officer to appeal the amount of the

¹ There is some ambiguity regarding the membership from a City. Staff reads in this case to mean the City of Goleta.

Remittance Payment. An update on this matter and a staff recommendation will be provided during staff's presentation on August 9th.

Future Options for Board Consideration:

RDA Continuation under the Alternative Voluntary Redevelopment Program

As an alternative to dissolution, the RDA may continue operations under California Redevelopment Law (CRL) if the Board of Supervisors enacts an ordinance pursuant to ABX1 27 (the "Continuation Ordinance") on or before November 1st 2011 (provided that the County has adopted a non-binding resolution of intent to adopt such ordinance), committing the County to make specified one-time and ongoing annual payments to the State (the "Continuation Payments").

Until enactment of a Continuation Ordinance, the RDA is prohibited from entering into new agreements or indebtedness, except as necessary to carry out "Enforceable Obligations" entered into prior to June 28, 2011 as stated above. If the Board chooses to enact a Continuation Ordinance, the RDA would no longer be subject to the provisions of the Dissolution Act and normal RDA operations could begin immediately upon its second reading by the Board. Aside from paying the required Continuation Payments, all existing RDA fund balances and assets would be fully retained if the Board chooses to participate in the Alternative Voluntary Program. As stated above, enactment of a continuance ordinance would commit the County to paying the remittances which are currently not in the County's budget and would therefore require a budget revision requiring a 4/5's vote for adoption.

Although the remittance payments are an obligation of the County, not the Agency, if the County chooses to participate in ABX1 27's Alternative Voluntary Redevelopment Program, the County may enter into an agreement with the RDA whereby the RDA transfers a portion of its tax increment to the County, in an amount not to exceed the annual remittance, "for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals."

Transfer of Housing Functions of the Redevelopment Agency

In the event the Board of Supervisors chooses RDA dissolution under ABX1 26, the Board may elect to assume the housing functions of the former RDA whereby such housing functions and all related assets would be transferred to the County. In this capacity, the County would be able to exercise Redevelopment Law housing powers to fulfill the former RDA's housing obligations. If the Board chooses not to transfer the former RDA's housing assets and functions to the County, such assets and functions would be transferred to a Housing Authority operating within the territory of the former RDA. When your Board considers this matter again in September, staff will also address the funds on deposit in the "Low and Moderate Income Housing Fund."

Environmental Review:

The above actions do not constitute a "project" under the California Environmental Quality Act ("CEQA") but instead consist of governmental organizational activities and the creation and continuation of a governmental funding mechanism for potential future projects and programs pursuant to CEQA Guideline Sections 15378(b)(4) and 15378(b)(5).

Fiscal Analysis:

The Auditor-Controller's office will provide the Board with a full financial analysis describing RDA outcomes under ABX1 26 & 27 in a subsequent Board Letter. Until the financial analysis is complete,

staff is not prepared to make a recommendation for Board action regarding the items discussed under the “Future Options for Board Consideration” section above.

Special Instructions:

Please forward a copy of the minute order to Heather Allen, Redevelopment Agency.

Attachments:

- 1 – Key Dates for Decisions regarding ABX1 26 & ABX1 27
- 2 – Resolution Electing not to Become the RDA Successor Agency
- 3 – Resolution Setting Forth RDA Enforceable Obligation Payment Schedule
- 4 – State Remittance Payment Calculation

Authored by:

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Cc:

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