



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: September 6, 2011
Placement: Departmental
Estimated Tme: 60 Minutes
Continued Item: 8/9/11
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 the Redevelopment Restructuring Act 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:

That the Board of Supervisors:

1. Adopt a resolution retaining the housing assets, functions and powers previously performed by the Redevelopment Agency pursuant to Health and Safety Code Section 34176(a) [Attachment 3].
2. Adopt a non-binding resolution of intent to participate in the Alternative Voluntary Redevelopment Program pursuant to Health & Safety Code Section 34193(b) [Attachment 4].
3. Direct staff to return on October 4th to introduce an ordinance to allow the County to continue redevelopment activities pursuant to the Alternative Voluntary Redevelopment Program, and to adopt a reimbursement agreement between the County and the Redevelopment Agency to

provide for Redevelopment Agency reimbursement of required remittances to the State required under ABX1 27.

That the Redevelopment Agency Board of Directors:

4. Adopt a resolution directing staff to forward the preliminary draft of the initial Recognized Obligation Payment Schedule to the Successor Agency pursuant to Health and Safety Code Section 34169(h) [Attachment 5].

Background

Staff brought several recommended actions to your Board on August 9, 2011 to meet deadlines required by ABX1 26 and ABX1 27 (together the “Redevelopment Restructuring Acts”). Your Board’s actions included: 1) adopting the Enforceable Obligation Payment Schedule; 2) deciding not to “opt out” of County becoming the Successor Agency to the County Redevelopment Agency (“RDA”), in the event that County decides not to enter ABX1 27’s Alternative Voluntary Redevelopment Program; and 3) deciding not to appeal the State’s calculated Remittance Payment amount set forth under ABX1 26. The Board then directed staff to return on September 6, 2011 with recommendations on additional actions.

The judicial challenge to the Redevelopment Restructuring Acts has not been resolved but certain actions have occurred:

- California Redevelopment Association and others challenged the constitutionality of ABX1 26 and ABX1 27 on July 18, 2011, directly in the California Supreme Court, and requested that the California Supreme Court stay implementation of those amendments;
- Through orders on August 11th and August 18th, the California Supreme Court stayed implementation of most of ABX1 26 and almost all of ABX1 27; and
- On August 22nd, California Redevelopment Association requested further modification of the Supreme Court’s stay, including permission for communities to “opt in” to ABX1 27, within the legislation’s current deadlines, even if they had not enacted “opt in” ordinances before the California Supreme Court issued its stay on August 11th. As of August 25th, when this Board Agenda Letter was docketed, the California Supreme Court had not yet ruled on that request for further modification.

Today we recommend the Board of Supervisors take the first three Recommended Actions in order to best preserve the County’s future options concerning either continuation or dissolution of the RDA. We recommend taking these actions now because, as to Recommended Actions 1 through 3:

- It is not clear how the California Supreme Court will resolve the judicial challenge that was brought against ABX1 26 and ABX1 27; and
- If the California Supreme Court upholds ABX1 26 and/or ABX1 27, it is not clear how the California Supreme Court and/or the California Legislature will handle certain deadlines in the legislation that will already have passed if the California Supreme Court does not issue its

decision until January 2012, which is the decision date that the California Supreme Court stated in its orders of August 11th and August 18th.

September 20th is the last regularly scheduled Board hearing prior to the legislation's stated but stayed September 30th deadline for Recommended Action 2 and for the implied, but not stayed, deadline of Recommended Action 1 of October 1st. An exhibit identifying the key deadlines for ABX1 26 & 27 decisions is included with this Board Letter as Attachment 1.

Recommended Action 4 fulfills a legal requirement that the Redevelopment Agency prepare and forward a preliminary draft of the initial Recognized Obligation Payment Schedule to its Successor Agency by September 30, 2011. The California Supreme Court's modification order of August 18, 2011 clarified that this requirement is not stayed.

Potential Clean-up Legislation

ABX1 26 and ABX1 27 were passed on an expedited basis as part of the State budget balancing process and include several unclear provisions. Staff is aware of several jurisdictions that have submitted suggested language that may be included in clean-up legislation that could; 1) clarify that the existing reimbursement agreement between the County and the Redevelopment Agency regarding the County's 2008 Certificate of Participation ("COP") is considered to be valid as an Enforceable Obligation and 2) clarify which entity should receive what amounts on deposit in the Agency's affordable housing fund (Successor Housing Agency versus affected taxing entities). As of the writing of this Board Letter, specific clean-up language has not yet been submitted to the legislature for consideration and it is difficult to predict the outcome of any clean-up efforts.

Transfer of Housing Functions of the Redevelopment Agency

The Board of Supervisors may elect to assume the housing functions of the former RDA in the event that it ultimately chooses not to continue redevelopment in the County under the Continuation Bill. If it chooses this option, the housing functions and all related assets would be transferred from the RDA to the County upon the dissolution of the Agency. In this capacity, the County would exercise Redevelopment Law housing powers to fulfill the RDA's housing obligations. If the Board chooses not to retain the RDA's housing assets and functions and also does not enter into the Alternative Voluntary Redevelopment Program, ABX1 26 requires that such assets and functions would be transferred to the County of Santa Barbara Housing Authority.

In September, 2010, the RDA used housing funds to purchase property at 761 Camino Pescadero with the intent of redeveloping the property with an affordable housing project. Subsequently, the RDA entered into discussions with the Housing Authority of the County of Santa Barbara to develop plans for a 100% affordable housing project containing 33 units targeted to very low-income individuals. This project is currently in the beginning stages of the entitlement process with Santa Barbara County Planning & Development. If the Board chooses not to retain the RDA's housing functions and assets, this property will automatically be transferred to the County Housing Authority.

The RDA has approximately \$1.7 million in unencumbered cash balances on deposit in the Housing Fund. The RDA also has approximately \$6.8 million in outstanding deferred loans receivable to the Housing Fund. These loans include \$1.2 million in standard loans, \$3.3 million in residual receipt loans, \$1.5 million in development loans and \$0.8 million in regulatory loans. The repayment timelines for

these loans range from 5 to 40 years. Although there is tension between different sections of the legislation regarding the unencumbered cash balances on this point, it appears that unless the County enters into ABX1 27's Alternative Voluntary Redevelopment Program, ABX1 26 requires that the unencumbered housing funds currently on deposit be liquidated and distributed to the Affected Taxing Entities. This would occur whether or not the Board elects to retain housing functions and assets. It appears that the outstanding loans receivable would be repaid to the entity who receives the RDA's housing functions.

In order for the County to retain the RDA's housing assets and maintain control over the future use of these assets, staff recommends the Board of Supervisors adopt the resolution retaining the housing functions and powers previously performed by the Redevelopment Agency [Attachment 3]. This action is recommended in order to preserve the County's control over the housing functions and assets in the event that the Board does not ultimately adopt a Continuation Ordinance. Adopting the proposed resolution does not preclude the County from later adopting a Continuation Ordinance. Although sections of ABX1 26 that authorize the County to make this election are subject to the Court's stay, the failure to adopt the resolution now could limit the County's future options if the Court upholds ABX 1 26 and the County has not adopted a Continuation Ordinance. This is because it is not clear how the California Supreme Court and/or the California Legislature will handle this deadline in the event that the deadline passes before there is a final resolution of the case. ABX1 26 does not contain an explicit deadline for communities to make the election to retain housing assets and functions. However a failure to make this election before the October 1, 2011 deadline when all assets and functions are otherwise transferred to the Successor Agency could be deemed a waiver by the County. The resolution that is before your Board contains language conditioning it upon ABX1 26 being upheld by the Court and the County not enacting a Continuation Ordinance.

Non-Binding Resolution of Intent to Continue the RDA under the Alternative Voluntary Redevelopment Program

If the California Supreme Court upholds ABX1 27, then, pursuant to ABX1 27, the RDA may continue redevelopment activities under the Alternative Voluntary Redevelopment Program if the Board of Supervisors enacts a Continuation Ordinance on or before October 1, 2011, committing the County to make specified one-time and ongoing annual payments to the State (the "Continuation Payments"). This deadline can be extended to November 1, 2011 if by September 30, 2011, the Board adopts a non-binding resolution of intent to adopt a Continuation Ordinance [Attachment 4]. Staff recommends that the Board of Supervisors adopt this non-binding resolution of intent at this time. This would preserve the Board's discretion under the legislation to continue or dissolve the RDA. Although sections of ABX1 26 that authorize the County to adopt the nonbinding resolution are subject the Court's stay, the failure to adopt the resolution now could limit the County's future option if the Court upholds ABX 1 26 and ABX1 27. This is because it is not clear how the California Supreme Court and/or the California Legislature will handle this deadline in the likely event that the deadline passes before there is a final resolution of the case. The resolution that is before your Board contains language that conditions it upon ABX1 26 and ABX1 27 being upheld by the Court. The resolution does not obligate the County to adopt a Continuation Ordinance.

Analysis of Continuation versus Dissolution

Until enactment of a Continuation Ordinance, the RDA is prohibited from entering into new agreements or indebtedness. If the Board later chooses to enact a Continuation Ordinance and ABX1 26 and ABX1

27 are upheld by the Court, the RDA would no longer be subject to the provisions of the Dissolution Act. In that event, normal RDA operations could begin immediately upon second reading of the Continuance Ordinance by the Board and pending resolution of the stay by the California Supreme Court. Unless the Supreme Court resolves the litigation otherwise, all existing RDA fund balances and assets would be fully retained by the RDA upon passage of the Continuation Ordinance. Adoption of a Continuation Ordinance would commit the County to pay the remittances required under ABX1 27. Provision for these payments is currently not identified in the County's adopted budget and therefore, would necessitate a budget revision requiring a 4/5's vote. Please note that even if the Board ultimately adopts a Continuation Ordinance, the power of the RDA to engage in redevelopment activities will expire in 2032 and its power to repay existing debt will expire in 2042. The following discussion provides a fiscal and policy analysis of the pros and cons of continuing the RDA under ABX1 27 or allowing it to dissolve pursuant to ABX1 26.

Redevelopment in Isla Vista

Isla Vista is the most densely populated community in the unincorporated portion of the County and currently suffers from numerous deficiencies including overcrowding, limited parking, an underdeveloped commercial core and deteriorating infrastructure and housing stock, all of which contribute to the community's physical blight.

Redevelopment is the primary means by which the County has funded its effort to revitalize deteriorating and blighted areas and provide for economic development in the Isla Vista community. The Board established the Isla Vista Redevelopment Project Area in 1990 by adopting findings of blight specifying that Isla Vista was "characterized by inadequate public facilities and open spaces which could not be remedied by private or governmental action without redevelopment". The RDA deploys funds in the community for public infrastructure improvements and encourages new private investment leading to increases in property values, which in turn results in increased property tax revenues. As property tax revenues rise over time, the RDA's tax increment rises, thus enabling increased funds to finance additional community improvements and programs.

Fiscal Impacts - Continuation

Participation in the Alternative Voluntary Redevelopment Program would require the County pay an initial, one-time Remittance Payment of \$1.95 million in fiscal year 2011/12, and an approximately \$459 thousand annual payment thereafter. The County and RDA could enter into a reimbursement agreement requiring the RDA to repay these funds to the County. Existing RDA fund balances are sufficient to transfer funds to the County to make the required initial, one-time payment (paid in two equal installments, the first in January 2012 and the second in May 2012) and the Agency's anticipated annual operating budget will contain sufficient monies to fund the annual payments thereafter. According to the Auditor-Controller's financial analysis included in Attachment 2, by continuing the RDA, approximately \$3.5 million would be available annually for redevelopment and affordable housing projects and programs, of which approximately \$1.4 million would be available to pay the RDA's outstanding debt, \$1.2 million available for housing set-aside and \$941 thousand available for overhead and RDA general programs. Therefore, although somewhat diminished by the payment of the annual remittance, the RDA would continue to have substantial funding to continue redevelopment activities.

Fiscal Impacts - Dissolution

If the RDA were dissolved under ABX1 26, whether or not the County elects to retain the RDA's housing functions and assets, the Agency's existing non-housing fund balances, non-housing properties and unencumbered housing fund balances would be liquidated and distributed to local Affected Taxing Entities. According to the Auditor-Controller's financial analysis (Attachment 2), RDA liquidation would result in the one-time distribution of approximately \$5.4 million in assets, \$894 thousand of which would go to the County's General Fund, \$544 thousand would go to the County Fire Protection District and \$3.9 million would go to other Affected Taxing Entities. Further, on an ongoing annual basis, the County's General Fund would realize an additional \$571 thousand and the County Fire Department would realize an additional \$348 thousand with other Affected Taxing Entities receiving approximately \$1.45 million under RDA dissolution. Under dissolution, the funds that would be returned to the County annually could be used Countywide at the County's discretion, but the total amount is significantly less than the total amount that would be dedicated to Isla Vista redevelopment activities should the RDA continue.

If the Agency were dissolved, public improvements including those related to safety (sidewalk infill, night lighting, roadway improvements, etc.) and other economic development activities currently funded by the RDA would need to be funded through alternative sources or not completed at all. Additionally, the \$1.2 million of tax increment currently set aside on an annual basis for the Agency's housing programs would not be available in future years.

Under the dissolution scenario, there is a risk to the County due to unclear or conflicting language contained in the current legislation relating to existing obligations. It is not clear whether the repayment agreement entered into by the RDA to repay funds that the County advanced to the Agency pursuant to 2008 Certificates of Participation (COP) constitutes an enforceable obligation that may continue to be repaid by the RDA. If the 2008 Reimbursement Agreement for COP payments is determined not to be an enforceable obligation that is repayable by the Agency, the County would not be reimbursed for the annual COP debt-service payment of approximately \$1.4 million per year for 17 years. However, the amount of the annual property tax distribution to the County and County Fire would also increase significantly due to less tax increment being retained to eliminate the Redevelopment Agency's recognized obligations.

Impacts on Affordable Housing Activities and the Housing Element

Pursuant to California Redevelopment Law, the RDA is required to set aside twenty percent of its gross tax increment for the provision of affordable housing in Isla Vista. Twenty percent of the RDA's gross tax increment currently equates to approximately \$1.2 million annually. This money has been used in the past to rehabilitate a total of 80 dilapidated rental units at several locations and place income restrictions on such units¹ to ensure that very low, low and moderate income families meeting the County's affordable housing criteria are benefitted. The Agency may undertake numerous strategies to employ its housing fund monies. Most recently, the property intended to be redeveloped with the above-mentioned 33-unit affordable housing project was purchased with RDA housing fund monies. RDA housing funds have also been utilized to provide private developers with short-term loans to finance the construction of affordable units included in their developments.

¹ RDA funds have been used to rehabilitate and place income restrictions on 80 affordable housing units, 27 of which are available to very low-income families.

The County's 2009-2014 Housing Element assumes as a component of the County's land inventory that substantial redevelopment will occur within the Isla Vista area. The continued success of redevelopment efforts in Isla Vista are vital to the County's efforts to meet its Regional Housing Needs Allocation (RHNA) given by the State. New zoning designations enabled through the adoption of the Isla Vista Master Plan would accommodate capacity for the development of approximately fourteen hundred total residential units at full build-out. Current site and market conditions indicate that 552 of these units could be constructed within the 2009-2014 planning period. Projects similar to the 33-unit affordable housing project mentioned above are significantly less likely to be undertaken in the future without continued assistance and funding from the RDA. Similarly, private development projects would not receive short-term loans from the RDA supporting construction of their affordable units if the RDA was eliminated and therefore, such projects would be less likely to be undertaken. Three new, mixed-use projects now under construction in the downtown core include 71 residential units including 14 affordable units targeted to low-income households and contribute significantly to new housing production requirements included in the County's Housing Element. If the RDA is eliminated, further housing production in Isla Vista will be less likely to occur as two of these mixed-use projects received financial assistance from the RDA to incentivize the development of affordable units. Should the County wish to continue support of low income housing production in Isla Vista and the RDA was dissolved, those funds would need to come from other sources.

Community Development

In addition to providing affordable housing, the Redevelopment Agency is also responsible for encouraging economic development in the Isla Vista area. In the past five years (2007 to 2011), the RDA has expended approximately \$33 million in the Isla Vista area. Mobilization of these funds has created numerous jobs and spurred the revitalization of the downtown area. By building public infrastructure projects and improving public spaces, the RDA provides a supportive environment for new private-sector investment and private business expansion. RDA-funded projects that were recently completed or are currently under construction include:

- El Colegio Roadway Enhancement Project
- Pardall Streetscape Enhancement Project
- Downtown Stormdrain Project
- El Embarcadero Streetscape Enhancement & Utility Undergrounding Project
- Downtown Parking Lot or "Solar Car Park" (45 spaces for public parking)
- Community-wide Sidewalk Infill (ongoing)
- 33-Unit Affordable Housing Project (Very Low Income)

In addition to their direct benefit to the community, several of these projects yet to be completed, including the El Embarcadero Streetscape Enhancements, several traffic calming projects and additional sidewalk infill, mitigate impacts of community buildout under the Board-adopted Isla Vista Master Plan.

The El Embarcadero Streetscape Enhancement project is currently under construction and is approximately 50% complete. Stormdrains and utilities have been installed underground and new sidewalks have been installed on the western half of the street. The roadway surface is currently unfinished and is marked by temporary patching and temporary curbs in several locations. The remaining un-built portion of the roadway is not currently funded or contracted and thus might not be recognized as meeting the requirements of an enforceable obligation if the RDA is eliminated. Without

RDA funding, project completion would require an alternative funding source. Staff estimates completion of the project to cost approximately \$1 million.

In addition to the above-mentioned public projects, the RDA has partnered with, and provided significant permitting assistance to three new private mixed-use projects which are currently under construction in Isla Vista, two of which received loan funds from the RDA². Because they are located in the downtown commercial core and include the construction of new commercial space, these projects will provide for significant economic development in the heart of the community. These projects are preliminarily valued at a total of approximately \$35 million and will add significant tax increment to the RDA upon completion. This increased increment could then be used to fund additional future public improvements.

In summary, with the RDA in place, the County has a greater amount of funds to be used on infrastructure improvements and affordable housing projects in the Isla Vista area. Without the RDA, the County would be left with a smaller, unrestricted sum of General Fund monies and outstanding needs unfunded in the Isla Vista area. Because the benefits of maintaining existing revenue streams for community improvements in Isla Vista outweigh the one-time and ongoing funds realized by the County under ABX1 26, staff recommends the Board of Supervisors direct staff to return on October 4th for introduction and a first reading of a Continuation Ordinance.

Preliminary Draft of the Initial Recognized Obligation Payment Schedule

ABX1 26 requires the RDA to disclose all existing contractual obligations including the payee, the amount of the obligation and a brief description of each obligation. On August 9, 2011 the RDA Board of Directors adopted resolution number 11-291 adopting the Enforceable Obligation Payment Schedule (“EOPS”) and staff subsequently posted it on the RDA’s website and provided it to the County Auditor-Controller and the State Department of Finance as required by ABX1 26. All future RDA payments will be cross-checked against the adopted EOPS to ensure the RDA is expending funds only for those projects and operational obligations in effect prior to adoption of ABX1 26.

In addition to developing the EOPS, the Agency must also prepare a preliminary draft of the initial Recognized Obligation Payment Schedule (“ROPS”), which lists all outstanding obligations of the RDA and provide the schedule to the Successor Agency. The initial ROPS contains much of the same information regarding RDA obligations as the EOPS but is a preliminary document associated with the Successor Agency rather than the former RDA.

Pursuant to ABX1 26, the preliminary draft of the initial Recognized Obligation Payment Schedule must be completed and forwarded to the Successor Agency by September 30, 2011; the California Supreme Court did not stay this requirement. Staff recommends the RDA Board of Directors adopt a resolution directing staff to forward the preliminary draft of the initial Recognized Obligation Payment Schedule [Attachment 5] to the Successor Agency. This action does not commit the Board to a course of action on dissolution versus continuation of the RDA, but rather fulfills a legal requirement in ABX1 26 that is not affected by the Court’s stay.

² The Paradise Ivy Mixed-Use, the Loop Mixed-Use and the ICON at UCSB Mixed-Use projects are all fully entitled and under construction at this time. The RDA has provided short-term financing to fund the construction of the affordable housing units included with the first two of these projects. A loan to fund construction of the third project could not be entered into because of the passage of ABX1 26.

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 has provided the Board with a detailed financial analysis describing RDA outcomes under ABX1 26 & ABX1 27 in Attachment 2 of this Board Letter.

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 – Redevelopment Restructuring Act Financial Analysis for the Santa Barbara County Redevelopment Agency
- 3 – Resolution Retaining the Housing Functions and Powers Previously Performed by the RDA
- 4 – Non-Binding Resolution of Intent to enter into Alternative Voluntary Redevelopment Program
- 5 – Resolution Setting Forth Preliminary Draft of the Initial Recognized Obligation Payment Schedule

Authored by:

Glenn Russell, Ph.D., Director, Planning & Development
Errin Briggs, Program Manager, Redevelopment Agency

Cc:

Bob Geis & Greg Levin, Auditor Controller
Mark Paul, Public Works
Mike Ghizzoni & Mary McMaster, County Counsel