

**MINUTES OF THE SPECIAL MEETING OF THE OVER-SIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY HELD ON MONDAY, AUGUST 27, 2012, AT 6:31 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA**

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Vice Chairperson Johnson led those assembled in the Pledge.

**I. PRELIMINARY MATTERS**

**A. Call to Order**

Chairman Ruh called the meeting to order at 6:31 p.m.

**B. Roll Call**

Present: Chairman Ruh; Vice Chairperson Johnson; Board Members Catlin, Erickson, and Richardson; Deputy City Manager/ Executive Director of Economic Development Staats; Finance Director Parker; Successor Agency Special Counsel McEwen; Secretary Smith

Absent: Board Member Kulbeck (excused); Board Member Stallings (excused)

**II. PUBLIC COMMENT - None**

**III. APPROVAL OF MINUTES**

**A. Minutes of the Special Oversight Board Meeting of May 9, 2012**

**B. Minutes of the Regular Oversight Board Meeting of June 13, 2012**

**C. Minutes of the Special Oversight Board Meeting of July 25, 2012**

Moved by Board Member Richardson, seconded by Vice Chairperson Johnson, and carried to approve the above three items.

**IV. BUSINESS ITEMS**

**A. Consider Receiving and Filing a Report Regarding Former Redevelopment Agency Nonhousing Assets**

Successor Agency Special Counsel McEwen clarified that until sometime next spring, the Successor Agency is on hold related to property disposal pursuant to AB 1484, which added a section to

the Government Code indicating that the provision related to real property disposition has been stayed pending the Department of Finance's issuance of a certificate of completion to the Successor Agency and its adoption of a property management plan.

Finance Director Parker stated that before a certificate of completion could be issued, the Successor Agency must complete two more audits, one of which, due October 1, 2012, the California Society of Certified Public Accountants has only today defined the standards for; staff will do its best to find a competent independent audit firm to complete the report by that date.

Deputy City Manager/Executive Director of Economic Development Staats asked if the audit will require two Oversight Board meetings prior to its approval.

Finance Director Parker answered, "Yes. Once that report is issued, we will have to have the pre-meeting public review session followed by a five-day waiting period before the Oversight Board holds a vote for the audit's approval."

Moved by Board Member Catlin and seconded by Board Member Richardson to receive and file a report regarding former Redevelopment Agency nonhousing assets.

**B. Consider Adoption of Resolution No. 12-12, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving a Recognized Obligation Payment Schedule for January 1, 2013, Through June 30, 2013, Pursuant to California Health and Safety Code Section 34179, Division 24, Part 1.85, and Authorizing Posting and Transmittal Thereof**

Board Member Richardson asked for clarification between the Redevelopment Property Tax Trust Fund (RPTTF) estimate of \$12,241,934 and the actual expenditure of \$7,636,995.

Finance Director Parker stated, "Yes, the reason for that is the estimate relates to the first Recognized Obligation Payment Schedule (ROPS), which shows the bond debt due January through June 2012 and the bond debt due July through December 2012. Bonds function on a bond year, a 12-month period that is different from a fiscal year. All the taxes are pledged to repay those bonds until such time as enough money has accumulated to pay the debt service during that bond year. We claimed both amounts on the first ROPS, and that is why our expenditures are so much less. Luckily, the way this form works, if we had not made that large repayment on the Mission Boulevard Tax Allocation Notes, there would be a large negative balance that, in effect, would go as a reduction of what we need. The state is trying to claw back money as a result of that."

Board Member Richardson asked if the RPTTF has a balance since only \$7.6 million has actually been expended.

Finance Director Parker advised that the Successor Agency did not receive the full \$12.2 million, noting the Agency only received \$7 million for the January through June 2012 period and has spent that \$7 million in debt service "so we pretty much broke even. We received \$2.4 million in the June 2012 payment, and our debt service was \$2.5 million. We are still functioning off of reserves."

Board Member Richardson noted the County of San Bernardino is claiming more for bond debt service to make sure if there is more debt service, there will be no risk of default.

Finance Director Parker noted successor agencies are allowed to have a debt service reserve on hand to cover cash flow deficits. He stated that the Montclair Successor Agency has enough money on hand to fund that type of reserve at this time. He advised that the Montclair Successor Agency used about \$50,000 in reserves to pay the balance of debt service for July through December 2012, adding that the Successor Agency should be receiving approximately the same amount the next time but will have sufficient reserves to carry us forward, if necessary, unless payment amounts increase.

Concerning Summary Item G, "Obligations Funded by RPTTF," on the ROPS III notes, Board Member Richardson expressed his understanding that the amount should be the total tax increment revenue recognized by the Montclair Redevelopment Agency through June 30, 2012, rather than January 31, 2012, as indicated.

Finance Director Parker clarified that the state required that one of two amounts be used on Item G on the *Summary of Recognized Obligation Payment Schedule*, "Prior Period (January 1, 2012, to June 30, 2012) Estimated vs. Actual Payments": either the amount that was approved by DOF or the actual amount received. He stated, "The amount that DOF approved for us was \$14 million, which included everything. DOF has not given agencies any reconciliation to know how they came up with that number, and I am not going to claim \$14 million when we only received \$7 million. We are claiming the amount actually received, and the note indicates 'This amount represents total tax increment revenue recognized by redevelopment agency through January 31, 2012,' when the Montclair Redevelopment Agency physically went out of business."

Board Member Richardson asked if the Montclair Successor Agency received the extra \$7 million from pass-throughs.

Finance Director Parker answered, "The extra \$7 million when it was claimed was, in effect, additional debt service for the second

half of the year and also amounts that are going to be paid for out of the Low- to Moderate-Income Housing Fund and other items. The \$14 million that DOF approved was a total ROPS number and has no correlation to what we actually received in tax increment during that period."

Board Member Richardson thanked Finance Director Parker for the information.

Moved by Vice Chairperson Johnson and seconded by Board Member Catlin that Resolution No. 12-12, entitled, "**A Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving a Recognized Obligation Payment Schedule for January 1, 2013, Through June 30, 2013, Pursuant to California Health and Safety Code Section 34179, Division 24, Part 1.85, and Authorizing Posting and Transmittal Thereof,**" be read by number and title only, further reading be waived, and it be declared adopted.

The Oversight Board waived the reading of the Resolution.

Resolution No. 12-12 was adopted by the following vote:

AYES: Richardson, Erickson, Catlin, Johnson, Ruh  
NOES: None  
ABSTAIN: None  
ABSENT: Stallings, Kulbeck

**C. Consider Adoption of Resolution No. 12-13, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving the Successor Agency's Proposed Administrative Budget for January 31, 2013, Through June 30, 2013, Pursuant to California Health Section 34177(j)**

Moved by Board Member Erickson and seconded by Board Member Catlin that Resolution No. 12-13, entitled, "**A Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving the Successor Agency's Proposed Administrative Budget for January 31, 2013, Through June 30, 2013, Pursuant to California Health and Safety Code Section 34177(j),**" be read by number and title only, further reading be waived, and it be declared adopted.

The Oversight Board waived the reading of the Resolution.

Resolution No. 12-13 was adopted by the following vote:

AYES: Richardson, Erickson, Catlin, Johnson, Ruh  
NOES: None  
ABSTAIN: None  
ABSENT: Stallings, Kulbeck

## IV. COMMUNICATIONS

### A. Staff

1. Deputy City Manager/Executive Director of Economic Development Staats announced that the San Bernardino County Auditor-Controller's Office (CAC) conducted an audit of the Montclair Successor Agency over two-and-one-half weeks. She advised that the initial conclusions of the audit indicate that the bond proceeds that were transferred to the City must be transferred back and the properties listed in Item A on tonight's agenda will need to be transferred back to the Successor Agency, noting these items were expected by staff. She noted there were no issues regarding expenditures since February 1, 2012.

Finance Director Parker advised that the CAC will be issuing two reports, one for the former Montclair Redevelopment Agency since its inception through February 1, 2012, and the other for the Montclair Successor Agency from February 2, 2012, to present. He noted the CAC was charged with finding any assets transferred from the former Redevelopment Agency or Successor Agency to other public entities and whether the assets should be returned. He advised that, fortunately, the former Redevelopment Agency did transfer unspent bond proceeds to the City of Montclair well before ABX1 26 was signed into law to be able to spend them in accordance with existing projects. The projects would have been shut down had the Redevelopment Agency not transferred the funds, but the City was able to complete those projects because of this foresight, he added. He noted the rest of the proceeds remain unspent and will be transferred back to the Successor Agency pursuant to the State Controller's Office requirements. He stated, "If, pursuant to **AB 1484**, the Successor Agency receives its certificate of completion, we would then be allowed to spend those proceeds for any authorized projects because these are pre-2011 proceeds. If that fails—if the Successor Agency does not receive a certificate of completion or if the law changes again where it is no longer allowed, those amounts would be due back to the bondholders to be paid off. The funds cannot go to the state or taxing entities—the bond issues would preclude that—and would have to be used to pay the principal on the bonds. We will accomplish the requisite transfers in accordance with the CAC's requirements once approved by the governing board of the City and other corresponding entities.

"The only other thing they wanted done relates to a sale of housing assets, which was authorized by law, for the \$12 million Mission Boulevard Tax Allocation note payment that is fully offset by an allowance for uncollectibles because as long

as those properties are used for the purpose intended—the affordability covenants are used and in place—the payments are forgiven. The CAC simply wants that recorded on the books.

"Overall, the audit came back very clean. There is nothing we tried to hide; the unspent bond proceed transfers were only done for purposes of being able to spend those proceeds in accordance with the bond requirements."

2. Deputy City Manager/Executive Director of Economic Development Staats advised that because of the requirement for the due diligence audit due on October 1 that will take the two meetings to accomplish—and at this point, staff is unsure if the audit will be completed by the deadline—it is difficult to predict when the next Oversight Board meeting will take place. She stated that staff will be in contact with Oversight Board Members regarding completion of the audit and the scheduling of the two meetings. She asked Finance Director Parker if there is a penalty for late submittal of the audit report.

Finance Director Parker indicated he is unaware of any penalty. He advised that the City's CPAs are very busy right now finishing up procedural reviews, municipal year-end audits, and federal single audits. He suggested the possibility of the due diligence audit not be completed by the October 1 deadline.

Board Member Richardson advised that for scheduling purposes, he will be gone the weeks of September 10 and September 16.

## **B. Chairman and Members**

1. Chairman Ruh thanked Oversight Board Members for their continued service to this community and to the respective agencies they represent. He stated, "It is appreciated and it is a great form of public service."

## **V. ADJOURNMENT**

At 7:00 p.m., Chairman Ruh adjourned the Oversight Board of Directors.

Submitted for Oversight Board approval,

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Yvonne L. Smith  
Secretary