

MINUTES OF THE REGULAR MEETING OF THE  
OVERSIGHT BOARD FOR THE SUCCESSOR  
AGENCY TO THE CITY OF MONTCLAIR REDE-  
VELOPMENT AGENCY HELD ON WEDNESDAY,  
AUGUST 13, 2014, AT 6:00 P.M. IN THE CITY  
COUNCIL CHAMBERS, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA

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**I. PRELIMINARY MATTERS**

**A. Call to Order**

Chairman Ruh called the meeting to order at 6:00 p.m. and asked that everyone please silence their electronic devices as a courtesy to others while the meeting is in session.

**B. Roll Call**

Present: Chairman Ruh; Board Members Valencia (alternate for Catlin), Hillman, Kulbeck, Richardson; Oversight Board Counsel Kotkin; Deputy City Manager/Economic Development Executive Director Staats; Finance Director Parker; Successor Agency Counsel Huebsch; Secretary Phillips

Absent: Vice Chairperson Johnson (arrived at 6:03 p.m.); Board Member Erickson

**II. PUBLIC COMMENT - None**

**III. APPROVAL OF MINUTES**

**A. Minutes of Regular Oversight Board Meeting of February 26, 2014**

Moved by Board Member Richardson, seconded by Board Member Piotrowski, and carried to approve the minutes of the Oversight Board special meeting of February 26, 2014.

At 6:03 p.m., Vice Chairperson Johnson arrived at the meeting.

**IV. BUSINESS ITEMS**

**A. Adoption of Resolution No. 14-05, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency (1) Approving a Bond Proceeds Expenditure Agreement Between the City of Montclair, California, and the Successor Agency to the City of Montclair Redevelopment Agency Providing for the Transfer of Excess Bond Proceeds to the City for Bond-Eligible Purposes; (2) Directing the Transfer of Such Funds to the City; and (3) Making Certain Findings in Connection Therewith**

Deputy City Manager/Economic Development Executive Director Staats explained that the former redevelopment agency's outstanding bonds issued prior to 2011 are subject to use by the Successor Agency if all obligations to taxing agencies have been satisfied as determined by the state Department of Finance (DOF). She advised that this determination was made by DOF on May 15, 2013; however, the issue was not brought to the Oversight Board at that time because some of the areas in which the Successor Agency intends to spend the bonds relate to the Long Range Property Management Plan (LRPMP). She noted the Oversight Board approved the LRPMP in November of 2013, which was sent to DOF at that time and now, after several DOF-recommended revisions, seems to meet with their approval. She noted the revised LRPMP is

now ready to be approved by the Oversight Board as the next item on the agenda.

Deputy City Manager/Economic Development Executive Director Staats reviewed the list of bonds, noting there is approximately \$14.2 million in bond proceeds the Successor Agency plans to expend in a way that meets with the bonds' indentures. She noted the Oversight Board's approval of Resolution No. 14-05 would essentially allow the Successor Agency to enter into an agreement with the City for the transfer of the excess bond proceeds to the City. In order to spend the bond proceeds, an enforceable obligation on the Recognized Obligation Payment Schedule (ROPS) needs to be shown, which would then allow the City to expend the bond proceeds in accordance with the Successor Agency's intent for those funds.

Deputy City Manager/Economic Development Executive Director Staats reviewed the bond-eligible purposes for the expenditure of bond proceeds listed in "Exhibit B" of Resolution No. 14-05, noting most are public improvement projects.

Successor Agency staff fielded Board Member questions related to the disposition of certain properties on the list, particularly the \$10,000 estimated cost for 5326 San Bernardino Street.

Oversight Board Counsel Kotkin concurred with staff's position on its low valuation of 5326 San Bernardino Street due to the physical state and restricted usage of the property. He stated that staff has expressed their rationale with respect to that aspect of the plan and that the Oversight Board may act as the arbiters in determining whether that rationale is reasonable.

Finance Director Parker added that once the LRPMP is approved by DOF, the Successor Agency would proceed to conducting the sales of properties listed and, at that time, the Oversight Board could take action to approve or disapprove those sales.

Oversight Board Counsel Kotkin noted if the Oversight Board disallows the Successor Agency from selling a parcel, it will simply transfer up to the County which will ultimately end up holding an aggregation of unsellable parcels.

Vice Chairperson Johnson noted that, as Chair of the Planning Commission, she has heard several cases related to this property and the only companies with any interest in the property have been cell phone companies desiring to build cell towers, which they ultimately did not pursue.

Moved by Vice Chairperson Johnson and seconded by Board Member Piotrowski that Resolution No. 14-05, entitled, "**A Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency (1) Approving a Bond Proceeds Expenditure Agreement Between the City of Montclair, California, and the Successor Agency to the City of Montclair Redevelopment Agency Providing for the Transfer of Excess Bond Proceeds to the City for Bond-Eligible Purposes; (2) Directing the Transfer of Such Funds to the City; and (3) Making Certain Findings in Connection Therewith,**" 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. 14-05 was adopted by the following vote:

AYES: Richardson, Kulbeck, Hillman, Valencia, Johnson, Ruh  
NOES: None  
ABSTAIN: None

ABSENT: Erickson

**B. Consider Adoption of Resolution No. 14-06, a Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving and Adopting a Revised Long-Range Property Management Plan Pursuant to Section 34191.5 of the California Health and Safety Code**

Deputy City Manager/Economic Development Executive Director Staats noted the LRPMP was first approved by the Oversight Board in November of 2013, and has since been revised as a result of several discussions with DOF.

Deputy City Manager/Economic Development Executive Director Staats clarified the status and possible future disposition of properties that exist on the revised LRPMP.

1. **4985 Richton Street (Montclair Transcenter)** - She noted **San Bernardino Associated Governments (SANBAG)** jointly owns a title of the property at 4985 Richton Street with the Successor Agency, and the City operates a daycare facility on a portion of the parcel located within the Transcenter. DOF indicated that the City is required to enter into a compensation agreement with the taxing agencies in the event that the property is ever sold. Fifty percent of the proceeds would be distributed to the taxing agencies and the other half would be **SANBAG's** portion.
2. **9916 Central Avenue** - She noted this property was previously misallocated as a housing asset in the LRPMP, although it should have been listed as governmental asset. The property is used by the **Ontario-Montclair School District** for family counseling and the City of Montclair's **Por La Vida** nutrition education program. She added DOF had no problem with this revision.

Finance Director Parker added the acquisition of this property did not involve Redevelopment funds, however DOF still requires that any proceeds be transferred upon sale because the property was in the former redevelopment agency's possession.

Board Member Valencia inquired as follows:

1. What happens if the property is transferred for nongovernmental purposes? Is there a transaction that occurs at that point for compensation to the taxing entities?

Finance Director Parker explained the intent of the agreements with the taxing entities relates to the potential future sale of the properties; however, most properties are being transferred for governmental use, such as Freedom Plaza Park, which has a minimal potential for sale or private use because of the difficulty of undedicating a park. However, any time there has been a potential for sale, there is an intent to negotiate with the taxing entities or, if funded with bond proceeds, to return any money to the trustees to defease the bonds.

2. Will these compensation agreements only be executed at this time for the properties being sold?

Finance Director Parker stated there is confusion among cities concerning what these agreements actually are. Currently proceeds are sent to the county, which distributes them among the taxing entities presumably based upon the tax rates of those entities; however, it seems taxing entities in some areas are having disagreements in the allocation of the proceeds. DOF seems to be solely concerned with developing

the intent of the compensation agreements.

Board Member Valencia noted that government agencies could transfer properties to another government agency but, at some point, the property will eventually come up for sale for nongovernmental use. She asked if the deed of the property could reflect the existence of a compensation agreement with the taxing entities so that they are not left out when it eventually comes up for sale.

Successor Agency Counsel Huebsch clarified there are three types of properties in these LRPMPs: those operating under governmental use, those put up for sale ("on the block"), and those transferred to cities for future redevelopment. The state statute regarding these specified properties indicates governmental use properties would be disseminated to the host jurisdiction with no payment; net proceeds of those put up for sale would go to the County Auditor–Controller to be factored out among taxing agencies; and those acquired by cities for governmental use have been interpreted in an odd way by DOF, which holds that proceeds from the eventual sale of such properties goes to taxing agencies, which is very controversial and contrary to what is contained in the statute. This requires cities that want to retain properties for future redevelopment to commit to entering into compensation agreements with all taxing agencies. He noted this is an odd reading of the statute because the Oversight Board acts as fiduciaries for taxing agencies and entering into agreements with small special districts that hold few board meetings hardly makes sense and constitutes an aggressive and unreasonable reading of the statute by DOF. If a property is not retained for redevelopment purposes but is being sold, there is no need for compensation agreements. He noted he is not surprised that some successor agencies have foregone the redevelopment option because it would only further frustrate, delay, and complicate future sale or even devalue the sale by injecting delay and uncertainty. Unfortunately, it is a very odd process with inconsistencies from jurisdiction to jurisdiction, which is mostly a result of different assigned DOF analysts providing different determinations, interpretations, and recommendations to successor agencies.

Moved by Vice Chairperson Johnson and seconded by Board Member Hillman that Resolution No. 14–06, entitled, "**A Resolution of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency Approving and Adopting a Revised Long–Range Property Management Plan Pursuant to Section 34191.5 of the California Health and Safety Code,**" 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. 14–06 was adopted by the following vote:

AYES: Richardson, Kulbeck, Hillman, Valencia, Johnson, Ruh  
NOES: None  
ABSTAIN: None  
ABSENT: Erickson

## V. COMMUNICATIONS

### A. Staff

1. Deputy City Manager/Economic Development Executive Director Staats noted the Oversight Board will meet in September for its regular meeting to review the ROPS.

2. Finance Director Parker advised he has spoken with a bond underwriter to review the redevelopment agency bond issues and determine if any savings can be generated by refunding those bonds. He noted he expects a report indicating the status of those bonds that will determine whether the bonds are worth refunding, which he will share with the Oversight Board. He added that a drawback of refunding the bonds is that it would place an administrative burden on the Successor Agency because the administrative allocation limit has already been reached. Therefore, if there is a substantial savings from refunding the bonds, which would benefit the taxing entities at the expense of the Successor Agency, which will incur all administrative costs at a minimal return, the Successor Agency may ask the Oversight Board if their respective agencies would be willing to reimburse the Successor Agency for those associated costs.

**B. Chairman and Members**

1. Chairman Ruh thanked Board Members for their service this evening.

**VI. ADJOURNMENT**

At 6:44 p.m., Chairman Ruh adjourned the Oversight Board of Directors.

Submitted for Oversight Board approval,



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Andrea M. Phillips  
Secretary