

**OVERSIGHT BOARD
FOR THE SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY
SPECIAL MEETING MINUTES
Tuesday, October 11, 2012, 3:00 p.m.
City Council Chambers
1901 Airport Rd.,
South Lake Tahoe, California 96150**

NOTE: The Minutes represent a summary of the public communications, staff reports and actions taken at the October 11, 2012, meeting. Complete Board member discussion on agenda items are kept on audio tape per the City's record retention policy and detail on agenda items can be reviewed in the staff reports contained in the agenda packet which is kept on file in the City Clerk's department as permanent record or on the City's website at <http://www.cityofslt.us>

CALL TO ORDER/PLEDGE OF ALLEGIANCE TO THE FLAG:

At 3:05 p.m. Chair Cole called the meeting to order and led the pledge of allegiance to the flag.

ROLL CALL:

Present in the City Council Chambers were Board Members Cole, Baugh, Kerry, Knight, Murillo and Vogelgesang. Board Member Barber participated via teleconference at 3121 N. 157th Lane, Goodyear, AZ. Also present were City Attorney Enright, City Clerk Alessi, Assistant City Clerk Palazzo, Finance Director Nakama, Accountants, McIntyre and Brand; El Dorado County Auditor Harn.

PUBLIC COMMUNICATIONS: None

UNFINISHED BUSINESS:

- a) **Response to Due Diligence Review from El Dorado County Auditor Controller for the Low and Moderate Income Housing Fund in Accordance with Health and Safety Code Section 34179.5; and**
- (1) Resolution of the Oversight Board of the Successor Agency to the South Tahoe Redevelopment Agency Approving the Due Diligence Review of the Low and Moderate Income Housing Fund Conducted Pursuant to Health and Safety Code Section 34179.5 and Taking Certain Other Actions in Connection Therewith**

Kerry provided a narration of the following PowerPoint slides entitled "Housing Due Diligence Report (DDR) and explained the information contained in the slides: (a copy of the PowerPoint slides are on file in the City Clerk's Office and on the city website)

- Purpose of the DDR
- Housing Funded by RDA
- Housing Fund: LMIHF Accounting
- Due Diligence Review (DDR)
- LMIHF/DDA Timeline
- South Tahoe DDR: Process
- County-Auditor's DDR: Findings
- SEFAF Loan Repayment
- Aspens Affordable Housing Project

UNFINISHED BUSINESS(Continued):

Kerry pointed out that all RDA's were dissolved on February 1, 2012 and on January 30, 2012 the City Council took action by resolution to dissolve the South Tahoe Redevelopment Agency and established the City of South Lake Tahoe Housing Authority. The State passed AB x4 26 in June 2012 requiring RDA's to make a State Supplemental Educational Revenue Augmentation Fund payment (SERAF) and if RDA's were unable to make their SERAF payment they could borrow the funds from the Low and Moderate Income Housing Fund(LMIHF) which is what had been done. She indicated that AB x1 26 later required those monies to be repaid, which was done on January 30, 2012. Kerry noted that the law had been followed and the payment was approved on the first ROPS by the Successor Agency, the Oversight Board and the Department of Finance. She stated that the \$426,210 was incorrectly listed on the Due Diligence Report.

Kerry explained about five years ago the South Tahoe Redevelopment Agency began working with investors Pacific West Communities for a 48-unit affordable housing project called "The Aspens" on Pioneer Trail. The South Tahoe Redevelopment Agency board committed by resolution \$2.5 million in Housing money from the Redevelopment Agency to the project. Due to the dissolution of Redevelopment Agency's by the State, payments were never made. She indicated that under AB x1 26 there was no method of placing a commitment on a ROPS and due to lobbying efforts of housing advocates, AB 1484 was amended for these types of commitments to be allowed on the ROPS and was later amended to include the Aspens project. She stated that without this funding commitment it was unlikely the project would move forward.

Enright clarified that this was a loan not a grant from the Redevelopment Agency for 4 years at 3% interest which equaled \$625,000 per year.

Kerry summarized the South Tahoe Successor Agency's objection to the Due Diligence Report as presented as follows:

- The \$426,210 was a State ordered loan repayment from the South Tahoe Redevelopment Agency to the Low to Moderate Income Housing Fund and was made in accordance with AB x1 26 and was approved by all agencies as required.
- The \$1.4 million was not available for distribution due to the commitment by the South Tahoe Redevelopment Agency to the Aspens project.

Auditor Controller Harn expressed his perplexity by the objection of \$1.485 million that existed in the Housing fund upon dissolution of the agency and stated that he had numerous communications with city finance staff in which there was a dispute regarding the \$426,000. The other auditing firm also indicated that the \$1.485 million was available for distribution. He also had communications with city finance department that indicated the \$1.485 million was available for distribution. The resolution of commitment also indicated a number of qualifications which had not been met.

Cole suggested the board bifurcate the two items for discussion starting with the \$426,210 amount. Consensus was provided.

\$426,210 in Housing Fund

Cole commented the \$426,210 was a repayment of a loan from the Redevelopment Agency to the Housing Authority. He noted that he had some concern over the \$1.4 million.

UNFINISHED BUSINESS(Continued):

McIntyre explained the money resided in the Low and Moderate Income Housing Fund ready to be transferred to Housing Authority upon resolution of this dispute. She stated the \$426,210 was not listed on the Successor Agency books.

Baugh questioned where the \$426,000 was on the balance sheet and how the money was listed on Successor Agency books. McIntyre clarified that it was not listed on Successor Agency books and explained the loan was repaid after the Successor Agency was established with Redevelopment Agency funds and consequently the transfer to LMIHF was net amount. She noted that the \$426,210 resides in the LMIHF and would either be transferred to housing fund or transferred to the Successor Agency once the dispute is settled.

Harn noted that Health and Safety Code Section 34176 (e) defined a housing asset and repayment of loans. It was his opinion and that of the County Counsel that it did not meet the definition of housing asset.

Enright explained that under both AB x1 26 and AB 1484 those funds were restricted to housing programs and could not be used for other redevelopment programs or bonded indebtedness and the SERAF loan was paid under AB x1 26 which allowed for the repayment of the loan. There was not provision in AB 1484 to go back and undo the repayment. Enright stated he believed that it did meet the definition of a housing asset because it was restricted for housing programs.

Enright stated that the original language in AB x1 26 defined an enforceable obligation as including the amount borrowed from or payments owed to the LMIHF of a redevelopment agency which had been deferred as of the effective date provided that the payment schedule was approved by the Oversight Board, in which it had been approved by the board. It excluded from enforceable obligations other types of agreements between the city and/or county that created the redevelopment agency. AB 1484 cleaned up the definition and under the law the city was operating under in January the loan was to be repaid pursuant to a repayment schedule approved by the Oversight Board. If cities had not made the full payment then they were under AB 1484 which superseded AB x1 26 and would be subject to the payment schedule as auditor controller indicated in AB 1484. The payment was made pursuant to the Oversight Board and the Department of Finance's approval and therefore could not be undone. Future payments would not need to be made and money would be available to pay bondholders and taxing entities.

Harn commented that if payment had taken place after July 1, 2013 then it would have met the definition of housing asset.

Cole stated that this was a legal question and Enright noted the Department of Finance had created a process whereby the city could submit in writing their concern. He stated that we had a timeline to follow and if the DOF disagreed they would notify the city in writing of their decision. As of June 30th the money was not in the housing fund therefore there was only the \$1.485 million.

Harn stated that the loan was not in dispute but rather the definition of what a housing asset was.

Murillo stated that the Oversight Board was comfortable approving the \$426,210 on the ROPS at the time and was confident they had done the right thing. She requested a copy of the legislation showing the July 1, 2013 date and the definition of housing asset.

UNFINISHED BUSINESS(Continued):

Harn stated that the Housing Authority was not owed money the LMIHF was owed money and the money was repaid. If it had been repaid after July 1, 2013 it would be considered a housing asset however, it was repaid prior to July 1, 2013 it did not meet the definition of a housing asset.

Enright stated it did qualify and referred to Health and Safety Code 34176 (e) 6a which stated that the SERAF payment was to be used consistent with the affordable housing requirements in community redevelopment law.

Harn interjected that provision (b) stated that the repayments should not be made prior to July 1, 2013.

Enright stated the issue was the repayment had already been made and if the payment had not been made then the loan repayment should not be made until 2013/2014 fiscal year. He clarified that section was added in AB 1484. He acknowledged Harn's argument that the repayment was made too soon, however, the repayment was a housing asset regardless of the time the repayment was made and needed to be used consistent with community redevelopment law for affordable housing.

Harn acknowledged that it made sense, however, that law said that if it was repaid prior to July 1, 2013 then it was not a housing asset.

Kerry noted the Due Diligence Review Report must be submitted by October 15th and Oversight Board could approve as submitted or with objections or modifications.

Murillo noted that the board could approve with a note of concern AB 1484 came into effect after the ROPS was approved by the Oversight Board.

Vogelgsang stated that decision was made in good faith and it appeared that this was an unintended consequence.

Harn clarified the intent of AB 1484 was adopted to lower the state's obligation for public schools and save the state general fund money.

Cole requested the board reaffirm that actions already taken by the board regarding the \$426,210.

Kerry stated the AB x1 26 intended that housing projects were protected.

Knight stated his concern over Harn's interpretation of the definition of a housing asset and noted that the board could request the DOF respond to the concern.

Further discussion was held and a motion was taken as follows.

IT WAS MOVED BY BOARD MEMBER COLE AND SECONDED BY BOARD MEMBER KERRY TO DETERMINE THE \$426,210 IN FUND 262 WAS NOT AVAILABLE FOR DISBURSMENT TO TAXING ENTITIES AND WAS AN ASSET OF THE HOUSING AUTHORITY.

UNFINISHED BUSINESS(Continued):

Murillo noted her concern for the City of South Lake Tahoe and her support for Housing Authority. She expressed her support for the board's decision at the time felt the board did the right thing. She stated she would like it noted that she had a concern about the definitions for the record.

Cole amended his motion to acknowledge the Department of Finance had the ability to determine if it was an inappropriate payment.

Additional discussion was held and at this point Cole called for the question.

CHAIR COLE CALLED FOR THE VOTE AND THE MOTION UNANIMOUSLY CARRIED AS FOLLOWS:

AYES: COLE, KNIGHT, BARBER, BAUGH, KERRY, MURILLO & VOGELSGESANG

\$1.485,309 Assets held by Successor Agency as of June 30, 2012

Kerry noted that the last commitment the Redevelopment Agency made was for \$2.5 million to the Aspens Project in Housing Funds. She also stated that at the time the commitment was approved it was under previous redevelopment law.

She reiterated that under AB x1 26 there was not a method to commit any remaining funds to the LMIHF. Once AB 1484 was passed it said that if you had a commitment to a project, commitment was not defined, and then it could be placed on the ROPS.

Brief discussion was held regarding the dispute of \$1.485,309 held by the Successor Agency.

IT WAS MOVED BY BOARD MEMBER KNIGHT AND SECONDED BY BOARD MEMBER MURILLO TO MAKE AVAILABLE THE \$1.485,309 FROM FUND 725 TO THE TAXING ENTITIES

Baugh inquired whether there were any contractual obligations.

Kerry stated that there was no contract however; the city approved a resolution of commitment.

Board members conducted brief discussion regarding the process of involvement in the project by various agencies.

CHAIR COLE CALLED FOR THE VOTES AND THE MOTION CARRIED AS FOLLOWS:

AYES: KNIGHT, BARBER, BAUGH, MURILLO, VOGELGESANG

NOES: KERRY & COLE

Enright noted that a motion to modify the resolution was needed.

Discussion was held regarding modification of the report. Auditor Controller Harn noted his understanding was it was not necessary to modify the report.

At this point the vote was taken.

UNFINISHED BUSINESS(Continued):

IT WAS MOVED BY BOARD MEMBER MURILLO AND SECONDED BY BOARD MEMBER VOGELGESANG TO MODIFY THE RESOLUTION TO REMOVE THE STRICTED BALANCE OF \$1,485,309 AND MOVE TO THE AMOUNT TO BE REMITTED TO THE COUNTY FOR DISBURSEMENT TO TAXING ENTITIES

AYES: COLE, KNIGHT, BARBER, BAUGH, KERRY, MURILLO & VOGELGESANG

NEW BUSINESS:

- a) Request by Board Member Knight for Possible Reconsideration of Oversight Board Resolution No. 2012-8 Approving the Recognized Obligation Payment Schedule for the Six-Month Fiscal Period from January 1, 2013 through June 30, 2013 and Taking Certain Related Actions**

Knight stated that the issue of the \$1.5 million was a roll correction and should not have been placed on the ROPS. He commented that the Successor Agency should also think about other roll corrections that may happen in future years.

Kerry provided a narration of the following PowerPoint slides entitled “ROPS III Issues and Objections” and explained the information contained in the slides: (a copy of the PowerPoint slides are on file in the City Clerk’s Office and on the city website)

- Debts of the Former RDAs
- \$1.5 M Debt Owed by RDA
- South Tahoe SA’s ROPS
- If Insufficient Funds in RPTTF
- Objections

Discussion was held regarding Auditor Controller Harn’s objection of the placement of \$1.5 million on the ROPS III and its validity.

Knight commented that the information regarding the process had not been made clear and he had concerns that the auditor had not had a chance to review and make an objection.

Kerry stated the Department of Finance denied the objection by Harn regarding its validity.

Kerry stated the City’s position was that this was not a tax roll correction of an agency that exists and the Successor Agency could not have its taxes adjusted as a debt that was owed to the former agency.

Kerry stated that Harn filed a detailed objection to the Department of Finance and they chose to approve the ROPS as it was presented to them in light of the objection by the County Auditor.

Harn noted that he provided the city with an estimate and nothing had been deducted at this time.

Knight stated that because the Auditor Controller did not receive the document in time to review and respond the law had not been followed.

NEW BUSINESS (Continued):

Discussion was held regarding the question of whether or not this was a debt or a roll correction.

Enright noted that a letter was sent to Department of Finance indicating there would be insufficient funds to pay the taxing entities.

Discussion was held regarding initiating a meet and confer process.

Board member Barber recused herself from the meeting at 5:30 p.m.

Enright noted that changes to the ROPS needed to be made prior to Department of Finance receipt.

Knight deferred a motion to reconsider New Business a.

Kerry stated the city would request a meet and confer with the Department of Finance for their opinion.

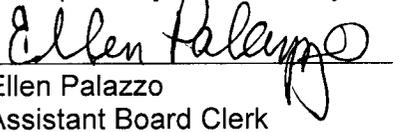
Murillo requested letters to be sent to the taxing entities summarizing that the Oversight Board approved \$1.485 million would be disbursed, however, they should not expect to receive money in future years.

Oversight Board Member Announcements/Comments – None

Adjournment

Chair Cole adjourned the meeting at 5:40 p.m.

Respectfully Submitted by:


Ellen Palazzo
Assistant Board Clerk


Hal Cole, Chair