

**OVERSIGHT BOARD
TO THE
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY**

**AGENDA ITEM: G.1.
MEETING DATE: April 25, 2012, 11:00 a.m.**

TO: Members of the Oversight Board

FROM: Curtis Cannon, Successor Agency Director, (805) 385-7407
Kymberly Horner, Interim Redevelopment Services Manager,
Successor Agency, (805) 385-7407

1. SUBJECT

Summary of the Role of the Oversight Board.

2. RECOMMENDED ACTION(S)

Receive and review the attached summary, concerning the role of the Oversight Board.

3. DISCUSSION

None.

4. ATTACHMENTS

1. Role of the Oversight Board.
2. Oversight Board Authority and Obligations.

ROLE OF OVERSIGHT BOARD

Introduction

The Legislature created successor agencies to wind down the business and fiscal affairs of the redevelopment agencies dissolved by AB 26. More specifically, a successor agency must (1) continue to make payments for “enforceable obligations” of the former redevelopment agency; (2) remit unencumbered funds to the county auditor; and (3) dispose of real property assets. Each successor agency has an oversight board to monitor its progress in achieving these goals. In turn, the Department of Finance and the State Controller may review actions of the Oversight Board.

Composition of Oversight Board

Each oversight board has seven members. A majority of the seven members constitutes a quorum and a majority vote of the total membership of the board is required for action. Board members have personal immunity from suit for their actions taken within the scope of their responsibilities. The oversight board has fiduciary responsibilities to the holders of enforceable obligations and taxing entities. (Health & Saf. Code, § 34179.) The holders of enforceable obligations are owed money by the successor agency. The taxing entities will receive property taxes after the following payments have been made: pass-through payments; enforceable obligations; and successor agency administrative costs.

Board actions are not effective for three business days, pending a request for review by the Department of Finance. If the DOF requests a review, it has ten days to approve the action or return it to the board for reconsideration.

Successor Agency Actions Requiring Oversight Board Review

The successor agency must receive approval from the oversight board before taking the following actions:

- Establishing new repayment terms for any outstanding loans;
- Refunding of outstanding redevelopment agency debt to provide savings or avoid debt service spikes. The successor agency is not permitted to create additional debt or accelerate debt services;
- Setting aside reserves for outstanding redevelopment agency bonds;
- Merging project areas;
- Continuing acceptance of grants or other financial assistance, if the assistance is conditioned on the provision of matching funds in an amount greater than five percent;
- If a city or county wishes to retain any property or other assets for future redevelopment activities, the city or county can reach a compensation agreement with the other taxing entities to provide them a share of the value of the property retained. This agreement must also be approved by the oversight board;
- Establishment of the Recognized Obligation Payment Schedule;

- Any agreement between the successor agency and the city or county that formed the redevelopment agency; and
- An agreement of the successor agency to pledge, or enter into an agreement to pledge property tax revenues.

(Health & Saf. Code, • 34180.)

Oversight Board Direction of Successor Agency

The oversight board is also required to direct the successor agency to do all of the following:

- Dispose of all assets and property of the former redevelopment agency that were funded by tax increment. The oversight board may direct the successor agency to transfer ownership of certain public assets, such as roads, school buildings, parks and fire stations, to an appropriate public agency pursuant to any existing agreements relating to the construction or use of such assets.
- Cease performance under any agreements that do not meet the definition of “Enforceable Obligations.”
- Terminate any agreements between the redevelopment agency and any public entity providing funding for debt service obligations or for the construction or operation of facilities owned and operated by the public entity, if the oversight board determines that early termination would be in the best interest of the taxing entities.
- Determine whether any agreements with private parties should be terminated or renegotiated to reduce liabilities and increase revenues to the taxing entities.

(Health & Saf. Code, • 34181.)

Next Steps

Several bills have been introduced to modify AB 26. Staff will keep the Board informed of the progress of this legislation.

It is expected that one of the first tasks for the Oversight Board will be to review the Successor Agency’s Recognized Obligation Payment Schedule. This is the document that will list each of the successor agency’s “enforceable obligations” and will be the basis for the allocation of property taxes by the county auditor to the successor agency.

Oversight Board Authority and Obligations

1. Organization – Appoint a chairperson, and send name to Department of Finance by May 1, 2012. The Board members serve without compensation. The Board members have personal immunity from lawsuits for their actions taken within the scope of their responsibilities. The Board members serve at the pleasure of the entity that appointed them. (Health & Saf. Code, § 34179(a), (c), (d) & (g).)
2. Fiduciary Duty – Oversight Boards have fiduciary responsibilities to holders of the enforceable obligations and taxing entities that benefit from distributions of property tax and other revenues. (Health & Saf. Code, § 34179(i).)
3. Successor Agency Staff – Direct staff of Successor Agency to perform work in furtherance of the Oversight Board's duties and responsibilities. The Successor Agency shall pay for all of the costs of the meetings of the Oversight Board and may include such costs in its administrative budget. (Health & Saf. Code, § 34179(c).)
4. Voting – Majority of the 7 members required for a quorum (4). A majority vote of the total membership of the Oversight Board is required for the transaction of business (4 votes). (Health & Saf. Code, § 34179(e).)
5. Applicable Statutes – The Oversight Board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act and the Political Reform Act. (Health & Saf. Code, § 34179(e).) "Incompatibility of Office" (holding two positions with conflicting fiduciary responsibilities) under Government Code section 1099 not applicable. (Health & Saf. Code, § 34179(i).)
6. Meeting Notices – All notices required by law for the proposed Oversight Board's actions shall also be posted on the Successor Agency's Internet Web site or the Oversight Board's Internet Web site. (Health & Saf. Code, § 34179(f).)
7. Approval of Successor Agency Actions – All of the following actions must first be approved by the Oversight Board:
 - a. Establishment of new repayment terms for outstanding loans.
 - b. Refunding of outstanding bonds or other debt in order to provide for savings; provided, however, that no additional debt is created and debt service is not accelerated.
 - c. Setting aside reserves as required by indentures, or similar documents governing the issuance of outstanding bonds.
 - d. Merging of project areas.
 - e. Continuing acceptance of federal or state grants or other forms of assistance for either public or private sources, where assistance is conditioned upon providing matching funds by the former redevelopment agency in an amount greater than 5%.
 - f. Retaining properties or other assets of prior redevelopment agency and compensation agreements with taxing entities.
 - g. Establishment of the Recognized Obligation Payment Schedule.

- h. Agreements between City as Successor Agency and City.
 - i. Agreements between Successor Agency and other entities for pledge of property tax revenues, in particular the repayment of indebtedness obligations. (Health & Saf. Code, § 34180.)
 - j. Administrative Budget. (Health & Saf. Code § 34177(j).)
8. **Assets** - The Oversight Board shall direct the Successor Agency to do all of the following:
- a. Dispose of assets and properties of the former redevelopment agency that were funded with tax increment revenues.
 - b. Direct transfer of ownership of those assets that were constructed and used for government purposes (such as roads and parks) to the appropriate public agency pursuant to any existing agreements relating to construction and use of such assets. Any compensation provided shall be governed by such agreements.
 - c. Disposal shall be done expeditiously and in a manner aimed at maximizing value. (Health & Saf. Code, § 34181(a).)
 - d. Transfer housing responsibilities and all rights, powers, duties and obligations along with any amounts on deposit in the Low and Moderate Income Housing funds to the Housing Successor Agency (but see 34176 which excludes transfer of Low-Mod funds). (Health & Saf. Code, § 34181(c).)
9. **Agreements** – The Oversight Board shall direct the Successor Agency to do all of the following:
- a. Cease performance and terminate all existing agreements that do not qualify as enforceable obligations, which include Individual Project Agreements between city and prior agency. (Health & Saf. Code, § 34181(b). However, the Board has the authority to allow the Successor Agency to assume such agreements so they remain in effect per Health and Safety Code section 34178(a).
 - b. Terminate any agreement with other public entity which obligates funding for any debt service obligations of that agency or for construction of operation of facilities owned and operated by such entity where the Board finds that early termination would be in the best interests of the taxing entities. (Health & Saf. Code, § 34181(d).)
 - c. Determine if any contracts or agreements with private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities. Present proposed termination or amendment agreements to the Board for approval, which requires a finding that such action would be in the best interests of the taxing entities. (Health & Saf. Code, § 34181(e).)
10. **Dissolution** – The Oversight Board ceases to exist once all of the indebtedness of the dissolved redevelopment agency has been repaid. (Health & Saf. Code, § 34179(m).)

Department of Finance and State Controller Authority

1. **Delayed Effect of Board Actions** – DOF may review an Oversight Board action, so such actions shall not be effective for 3 business days. If review is requested by DOF, that action does not take effect until approved by DOF. (Health & Saf. Code, § 34179(h).)
2. **Liaison** – Each Oversight Board shall designate an official to whom DOF may make review requests and who shall provide DOF with the telephone number and e-mail contact information. (Health & Saf. Code, § 34179(h).)
3. **Review of Board Actions** - If DOF request review of an Oversight Board action, it has 10 days from the date of its request to approve action or return it to the Board for reconsideration. Oversight Board then reconsiders its action and resubmits the modified action to DOF for approval. Such Oversight Board action shall not be effective until approved by DOF. (Health & Saf. Code, § 34179(h).)
4. **Review of Auditor's Actions** – The State Controller may audit and review the actions of the County Auditor-Controller, and all such actions shall not be effective for 3 business days. If State Controller requests review of the County Auditor-Controller's action, State Controller has 10 days from the date of its request to approve action or return it to the County Auditor-Controller for reconsideration. County Auditor-Controller then reconsiders its action and resubmits the modified action to State Controller for approval. Such County Auditor-Controller action shall not be effective until approved by State Controller. (Health & Saf. Code, § 34182(f).) The State Controller's costs for its audit and oversight of County actions may be charged against the Redevelopment Property Tax Trust Fund held by the County Auditor-Controller. (Health & Saf. Code, § 34183(d).)
5. **Enforcement** – DOF and the Controller, along with any taxing entity, have standing to file a judicial action to prevent a violation under the statute and to obtain injunctive or other appropriate relief. (Health & Saf. Code, § 34177(a)(2).)

County Auditor-Controller Authority and Obligations

1. **Audit** – Conduct or oversee an audit of the dissolved agency's assets and liabilities and the amount and terms of indebtedness obligations, to be completed by July 1, 2012. Certify the initial ROPS. (Health & Saf. Code, § 34182(a).) Provide copies of audit to State Controller by July 15, 2012. (Health & Saf. Code, § 34182(b).)
2. **Trust Fund** – Establish the Redevelopment Property Tax Trust Fund with property tax revenues that would have been allocated to the agency if not dissolved. Administer fund for the benefit of holders of enforceable obligations and taxing entities that receive pass-through payments and distributions. Provide estimates of amounts to be allocated and distributed to taxing entities

and Department of Finance by November 1 and May 1 each year. (Health & Saf. Code, § 34182(c).)

Transfer funds from Redevelopment Property Tax Trust Fund to the Redevelopment Obligation Retirement Fund to make payments for the ROPS. (Health & Saf. Code, § 34185.)

3. Sales Proceeds – Distribute proceeds of asset sales and unencumbered balances to taxing entities. (Health & Saf. Code, § 34182(c)(4).)
4. Reporting – Provide reports to Department of Finance regarding Redevelopment Property Tax Trust Fund and allocation of funds to Successor Agency and taxing entities.
5. Costs - The County Auditor-Controller's costs for the audit and administration of the sales proceeds, property tax distributions and reporting may be charged against the Redevelopment Property Tax Trust Fund held by the auditor. (Health & Saf. Code, §34182(a) and (e).)
6. Loans – If the total amount available to a Successor Agency to make enforceable obligation payments is insufficient, County Treasurer may loan funds necessary to insure prompt payment of agency debts. (Health & Saf. Code, § 34183(c).)