

RESOLUTION NO. 12-04

RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE  
COMMUNITY IMPROVEMENT COMMISSION OF THE CITY OF ALAMEDA ADOPTING  
MINUTES OF THE SPECIAL MEETING, AUGUST 27, 2012

WHEREAS, the Oversight Board for the Successor Agency to the Community Improvement Commission of the City of Alameda organized itself pursuant to Chapter 4 (commencing with Section 34179) of Part 1.85 of Division 24 of the Health and Safety Code (the "Board"); and

WHEREAS, it is necessary for said Board to adopt minutes of public meetings; and

NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE COMMUNITY IMPROVEMENT COMMISSION OF THE CITY OF ALAMEDA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The approval of meeting minutes of the special meeting on August 27, 2012, of the Oversight Board for the Successor Agency to the Community Improvement Commission of the City of Alameda, attached hereto as Exhibit A and incorporated herein by this reference.

FURTHER RESOLVED: That pursuant to California Health and Safety Code Section 34179(h), this action by the Oversight Board for the Successor Agency to the Community Improvement Commission of the City of Alameda shall be effective five business days from the date of this Resolution, pending a request for review by the California Department of Finance

PASSED AND ADOPTED this 18<sup>th</sup> day of October, 2012, by the following vote:

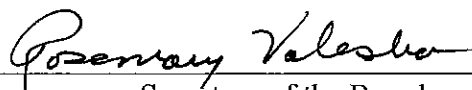
AYES: 4

NOES: 0

ABSENT: 3

  
\_\_\_\_\_  
Chair

ATTEST:

  
\_\_\_\_\_  
Secretary of the Board



City of Alameda  
Successor Agency Oversight Board  
Special Meeting Minutes  
Monday, August 27, 2012 at 6:30 p.m.  
City Hall, Conference Room 391

1. CALL TO ORDER & ROLL CALL

Chair Russo called the meeting to order at 6:38 p.m. The roll call was taken by Member Potter. Present were Chair Russo; Vice-Chair Biggs; and Members Chan, McMahon, Ortiz, Gerhard, and Potter. AC Transit alternate appointee Chris Peeples was also in attendance.

At this time, Member Potter introduced City of Alameda Assistant City Attorney Stephanie Garrabrant-Sierra, who will be assisting the Oversight Board and Successor Agency. Other staff members in attendance were City Attorney Janet Kern and consultants Bob Staedler and David Doezeema.

2. RESOLUTION TO APPROVE MINUTES – MAY 3, 2012 SPECIAL MEETING

Motion/Second (Chan, Ortiz) and unanimous to approve the minutes as submitted.

3. OVERVIEW OF AB1484

City Attorney Kern gave a presentation regarding how the changes to AB1484 affect the Oversight Board.

a. Changes to ROPS

- i. Must be adopted 90 days before the time frame they cover. The 3<sup>rd</sup> ROPS must be submitted to DOF by September 1.
- ii. Added penalties – the successor agency can be fined \$10,000 per day and have its administrative budget cut by 25 percent if ROPS are not submitted on time.
- iii. DOF review periods have been extended from ten to 40 business days. This allows DOF much more time to review and respond to all actions of the Oversight Board. There is a meet and confer process for successor agencies to dispute a DOF determination.

b. Housing Asset List

- i. DOF required submittal by August 1. Staff compiled and submitted the Housing Asset List to meet the deadline and it is being presented to the Board at this meeting.
- ii. The DOF has 30 days to object to any item on the Housing Asset List and there is a meet and confer process for any disputes.

c. Audits

i. There are a number of audits that are required under AB1484:

- 1) Due Diligence Review – Housing 20% funds. Successor agencies must hire an independent outside auditor who is approved by the County Auditor/Controller. DOF guidelines for due diligence review are expected by August 31. The Housing Audit must be completed by October 1, and have Oversight Board approval by October 15. However, the audit cannot be approved in one meeting; there has to be a public meeting five days before the final action. If there are unencumbered funds identified by the audit, a check releasing that money will be due to DOF by November 28.
  - 2) Due Diligence Review – Non-Housing 80% funds – Must be completed by December 15, and have Oversight Board approval by January 15. This will also be a two-meeting approval process. If there are unencumbered assets uncovered by the audit, those funds will be due to DOF by April 10. Unlike ROPS, there is no financial penalty for each day the Review is late; however, there is a trigger where Alameda's property or sales tax could be used to make up the difference DOF believes is owed.
  - 3) The State Controller is conducting an independent audit of all assets transferred after January 31, 2012, to see if they were inappropriately transferred and if there should be a clawback. This is a change from the original transfer date of January 31, 2011. Once the audit process is completed, the DOF can issue a Finding of Completion. Once that finding is issued, the successor agency will know that the assets left can be used for the purposes intended. Within six months of the issuance of the Finding of Completion, staff will prepare a long term property management plan that will be brought to the Oversight Board for its approval. Then we will begin to follow that plan with the intention of maximizing the value of the assets.
- d. The Oversight Board actions are now even more subject to DOF control: everything has to be done by resolution and DOF has more added time to review a board action.
- e. There is now clarification in the statute that the Successor Agency is a separate legal entity. The formation of this separate legal entity for Alameda will be brought before the City Council in September.

Member Ortiz expressed concern that the Oversight Board does not have separate legal counsel. The Successor Agency's interests may be different from the interests the Oversight Board should be looking at. Two weeks ago in Oakland the board's own attorney challenged what the successor agency was putting forward to

them. City Attorney Kern responded that she would recommend that in order to save money, independent counsel should only be brought in to resolve specific areas of dispute between the taxing entities and the Successor Agency. Alameda's situation may not be as complicated as Oakland's. There will be independent audits and final review by DOF. Chair Russo agreed that this was a complex issue and recommended that this item be placed on the agenda for a full discussion at a future meeting. Members could bring their constituency counsel with them for this discussion. The Chair recommended that City Attorney Kern consult other oversight boards to see how they are handling this issue. Member Potter suggested that members could come back with specific examples of concerns and potential areas of conflict to help shape the discussion. The Chair stated that it would be better to have this be a scoping discussion rather than trying to identify potential conflicts. City Attorney Kern stated that she would discuss this with other agencies and bring back her findings to the Board.

This item was submitted for information, only; no board action was requested.

#### 4. REVIEW OF HOUSING ASSET LIST

Mr. Doezeema reported that the list, a requirement of AB1484, had been prepared by the housing successor, the Alameda Housing Authority. It documents assets transferred from the successor agency to the housing successor as of August 1, 2012, the date of the list. DOF was provided with this list. DOF has 30 days to review the list and object to any item. If DOF has no objections to any of the items, the housing items are then protected from clawback to the successor agency.

Exhibit A lists real property. All the real property on this list consists of affordability covenants. These are deed restrictions that limit occupancy of affordable units to low- and moderate-income people. There are 95 of them. There was no other property transferred other than deed restrictions.

A Board member noted that the date of the transfer is shown as February 12, 2012. The board did not have its first meeting until April – did the Board see this information at that meeting? Mr. Doezeema responded that it did not – this was a transfer dictated by operation of law under ABX1 26. Housing assets went to the entity that agreed to accept them.

A Board member asked if housing is treated differently. Mr. Doezeema responded yes. Board Member Ortiz asked if DOF is inclined to be more sympathetic to housing. Mr. Doezeema responded that the law provides for transfers of assets that utilize low- and moderate-income housing funds. Member Potter stated that once this list is approved by DOF, these assets are protected from clawback and it will be left to the housing successor agencies to administer the affordable housing covenants pursuant to redevelopment law. A Board member asked if the covenants were in perpetuity. Member Potter explained that the covenants are for 59 years. When the homes are sold, the covenants are reimposed for another 59 years, so in a way it's like perpetuity. The Community Improvement Commission had no proceeds in this; there was no cash, just a requirement to keep the covenant in place. In response to a Board member

question regarding the possibility of buying out a covenant, Member Potter stated that our covenants are not drafted that way.

Mr. Doezeema continued his presentation. Exhibit B – Personal Property – not applicable. Exhibit C – Encumbered Housing Funds for Enforceable Obligations (AUSD affordable housing and Jack Capon Villa). Regarding the \$4.6 million being held in trust for AUSD affordable housing per the pass-through agreement, Mr. Doezeema stated that DOF has yet to determine if this is an enforceable obligation or a pass-through. If DOF determines that this is not a housing asset that's encumbered, it could determine that the money should be returned to the Successor Agency for disbursement to taxing entities.

Exhibit D – Loans/Grants Receivables – these are deferred or forgivable loans made in conjunction with the development of affordable housing projects. When and if these loans are repaid to the housing successor, they would go back to the Housing Authority for future affordable housing activities.

Exhibit G – Deferrals – these are two loan receivables (SERAF – BWIP/WECIP and SERAF – APIP) for funds borrowed from the low-moderate housing fund. The repayment would go to the housing successor. These items are also shown on the ROPS.

This item was submitted for information, only; no Board action was requested.

5. RESOLUTION APPROVING 3<sup>RD</sup> RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) – January 1, 2013 to June 30, 2013

Mr. Doezeema explained the latest changes to the ROPS from the prior period ROPS. Motion/Second (Chan, Biggs) to pass the resolution. Motion unanimous (Member Gerhard was absent.)

6. SET UPCOMING MEETING SCHEDULE

Member Potter reported that meetings had been scheduled for October 4 and October 11; however, the auditor has notified us that the audits will not be completed in time for an October 1 meeting packet. She asked the members about their availability for meetings on October 29 and November 8. The members indicated a preference for meetings to start at 6:00 p.m. instead of 6:30 p.m. Member Potter will confirm dates next week when she learns more about the audit schedule. The members indicated that October 29 and November 8 would be acceptable reschedule dates if needed.

There is also a need to schedule dates for the 80% non-housing fund review. The submittal deadline to DOF is January 15, 2013. Member Potter proposed a first meeting on December 17 or 18 and the second meeting on January 7 or 8. The members indicated a preference for December 17 and January 7. E-mail appointments will be sent to the members.

7. PUBLIC COMMENT

Matthew James Fitzgerald read a statement into the record regarding the need to keep money in Alameda County.

8. ADJOURNMENT

Chair Russo called the meeting adjourned at 7:57 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Rosemary Valeska".

Rosemary Valeska  
Secretary

Approved as submitted on October 18, 2012  
Resolution 2012-04