

OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE PALM
SPRINGS COMMUNITY REDEVELOPMENT AGENCY

BOARD REPORT

MEETING DATE: December 16, 2013

UNFINISHED BUSINESS

TITLE: APPROVING THE TRANSFER OF ASSETS BACK TO THE
SUCCESSOR AGENCY TO COMPLY WITH THE STATE
CONTROLLER'S OFFICE AUDIT FINDINGS

INITIATED: Department of Community & Economic Development

RECOMMENDATION:

1. _____ Adopt Resolution No. , "A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY APPROVING THE TRANSFER OF ASSETS BACK TO THE SUCCESSOR AGENCY TO COMPLY WITH THE STATE CONTROLLER'S OFFICE FINDINGS
2. Direct the Clerk of the Successor Agency to cause the transfer of assets from the City to the Successor Agency, as described in the Resolution, and to provide such list to the State Controller's Office and the California Department of Finance, and to post the Resolution to the City's website.

BACKGROUND AND ANALYSIS:

In 2011, the Legislature passed AB 1X 26, abolishing redevelopment agencies in California. The unwinding of a redevelopment agency would be overseen by a successor entity designed to liquidate the Agency's assets as rapidly as possible. The original dissolution bill required that Property of the Agency be handled as follows:

"Section 34177. (a) Successor agencies are required to do all of the following:

...(3) (e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board. Such disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for to wind up the affairs of the agency, as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188."

Subsequent legislation, AB 1484, was later adopted that allows the oversight board to "direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction . . . [California Health and Safety Code Section 34181].

Item 2.A.

As described in the December 4, 2012 Oversight Board Report, the Agency's assets were divided into several categories:

1. Property held for resale, often as part of an assemblage for redevelopment purposes
2. Property held as community assets, typically parking facilities or other support facilities
3. Land held for Low-and Moderate Income Housing purposes
4. Property conveyed from the City to the Agency under a financing arrangement
5. Other assets, including equipment and physical improvements paid for by the Agency.

Under the Dissolution Act, Low- and Moderate Income Housing assets were transferred to the Housing Successor Agency outside the purview of the Oversight Board. That transfer occurred on the Dissolution Date of February 1, 2012.

Asset Transfer Assessment

The Dissolution Act calls for the Successor Agency, under the direction of the Oversight Board, to dispose of real property it received from the Dissolved RDA either for limited public uses, or for disposition into the private market expeditiously and with a view toward maximizing value, with the disposition proceeds ultimately made available for distribution to the affected taxing entities.

One of the requirements under the Dissolution Act was the preparation and submittal to the State Controller's Office of an Asset Transfer Assessment prepared by the Successor Agency, showing the assets that were owned by the Agency and transferred to the Successor Agency upon the dissolution on February 1, 2012. The State Controller also ordered any transfers of properties undertaken after January 1, 2011 to be "unwound" and the properties returned to the Successor Agency. However, several legal challenges to the retroactivity of the Dissolution Act were made by several cities, and the issue remained unclear. As a result, it was the City's position and the Successor Agency's position that all of the properties described in the Asset Transfer Form were in the hands of the City, not the Successor Agency.

On January 23, 2013, the City received a letter from the State Controller's Office advising it that, pursuant to Health and Safety Code section 34167.5, the State Controller would conduct a review of the Palm Springs Redevelopment Agency to determine whether any asset transfers occurred after January 1, 2011, between the city or any other public agency, and the redevelopment agency. The review included an assessment of whether each asset transfer is allowable and whether the asset should be turned over to the Successor Agency. The audit concluded on February 21, 2013.

The review applied to all assets, including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and any rights to payment of any kind. The auditors also determined whether any non-compliant assets transferred to the City or any other public agency was reversed.

As a result of the audit, the property categories described above are divided into slightly different categories, each with a corresponding action required of the Oversight Board:

1. Property held for resale, typically part of an assemblage for redevelopment purposes, and which shall be returned to the Successor Agency for disposition
2. Property held for resale, which are typically parking lots today, and which now serve a governmental or public purpose function
3. Property held as community assets, typically related to visitor services or the Convention Center, including equipment and physical improvements paid for by the Agency, or parking facilities, and which have been determined by the Auditors to be governmental use properties and appropriate for transfer back to the City
4. Property held as community assets, typically related to visitor services or the Convention Center, which the Auditors have determined are not governmental use properties and which have been directed to be returned to the Successor Agency for disposition
5. Property previously held for resale or as community assets by the former Redevelopment Agency but which was disposed of prior to the January 1, 2011 date.
6. The assets of the Low-and Moderate Income Housing program.

The State Controller's Office advised the City that if the Oversight Board approved properties as governmental or public purpose use, they may be transferred to the City like the other assets. On March 5, 2013, the Oversight Board approved a resolution that contained that finding, based on PSL 315's importance to the function and expansion of the Convention Center, and the Plaza Theatre's importance to the community as a tourism asset and significant historical property. The action necessary for the other properties was merely to ratify the State Controller's Office's determination that they are governmental use properties.

Many of the Agency's parking lot properties were included in the category of Land Held for Resale and were determined by the Successor Agency to be governmental or public use properties as the parking inventory they now represent would be difficult or expensive to replace or recreate. These included:

1. Prairie Schooner Parcel
2. Catholic Church Parking Lot
3. Blue Coyote Parking Lot
4. Vineyard Parking Lot
5. Food Court Parking Lot
6. Henry Frank Arcade Parking Lot

A number of other Land Held for Resale properties, which were acquired as part of development assemblages and are still deemed to be developable parcels, were returned to the Successor Agency for disposition under AB 1484 via the March 5, 2013 resolution.

However, the March 5 Resolution also ratified the transfer of the parking lot assets to the City of Palm Springs, as suggested by the State Controller's Office.

On June 14, 2013 and amended on July 26, 2013, however, the California Department of Finance responded to the Oversight Board action and disallowed a number of the

transfers of properties, particularly those that the City held for "governmental use." Approval from the State Controller's Office and the Department of Finance was necessary for the action to be effective. In the July 26 letter, Finance wrote:

"...Finance continues to object to the transfers of the remaining parking lots and the Plaza Theatre as governmental purpose because they are not reserved for the sole use of governmental agencies or persons visiting those agencies. HSC section 34181(a) authorizes the OB to transfer ownership of assets that were constructed and used for a governmental purpose such as roads, schools buildings, parks, police and fire stations, libraries, and local agency administrative buildings. Furthermore, HSC section 34191.3 suspended the Agency's ability to dispose assets for non-governmental purposes until Finance has issued a finding of completion and has approved a Long Range Property Management plan (LRPMP). The Agency should address the disposition of these properties in its LRPMP."

Therefore, the following properties have been ordered to be transferred back to the Successor Agency by the State Controller's Office and/or Finance:

1. Plaza Theater
2. Catholic Church Parking Lot (est.)
3. Blue Coyote Parking Lot
4. Vineyard Parking Lot
5. Food Court Parking Lot
6. Henry Frank Arcade Parking Lot
7. Convention Center North Parking Lot
8. Prairie Schooner Parcel

On September 10, 2013, the State Controller sent the City a modified final determination reaffirming the status of the properties per the Finance decision, and ordered the City to transfer them back to the Successor Agency. This Resolution takes that action.

Staff and a consultant, Rosenow Spevacek Group (RSG) are preparing a Long Term Property Management Plan (PMP) for the disposition of the properties. Agencies can opt to sell properties, retain for future development, or transfer them as governmental use properties to the cities. In all instances a compensation agreement needs to be negotiated with other taxing entities.

Land Disposition Process under AB 1484

Going forward, AB 1484 appears to provide certain flexibility and local benefits in connection with property disposition. One provision, Section 34181(a) allows the Oversight Board to transfer governmental purpose property to the appropriate public entity. There were several properties that the Oversight Board ratified and confirmed that were part of the March 16, 2011 transfer of certain city governmental use properties (described in the Resolution) to the City and that were allowed by the SCO and DOF to be moved to the City.

In addition, the law also allows transfer of real property for a Successor Agency that has received a DOF Finding of Completion (Section 34191.3). Within six months after receipt of a Finding of Completion, the Successor Agency must submit a long-range property management plan for the real property of the Dissolved RDA for approval by the Oversight Board and the DOF (Section 34191.5(b)). The property management plan must include an inventory (with specified information) about each property, and address the use or disposition of each property (Section 34191.5(c)). The properties described as Land Held for Resale shall undergo that process.

Upon approval of the property management plan, the properties of the Dissolved Agency are to be placed in a Community Redevelopment Property Trust Fund administered by the Successor Agency in accordance with the approved property management plan (Sections 34191.4(a) and 34191.5(a)).

If the property management plan calls for use or liquidation (sale to obtain revenues) of a property for a project identified in an approved redevelopment plan, that property is to be transferred to the Sponsoring Community for that purpose. If the property management plan calls for the liquidation of the property or use of revenues from the property for purposes other than a project identified in a redevelopment plan or other than to fulfill an enforceable obligation, the proceeds from the sale are to be distributed as property taxes to the taxing entities (Section 34191.5(c)(2)(A) and (B)).

In short, use of property placed in the Community Redevelopment Property Trust Fund in accordance with an approved property management plan enables the Successor Agency and the Sponsoring Community to direct the use of specified properties and revenues generated from those properties for community development activities, including affordable housing, in a manner somewhat similar to the uses of property formerly implemented by the Dissolved RDA.

Attachment A
Description of Properties

In transferring this set of properties, the Agency made the finding in that California Health & Safety Code Section 33430 and 33432 allowed the Agency to transfer properties to the community or any other public agency without competitive bidding and both the Agency and the City desired to transfer the properties to the City of Palm Springs. Included in the transfer were the following parcels:

- The Prairie Schooner Parcel. These three parcels bear APN Numbers 508-055-008, 508-055-009, and 508-055-007 and are generally south of Andreas Road and East of Calle El Segundo in Section 14. The Property is subject to the terms of the Repayment Agreement with the Agua Caliente Band of Cahuilla Indians for the construction of a parking lot, and a Disposition and Development Agreement with O & M HR, LLC for the development of a 500-room hotel.
- The Plaza Theater. Located at 124-132 South Palm Canyon Drive (APN 513-144-008). The Property is subject to the terms of the Lease with the Partnership for the Performing Arts and certain easements and leases with the Wessman Family Trust and Plaza Investment Company for certain courtyard, alleyway, and trash area access.
- Catholic Church Parking Lot. This 39,440 s.f. lot at the northwest corner of Alejo and Belardo Road (APN 505-324-002). The property was acquired by the Agency in 1983 and is subject to the terms of an agreement with Our Lady of Solitude Catholic Church for use of site for parking.
- Blue Coyote Parking Lot and driveway. These two parcels, at 400 North Belardo Road and 425 North Palm Canyon Drive (513-082-023&040, 23,790 s.f. and 3,218 s.f.) were acquired by the Agency in 1981 and 1983.
- Vineyard Parking Lot. 42,729 s.f. of improved parking and a horse carriage enclosure, APN 513-153-015, 016 & 025, in the 200 Block of South Belardo Road. The property was acquired by the Agency in 1977. The transfer of the Property is subject to the terms of a Lease for the use of the carriage enclosure (such lease has since been terminated) and is conditioned on the redevelopment and use of the property in conformity with the Merged Project Area No. 1 Redevelopment Plan.
- Food Court Parking Lot. This 19,313 s.f. of improved parking (APN 513-082- 043), is on the 300 Block of North Belardo Road. It was acquired by the Agency through a land exchange in 1997. The Property is subject to the terms of an Easement for Access to the trash enclosure.
- The Henry Frank Arcade Parking Lot, a 3,682 s.f. improved parking lot, APN 513-082-043, located at 261-265 North Indian Canyon Drive. The property is the northern half of the Henry Frank Arcade Parking Lot, within Merged Project Area No. 1, and was acquired by the Agency in 1989.

- Convention Center North Parking Lot (APNs 508-023-012, 013, and 014). The Property was subject to the provisions of the Disposition and Development Agreement, which provides for the sale of the property to the Developer per the terms of the Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE PALM SPRINGS COMMUNITY REDEVELOPMENT AGENCY APPROVING THE TRANSFER OF ASSETS BACK TO THE SUCCESSOR AGENCY TO COMPLY WITH THE STATE CONTROLLER'S OFFICE FINDINGS

WHEREAS, the Community Redevelopment Agency of the City of Palm Springs ("Redevelopment Agency") was a redevelopment agency in the City of Palm Springs ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the Oversight Board, in accordance with the provisions of the California Health and Safety Code Section 37179 (a), was formed to carry out the purposes and exercise the powers granted to Oversight Boards in accordance with Assembly Bill 1X 26 (AB1X 26), Section 1.85 of Division 24 of the Health and Safety Code; and

WHEREAS, if the Successor Agency remitted the cash assets to the County Auditor Controller (CAC), and if the Successor Agency has also made certain other payments, the DOF will issue a finding of completion for the Successor Agency (a "Finding of Completion"); and

WHEREAS, on March 16, 2011, the Community Redevelopment Agency and the City of Palm Springs approved the transfer of all known real property assets then owned by the Agency to the City; and

WHEREAS, the Dissolution Act requires the preparation and submittal to the State Controller's Office of an Asset Transfer Assessment prepared by the Successor Agency, showing the assets that were owned by the Agency and transferred to the Successor Agency upon the dissolution on February 1, 2012; and

WHEREAS, the State Controller's Office, pursuant to Health and Safety Code section 34167.5, conducted a review of the Redevelopment Agency to determine whether any asset transfers occurred after January 1, 2011, between the city or any other public agency, and the redevelopment agency. The review applied to all assets, including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and any rights to payment of any kind and included an assessment of whether each asset transfer was allowable and whether the asset should be turned over to the Successor Agency; the audit concluded on February 21, 2013; and

WHEREAS, AB 1484 suspends the land disposition process described in the Dissolution Act, and provides certain flexibility and local benefits in connection with property

disposition, including Section 34181(a), which allows the Oversight Board to transfer governmental purpose property to the appropriate public entity; and

WHEREAS, in accordance with the provisions of the California Health and Safety Code Section 37181, the Oversight Board may "direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction . . ." [California Health and Safety Code Section 34181]; and

WHEREAS, on May 5, 2013, the Oversight Board, in accordance with the direction provided by the State Controller's Office, adopted a Resolution ordering a number of Land Held for Resale properties back to the Successor Agency and making the findings that a number of properties were constructed and used for a governmental purpose, and approved the transfer of those to the City; and

WHEREAS, on June 14, 2013 and 26, 2013, the California Department of Finance responded to the Oversight Board action and disallowed a number of the transfers of properties, particularly those that the City held for governmental use "because they are not reserved for the sole use of governmental agencies or persons visiting those agencies;" and

WHEREAS, AB 1484 also allows transfer of real property for a Successor Agency that has received a Department of Finance ("DOF") Finding of Completion (Section 34191.3) and within six months after receipt of a Finding of Completion, has submitted a long-range property management plan for the real property of the Dissolved RDA for approval by the Oversight Board and the DOF (Section 34191.5(b)); such property management plan must include an inventory (with specified information) about each property, and address the use or disposition of each property (Section 34191.5(c)).

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALM SPRINGS AS FOLLOWS:

SECTION 1. The Oversight Board hereby finds and determines that the foregoing recitals are true and correct.

SECTION 2. The following properties were categorized in the Asset Transfer Report as Land Held for Resale shall be returned to the Successor Agency for disposition:

1. Prairie Schooner Parcel Parking Lot
2. Catholic Church Parking Lot
3. Blue Coyote Parking Lot
4. Vineyard Parking Lot
5. Food Court Parking Lot
6. Henry Frank Arcade Parking Lot
7. Convention Center North Parking Lot
8. Plaza Theater

SECTION 3. The Oversight Board directs the Clerk of the Successor Agency to perform work in furtherance of the Oversight Board's duties and responsibilities under AB 1X 26 and AB 1484.

SECTION 4. This Resolution shall take effect three days after its adoption.

THOMAS FLAVIN, Chairman
CRA Oversight Board

ATTEST:

JAMES THOMPSON, Clerk/Secretary

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, James Thompson, Secretary of the Oversight Board of the Successor Agency of the Palm Springs Community Redevelopment Agency hereby certify that Resolution No. ____ was adopted by the Oversight Board at a Special Meeting held on the 16th of December, 2013, and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, Secretary
CRA Oversight Board