



REGULAR MEETING

SUCCESSOR AGENCY OVERSIGHT BOARD
CITY OF CLAYTON, CA

THURSDAY, JULY 26, 2012

3:00 p.m.

*First Floor Conference Room, Clayton City Hall
6000 Heritage Trail, Clayton, CA 94517*

OVERSIGHT BOARD MEMBERS

Howard Geller, Mayor of Clayton	John Nejedly, Contra Costa Community
Vito Impastato, CCC Fire Protection District	College District
Laci Jackson, former RDA Secretary	Dan Richardson, Clayton resident
Karen Mitchoff, Contra Costa County Supervisor	Jane Shamieh, County Office of Education

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Board meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- Any writings or documents provided to a majority of the Oversight Board after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

REGULAR MEETING AGENDA
OVERSIGHT BOARD
SUCCESSOR AGENCY, CITY OF CLAYTON

Thursday, July 26, 2012

1. CALL TO ORDER AND ROLL CALL – Board Chairman Dan Richardson

2. CONSENT CALENDAR

Consent Calendar items are typically routine in nature and are considered for approval by the Board with one single motion. Members of the Board, Audience or Staff wishing an item removed from the Consent Calendar for the purpose of public comment, question, input or action different than recommended may request so through the Board Chairman.

(a) Information Only – No action to be taken

1. Letter dated May 25, 2012 from the California Department of Finance informing the City/Successor Agency its ROPS I and ROPS II were approved and authorized for funding except for two City-RDA loans.

2. Letter dated July 12, 2012 from the City to the County Auditor-Controller protesting the demanded return of \$1,547,505.09 in tax increment monies by July 12th as required by new state law, AB 1484.

(b) Approve the minutes of the Oversight Board's initial meeting held on April 26, 2012.

3. OVERSIGHT BOARD ACTION ITEMS

- (a) Consideration of a Resolution No. 04-2012 approving the 3rd Recognized Obligation Payment Schedules (ROPS III) of the Successor Agency of the City of Clayton for the time period of January 2013 through June 2013.
(Merry Pelletier, Clayton Finance Manager)**

Staff recommendation: Following Board discussion and public comment, the Board adopt the Resolution approving the ROPS III.

- (b) Consideration of the Successor Housing Agency's list of low-moderate affordable housing assets for submittal to the CA Department of Finance by August 1, 2012.
(Laura Hoffmeister, Assistant to the City Manager)**

Staff recommendation: Following Board discussion and public comment, by motion the Board approve the Successor Housing Agency's assembled list of housing assets.

4. PUBLIC COMMENT ON NON-AGENDA ITEMS

Members of the public may address the Oversight Board on items within the Board's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Meeting table and submit it in advance to the Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chairperson's discretion. When one's name is called or you are recognized by the Chairperson as wishing to speak, the speaker shall approach the Board and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Board may respond to statements made or questions asked, or may at its discretion request Successor Agency Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Oversight Board.

5. ADJOURNMENT – the meeting is adjourned on call by the Chairman.

The Oversight Board's next meeting will be scheduled as necessary.

#

Agenda Date: 07-26-12

Agenda Item: 2(a)1.



DEPARTMENT OF
FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 25, 2012

Gary Napper, City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Received

MAY 29 2012

City of Clayton

Dear Mr. Napper:

Subject: Recognized Obligation Payment Schedule Approval Letter.

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Clayton submitted Recognized Obligation Payment Schedules (ROPS) to the California Department of Finance (Finance) on May 14, 2012 for the periods January to June 2012 and July to December 2012. Finance has completed its review of your ROPS, which may have included obtaining clarification for various items.

Except for items disallowed in whole or in part as enforceable obligations noted in our letter dated May 18, 2012, Finance is approving the remaining items listed in your ROPS for both periods. This is our determination with respect to any items funded from the Redevelopment Property Tax Trust Fund for the June 1, 2012 property tax allocations. If your oversight board disagrees with our determination with respect to any items not funded with property tax, any future resolution of the disputed issue may be accommodated by amending the ROPS for the appropriate time period. Items not questioned during this review are subject to a fresh review, if they are included on a future ROPS. If new information comes to light indicating that an item included on a future ROPS is not an enforceable obligation, Finance reserves the right to remove that item from the future ROPS, even if it was not removed from the preceding ROPS.

Please refer to Exhibit 12 at http://www.dof.ca.gov/assembly_bills_26-27/view.php for the amount of Redevelopment Property Tax Trust Fund (RPTTF) that was approved by Finance based on the schedule submitted. Although Finance's review is complete, the approved items on the ROPS identified as having RPTTF as the funding source are only payable to the extent property tax is available.

Please direct inquiries to Robert Scott, Supervisor or Kylie Le, Lead Analyst at (916) 322-2985.

Sincerely,

MARK HILL
Program Budget Manager

cc: Ms. Merry Pelletier, Finance Manager, City of Clayton
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
Mr. Jay Wildering, Chief Accountant, Contra Costa County



Agenda Date: 07-26-12

Agenda Item: 2(a) 2.

COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
HOWARD GELLER, MAYOR
JOSEPH A. MEDRANO, VICE MAYOR
JULIE K. PIERCE
DAVID T. SHUEY
HANK STRATFORD

July 12, 2012

Delivered Via Email and U.S. Postal Service

Robert R. Campbell, Auditor-Controller
County of Contra Costa
625 Court Street, Finance Building
Martinez, CA 94553

Re: Payment Under Protest, Health and Safety Code Section 34183.5(b)

Dear Mr. Campbell:

This letter responds to your demand email dated July 9, 2012 (at 5:14 p.m.) that the Clayton Successor Agency (the "Successor Agency"), pursuant to Health & Safety Code § 34183.5, remit \$1,547,505.09 to the County of Contra Costa Auditor-Controller by July 12, 2012 for deposit into the Redevelopment Property Tax Trust Fund ("RPTTF") for subsequent distribution to taxing entities.

This letter is sent to accompany said payment under protest and to clearly set forth the Successor Agency's position that, among the following other defects, it is ludicrous to assert the California Legislature or prevailing public policy intended to disallow all bonded indebtedness payments and/or contractual obligations of the former Clayton Redevelopment Agency (the "RDA") during the time period of 01 July 2011 through December 2011. Further, it is disingenuous to maintain a position that the Clayton RDA's receipt of \$2,755,501.09 in December 2011 was only for enforceable obligations and contractual payments during the time period of January 2012 through June 2012. For one example, such misapplication of law ignores the Clayton RDA's payment for duly-issued bonded indebtedness on 01 August 2011 in the amount of \$771,658.75 and all other minimal expenses of the RDA consistent with ABx1 26's definition of enforceable obligations and bonded indebtedness. According to the instructions for preparation of one's Recognized Obligation Payment Schedules (ROPS), this August 2011 debt payment and all other incurred expenses of the RDA (noted in its EOPS) could not have been lawfully implanted into the ROPS monthly columns of January, February, March, April, May and June for 2012. Clearly, the implementation of ABx1 26 and its trailer bill AB 1484 in this regard is public policy injustice and unlawful.

July 12, 2012

Page 2

Therefore, the Clayton Successor Agency remits the "demand" note from the County Auditor- Controller via wire transfer this day conditioned, but not limited to, the following protests and rights of the Successor Agency and the City of Clayton:

- 1) Pursuant to the California Supreme Court's decision in *California Redevelopment Ass'n v. Matosantos*, no Redevelopment Property Tax Trust Fund ("RPTTF") existed prior to February 1, 2012, and funds distributed to the former Clayton Redevelopment Agency (the "Dissolved RDA") between July 1, 2011 and January 31, 2012 are tax increment funds not subject to the provisions of ABx1 26 (the "Dissolution Act"), AB 1484, or Section 34183.5 regarding the use of RPTTF funds. Redistribution of tax increment funds to other taxing entities violates Proposition 22;
- 2) Distribution of additional funds to taxing entities reallocates property tax among cities, counties, special districts, and school districts, yet was not approved by a two-thirds vote, as required by Article XIII, Section 25.5 of the California Constitution;
- 3) The methodology developed by the Department of Finance ("DOF") for calculation of amounts demanded is inconsistent with Section 34183.5(b), in that it fails to recognize all enforceable obligations listed on the approved Recognized Obligations Payments Schedule for the period between 1 January 2012 and 30 June 2012 (the "First ROPS") and such notice contained in its EOPS for the time period of 1 July 2011 through 31 December 2011; and
- 4) Neither the County nor the Department of Finance ("DOF") is authorized to retroactively disallow payments made by the Dissolved RDA or the Successor Agency if those payments were shown on the Enforceable Obligation Payment Schedules ("EOPS") prepared by the Dissolved RDA and the Successor Agency, and made prior to the approval of the First ROPS.

Nonetheless, despite our view that your demand for this remittance of funds is inconsistent with the State Constitution, the Dissolution Act, AB1484, and the decision of the California Supreme Court, the Clayton Successor Agency has separately wire transferred this day (before the 1:00 p.m. time additionally required by your Office representative via separate email dated 11 July 2012 at 4:30 p.m.) the amount of \$1,547,505.09 to the Auditor-Controller under protest as described in this letter.

By remitting said funds to the Auditor-Controller, the Clayton Successor Agency does not waive any constitutional, statutory, legal, or equitable rights and expressly reserves any and all rights, privileges, and defenses available under law and equity.

Please feel free to contact us if you have any questions regarding the above.

July 12, 2012

Page 3

Sincerely,

A handwritten signature in black ink, appearing to be "Gary A. Napper", written over a horizontal line.

Gary A. Napper, City Manager
Designated Contact Official
Clayton Successor Agency

Cc: Honorable Mayor and City Council Members

The Honorable Mark DeSaulnier, State Senator

The Honorable Susan Bonilla, California Assemblywoman

Chris Hill, Program Budget Manager, CA DOF

Contra Costa Times

Tamara Steiner, Clayton Pioneer

City Attorney Mala Subramanian, BB&K

Karen Tiedemann and Lynn Hutchins, Goldfarb & Lipman

Merry Pelletier, Clayton Finance Manager

League of CA Cities

Draft - ACTION MINUTES – Draft
OF THE
SPECIAL MEETING

OVERSIGHT BOARD
SUCCESSOR AGENCY, CITY OF CLAYTON, CA

APRIL 26, 2012

1. CALL TO ORDER AND ROLL CALL

Constituting the initial meeting of the Oversight Board and at the time a Chairperson had not yet selected, the meeting was called to order by City Manager Gary Napper at 3:05 pm in the 1st Floor Conference Room of City Hall, 6000 Heritage Trail Clayton CA.

Board Members present: Howard Geller, Mayor of Clayton; Vito Impastato, CCC Fire Protection District; Laci Jackson, former RDA Secretary; Karen Mitchoff, Contra Costa County Supervisor; Dan Richardson, Clayton resident; Jane Shamieh, County Office of Education.

Board Members absent: John Nejedly, Contra Costa Community College District.

Staff present: City Manager Gary Napper; Special Legal Counsel Karen Tiedemann; Asst to the City Manager/Board Clerk: Laura Hoffmeister

2. WELCOME AND SELF- INTRODUCTIONS OF BOARD MEMBERS AND STAFF ASSIGNED TO THE OVERSIGHT BOARD

Oversight Board members and Successor Agency staff made self-introductions.

3. OVERVIEW OF THE STATUTORY PURPOSE OF THE OVERSIGHT BOARD

Clayton City Manager Gary Napper noted there were extensive written materials included in the Oversight Board agenda packet for background purpose. Mr. Napper summarized the background materials, the Oversight Board statutory authorities and its purpose. Mr. Napper mentioned the main missions of the Board are to wind down the affairs of the former Redevelopment Agency of the City, and to pay down the debt of the former Redevelopment Agency. Mr. Napper noted that should a Board member resign and is not replaced by the designated public taxing entity, the Governor makes the replacement appointment.

4. REQUIREMENTS OF THE BROWN ACT (PUBLIC MEETING LAW) AND OTHERS

Special Legal Counsel Karen Tiedemann pointed out the Oversight Board is subject to all the rules and regulations of the State Open Meeting Laws, commonly referred to as the Brown Act. Ms. Tiedemann provided a quick overview of these requirements, the Board being subject to FPPC conflict of interest filing requirements, Form 700; and the Public Records Act.

Specifically noted was if a quorum of members are present in the same social setting it is okay provided they not discuss Oversight Board matters. Additionally noted was if there was an email sent out from Staff to the Oversight Board– to reply directly back to staff; do not hit “Reply All.”

5. SUMMARY OF FORMER CLAYTON REDEVELOPMENT AGENCY PROJECTS, PROGRAMS AND ACTIVITIES

Assistant to the Clayton City Manager Laura Hoffmeister referred to the listing provided in the agenda packet and reviewed the highlights of the former Clayton Redevelopment Agency’s projects, programs and activities, which categories included: Downtown revitalization, economic development, street infrastructure rehabilitation/improvements, flood prevention improvements and creek rehabilitation; municipal sewer, storm drainage & lighting infrastructure, traffic and pedestrian safety, historic building preservation, public safety infrastructure, land for a County fire district station, cultural/recreation/educational facility, and affordable housing units.

Board members noted the use of redevelopment funds in Clayton was done as the law had originally intended; there were many good projects to various public entities that improved the quality of life and the economic vitality of the overall community.

6. OVERSIGHT BOARD ACTION ITEMS

(a) Election of Board Chairperson and Vice Chairperson.

City Manager Gary Napper called for nominations for the Oversight Board Chair.

Board Member Mitchoff stated that philosophically she believed the public member-at-large should be Chair, as all other Board members are representatives of various public taxing agencies that have a stake in the outcomes. After short discussion by the Board members, a motion was made by Board Member Mitchoff, seconded by Board Member Geller, to nominate Dan Richardson, the public member, as Chairperson of the Oversight Board. Motion passed. (vote 6-0).

Chairperson Richardson then assumed the conduct of the meeting. Chairperson Richardson asked for nominations for Vice Chair. Board members discussed the infrequencies of the meetings and noted there was not a need to select a Vice Chair at this time. It was the general consensus of the members to not select a Vice Chair.

(b) Designation of Contact Person for the State Department of Finance and Administrative Support Staff to the Oversight Board.

Chairperson Richardson called for the staff report. City Manager Gary Napper noted that these actions were statutory-required administrative items.

Motion by Board Member Jackson, seconded by Board Member Mitchoff, to designate Gary Napper, Clayton City Manager and staff to the Successor Agency of the City of Clayton, as the primary contact person for the California Department of

Finance concerning Clayton Oversight Board actions, and City Finance Manager Merry Pelletier as the alternate contact person. Motion passed (vote 6-0).

Motion by Board Member Jackson, seconded by Board Member Mitchoff, to designate Laura Hoffmeister, Assistant to the Clayton City Manager and staff to the Successor Agency of the City of Clayton as Clerk of the Clayton Oversight Board. Motion passed (vote: 6-0).

(c) Consideration of Resolution No. 01-2012 adopting Oversight Board Rules of Procedure.

Chairperson Richardson called for the staff report. City Manager Gary Napper noted these actions were statutory-required administrative items and provided an overview of the recommendations. Mr. Napper noted the Board would need to set the time/place for conduct of its meetings and include this as part of the action, including selection of a day/time to meet to be included in the resolution. Board members discussed dates/times and their availability, and were generally supportive of meeting as needed on the last Thursday of the month at 3:00pm.

Motion by Board Member Geller, seconded by Board Member Shamieh, to approve Resolution No 01-2012 adopting Oversight Board Rules of Procedure, adding to page 4, that meetings will be held as needed on the last Thursday of the month at 3:00pm. Motion passed (vote 6-0).

(d) Consideration of Resolutions No. 02-2012 and 03-2012 approving the 1st and 2nd Recognized Obligation Payment Schedules (ROPS) for the Successor Agency of the City of Clayton for the time periods of February 2012 through June 2012, and July 2012 through December 2012, respectively.

Chairperson Richardson called for the staff report. Merry Pelletier, Clayton Finance Manager, referred to the detail ROPS I included in the agenda materials. Ms. Pelletier noted she was prepared to review each obligation individually if the Board so desired. Board Member Mitchoff stated the listing was self-explanatory and the clear, and suggested not going through each one but to answer Board members questions on the ROPS, if any. There was agreement by other Board members with this approach.

Board Member Mitchoff asked if there was anything different, unusual or specific the Board should be aware of. City Manager Gary Napper mentioned the State Department of Finance role and rules on inter-agency loan repayments are only loans made within the first 2 years of the RDA formation (1987 for Clayton) are currently eligible for repayment. Mr. Napper noted there is State legislation proposed (AB 1585) to make changes to this limitation. As examples, Mr. Napper reported that for Clayton the County Fire Station land sale loan was done after this time period, and the City's 2% election payments (which was originally done in 1987 but the County neglected to implement and concurred payments were due) Ms. Tiedemann further elaborated on the State Department of Finance review process of the Successor Agency ROPS. In response to questions Ms. Pelletier explained that the ROPS 1 and RPOS 2 information for LMI is slightly different as the ROPS 2 schedule consolidated the LMI information.

Board Member Mitchoff commended the good work of the Finance Manager and staff as she found the ROPs information is complete, clear, easy to follow and understandable.

Chairperson Richardson asked about the prospect of the Oversight Board's authority to re-enter into inter-agency loan agreements with the Successor Agency for Items #4 (Fire Station Loan); #5 (2% Election payments per Section 33676); #6 (2% Election payments for Low Moderate Income Housing); and #7 (Low Moderate Income Housing SERF)

Ms. Tiedemann indicated ABx1 26 allows for Successor Agency's to re-enter into loan repayment agreements and this Board can move forward with this process now. After brief discussion Board members indicated a strong preference to re-enter into such loan agreements finding the former Clayton Redevelopment Agency undertook these transactions in good faith and delayed payment to benefit the receiving entities and the Clayton community.

Chairperson Richardson called for public comment regarding the Board's intent. There was no public comment.

Motion by Board Member Mitchoff, seconded by Board Member Geller, to re-enter into the noted inter-agency loan agreements pursuant to California Health and Safety Code Section 37418 (a). Motion passed (vote 6-0).

Motion by Board Member Geller, seconded by Board Member Impastato, to adopt Resolution 02-2012 approving the 1st Recognized Obligation Schedule (ROPS) of the Successor Agency for the City of Clayton covering the time period of February 2012 through June 2012. Motion passed (vote 6-0).

Motion by Board Member Geller, seconded by Board Member Shamieh, to adopt Resolution 03-2012 approving the 2nd Recognized Obligation Schedule (ROPS) of the Successor Agency for the City of Clayton covering the time period of July 2012 through December 2012. Motion passed (vote 6-0).

7. PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

8. ADJOURNMENT

Upon call by Chairperson Richardson, the Board meeting adjourned at 3:45 p.m.



Agenda Date: 07-26-12

Agenda Item: 3(a)

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE CHAIRMAN AND BOARD MEMBERS

FROM: CITY MANAGER

DATE: 26 JULY 2012

SUBJECT: CONSIDER A RESOLUTION TO APPROVE AND ADOPT A 3RD RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS), PURSUANT TO THE DISSOLUTION ACT AND AB 1484

RECOMMENDATION

It is recommended the Oversight Board adopt the prepared Resolution approving a 3RD Recognized Obligation Payment Schedule" (ROPS) in accordance with the California Supreme Court-ruled constitutionality of ABx1 26 (the "Dissolution Act") and AB 1484.

BACKGROUND

Under state law ABx1 26 and recently enacted Assembly Bill 1484, "enforceable obligations" of a redevelopment agency include the following financial arrangements (the ROPS of a city or county):

- Bonds
- Loans
- Payments required by state or federal government
- Obligations to employees
- Judgments or settlements
- Binding and legally enforceable agreements entered into before AB1x 26
- Contracts for RDA administration, Successor Agency administration, and Oversight Board administration

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS)

Attachment 1 is the 3rd Recognized Obligation Payment Schedule (ROPS) in the amount of \$381,378 prepared by the City's Finance Manager and approved by the Clayton City Council, serving as the Successor Agency, at its regular public meeting held on 17 July 2012. It essentially mirrors the previously-adopted 2nd ROPS as the 6-month fiscal template

for continued receipt of real property tax trust fund (RPTTF) revenues during this funding cycle.

The monies are issued by the County Auditor-Controller to the City's newly-established "Redevelopment Obligation Retirement Fund." As its name implies, this newly-formed Fund replaces the former Redevelopment Agency's Funds (3 of them) and now functions as the repository for sufficient tax increment revenues in the amounts identified and approved in subsequent ROPS to effectively "retire" all former Clayton Redevelopment Agency debts and contractual obligations over a multi-year period. Once all identified and certified debts and obligations have been satisfied, the Successor Agency is then dissolved.

AB 1484 (DISSOLUTION TRAILER BILL)

As with most complex pieces of legislation enacted in a vacuum, the actual implementation of ABx1 26 by former redevelopment agencies, cities, county auditor-controllers and the California Department of Finance (DOF) created a maelstrom of confusion and capricious actions. Striving to obtain any and all uncommitted tax increment revenues for the state held by successor agencies, the DOF inflicted a host of ill will and disputed judgments in its role of blessing a ROPS tendered by each Successor Agency and approved by its Oversight Board. Clayton was dumbfounded when the DOF summarily rejected two previous loans by the City to its Redevelopment Agency amounting to almost \$1 million. Our predicament was not isolated however and various trailer bills emerged in May and June 2012 aiming to provide clarity and equity in the adjudication of successor agency bonded indebtedness and contractual obligations.

Unsurprisingly, the DOF authored its own version of a "clean-up" bill in the form of AB 1484 that sought to increase the amount of authority the DOF and its staff could exercise over successor agencies and oversight boards. AB 1484 was approved by the California Legislature on June 27th and swiftly signed into law by Governor Brown. While the new legislation does contain some favorable language for successor agencies on the forefront of inter-agency loan repayments starting in FY 2013-14, it carries out a host of continual measures by the state to "claw-back" previous redevelopment agency expenses paid during the limbo-land time period of July 2011 through December 2011 (\$1,547,505 from Clayton), and it gives the DOF unchecked license to overturn local decisions on ROPS approvals.

Major provisions of AB 1484 include the following:

1. A successor agency must make three payments in FY 2012-13:
 - a. July 12th. Remittance of monies for disallowed obligations (as determined by the DOF and Auditor-Controller), specifically for expenses made under one's EOPS. For Clayton, this arbitrary calculation necessitated an abrupt check sent within 72 hours to the County in the amount of \$1,547,505.09 (ref. Agenda Item 2 (a) 2).
 - b. November 28th. Remittance of Low-Moderate Income Housing Fund monies.
 - c. April 10th. All remaining unencumbered cash.

2. New audit by October 1, 2012 retained and paid for by the Successor Agency (out of its administration monies, meaning no new monies for an unfunded mandate) of the successor agency's books involving the Low-Moderate Income Housing Fund, audit of cash assets, and audit of cash transfers to public agencies and private parties. Note this "new audit" is in addition to the audit ordered and performed by the state on all redevelopment agencies during February-June 2012.
3. A potential civil penalty of 10% of the amount owed plus 1.5% of the amount owed for each month that a successor agency does not pay in full its July 12th ordered remittance (ref. no. 1 above).
4. A city must pay a civil penalty of \$10,000 per day for each day late beyond the deadline set for submittal of one's ROPS III by 01 September 2012 and each ROPS thereafter.
5. Grants DOF forty-five (45) days to review and approve or deny items listed in a ROPS in contrast to ABx1 26's three days for DOF determination.
6. DOF may eliminate or modify any item on an Oversight Board-approved ROPS. An auditor-controller may only distribute property tax monies to a successor agency in accordance with DOF changes made to a ROPS (note: essentially eviscerates the role of the multi-agency represented oversight boards).
7. A county auditor-controller can object to an item on a ROPS or to the funding source listed for an item on the ROPS with such objections sent to DOF to resolve.

Viewed in totality, AB 1484 results in the DOF becoming the anointed czar over former redevelopment agency assets, irrespective of successor agency and oversight board actions.

Attachments: 1. 3rd ROPS Resolution with Exhibits A and B [5 pp.]

RESOLUTION NO. 04-2012

A RESOLUTION APPROVING AND ADOPTING THE 3rd RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III) OF THE SUCCESSOR AGENCY FOR THE CITY OF CLAYTON COVERING THE TIME PERIOD OF JANUARY 2013 THROUGH JUNE 2013

**THE OVERSIGHT BOARD
Successor Agency for the City of Clayton, California**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on 20 July 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

WHEREAS, Assembly Bill x1 26 (the "Dissolution Act") and Assembly Bill x1 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on June 28, 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of these Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies, including the Clayton Redevelopment Agency, are now terminated and have been automatically dissolved on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, on 17 January 2012 by Resolution No. 03-2012, the Clayton City Council did exercise its priority right and became the Successor Agency and the Successor Housing Agency of the former Clayton Redevelopment Agency; and

WHEREAS, on 17 April 2012 by Resolution No. 17-2012, the Clayton City Council as Successor Agency did review and adopt the 2nd Recognized Obligation Payment Schedule (ROPS) setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for the subsequent six-month fiscal period, with said 2nd ROPS covering that time period from 01 July 2012 through 30 December 2012; and

WHEREAS, the appointed Oversight Board to the Successor Agency met at a duly-noticed public meeting on 26 April 2012 wherein it did review, consider and then approve the 1st and 2nd ROPS as submitted to it by the Successor Agency for approval; and

WHEREAS, on 27 June 2012 the California Legislature adopted and the Governor signed Assembly Bill 1484 which set further statutory language and laws administering and managing the operations and obligation payments of successor agencies in California, including the requirement that a 3rd ROPS (ROPS III) for each Successor Agency covering the time period of 01 January 2013 through 30 June 2013 must be adopted by the Successor Agency, approved by its Oversight Board and submitted electronically to the California Department of Finance (DOF) by 01 September 2012; and

WHEREAS, in order to comply with said law in a timely fashion, the Clayton City Council, serving in its capacity as the Successor Agency, did receive at its regular meeting held on 17 July 2012 a recommended ROPS III prepared by City staff and did review, consider and then adopt its ROPS III through approval of City Resolution No. 46 – 2012; and

WHEREAS, at its regular meeting held on 26 July 2012, the Oversight Board received the Successor Agency's approved ROPS III and did duly consider the listed bonded indebtedness payments, contractual obligation expenses and other items allowed for payment by ABx1 26 and AB 1484; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of the ROPS is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a project, but instead consists of the continuation of an existing governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program because it merely lists enforceable obligations previously entered into and approved by the former Clayton Redevelopment Agency; and

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board for the Successor Agency for the City of Clayton, California does hereby find the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED that the Oversight Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this action and Resolution are exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project. The Oversight Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa, California in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED that the Oversight Board does hereby approve and adopt the 3rd Recognized Obligation Payment Schedule (ROPS III), attached hereto as "Exhibits A and B" and incorporated herein as if fully set forth in this Resolution.

BE IT FURTHER RESOLVED that the Oversight Board authorizes and instructs the Clayton City Manager or the City Manager's designee to: (1) post the 3rd Recognized Obligation Payments Schedule (Exhibits A and B) on the City website; (2) designate its representative to whom all questions related to the 3rd Recognized Obligation Payment Schedule can be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the State Department of Finance, and the State Controller of the

Oversight Board's action to adopt the 3rd Recognized Obligation Payment Schedule and to provide those persons with the internet website location of the posted schedule and the contact information for the Board's designated contact; and (4) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the 3rd Recognized Obligation Payment Schedule on behalf of the Oversight Board.

BE IT FURTHER RESOLVED that if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibits A or B, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective, such decision shall not effect the validity or effectiveness of the remaining portions of this Resolution, Exhibits A or B or any part thereof. The Oversight Board, acting for the Successor Agency, hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibits A or B irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Resolution and of Exhibits A or B are declared to be severable.

AND BE IT FURTHER RESOLVED that this Resolution shall and does take immediate effect upon its adoption.

PASSED, APPROVED AND ADOPTED by the Oversight Board for the Successor Agency of the City of Clayton, California at a regular public meeting thereof held on the 26th day of July 2012 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE OVERSIGHT BOARD FOR THE
SUCCESSOR AGENCY FOR THE
CITY OF CLAYTON

Dan Richardson, Chairperson

ATTEST:

Laura Hoffmeister, Clerk of the Board

3rd RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34167 and 34169

	Project Name / Debt Obligation	Payee	Description	Funding Source	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	PAYMENTS BY MONTH 2013						Total	
							Jan	Feb	Mar	Apr	May	June		
1)	RDA contractual subsidy entered on 10/1/2001	Diamond Terrace Investors	Sr. Housing Facility Loan - 9th Anniv. Pymt	RDA Retirement Trust	200,000	200,000								-
2)	1996 Tax Allocation Bonds Series A	US Bank	Bonds issued to fund non-housing projects	RDA Retirement Trust	317,075	12,363		6,181						6,181
3)	1999 Tax Allocation Bonds	US Bank	Bonds issued to fund non-housing projects	RDA Retirement Trust	6,655,813	516,140		114,780						114,780
4)	Removed (Loan Principal on CCCo Fire Station Land)	City of Clayton	Fire Station Loan not approved by D.O.F.											-
5)	City Loan entered into on 5/19/10	Clayton RDA LMI Housing	Inter-Loan for S.E.R.A.F. payment	RDA Retirement Trust	592,412	148,103	12,342	12,342	12,342	12,342	12,342	12,342		74,052
6)	Contract for Consulting Services	Thales Consulting	RDA State Controller's Report 2010/11-2011/12	RDA Retirement Trust	3,600	1,800								-
7)	Contract for Consulting Services	Cropper Accountancy	RDA Audit 2010-11	RDA Retirement Trust	12,372	4,124								-
8)	Contract for Consulting Services	NBS Local Gov't Solution	Arbitrage Reporting	RDA Retirement Trust	8,700	2,400								-
9)	Contract for Consulting Services	US Bank	Paying Agent Fee	RDA Retirement Trust	16,095	5,365	5,365							5,365
10)	Contract for Consulting Services	Raney Planning	Housing Element higher density codes (EIR)	RDA Retirement Trust	35,294	35,294								-
11)	Contract for Consulting Services	Goldfarb&Lipman/ Turner/ BB&K	Legal advice	RDA Retirement Trust	45,000	15,000	1,000	1,000	1,000					3,000
12)	Successor Agency functions	City of Clayton	Expenses for Successor Agency operation	RDA Retirement Trust	750,000	250,000	20,833	20,833	20,833	20,833	20,834	20,834		125,000.00
13)	Removed (CC Co. Pass Throughs)	Comm College	Payments for former CRL 33676			-								-
14)	Removed (CC Co. Pass Throughs)	County Supt Schools	Payments for former CRL 33676			-								-
15)	Removed (CC Co. Pass Throughs)	County Res Consv	Payments for former CRL 33676			-								-
16)	Removed (CC Co. Pass Throughs)	City of Clayton	Payments for former CRL 33676			-								-
17)	Removed (CC Co. Pass Throughs)	County	Payments for former CRL 33676			-								-
18)	Removed (CC Co. Pass Throughs)	Flood Control District	Payments for former CRL 33401			-								-
19)	Removed (CC Co. Pass Throughs)	Library	Payments for former CRL 33401			-								-
20)	Removed (CC Co. Pass Throughs)	County Fire	Payments for former CRL 33401			-								-
21)	Removed (CC Co. Pass Throughs)	County	Payments for former CRL 33401			-								-
22)	Removed (CC Co. Pass Throughs)	City of Clayton	2% Election payments per Section 33676			-								-
23)	Statutory Payments	County	Property Tax Administration Fees	RDA Retirement Trust	106,000	53,000							53,000	53,000.00
	Totals - This Page				8,742,361	1,243,589	39,540	155,136	34,175	33,175	33,176	86,176		381,378

ROPS III

January 1, 2013 – June 30, 2013

Description	Total Due During		Total
	Fiscal Year		
Sr. Housing Facility Loan - 9th Anniv. Pymt	200,000		-
Bonds issued to fund non-housing projects	12,363		6,181
Bonds issued to fund non-housing projects	516,140		114,780
Fire Station Loan not approved by D.O.F. (\$475,000)			-
Inter-Loan for S.E.R.A.F. payment	148,103		74,052
RDA State Controller's Report 2010/11 & 2011/12	1,800		-
RDA Audit 2010-11	4,124		-
Arbitrage Reporting	2,400		-
Paying Agent Fee	5,365		5,365
Housing Element higher density codes (EIR)	35,294		-
Legal advice	15,000		3,000
Expenses for Successor Agency operation	250,000		125,000
2% Election payments per Section 33676 (\$501,899)	-		-
Property Tax Administration Fees	53,000		53,000
	1,243,589		381,378