

**AGENDA
OVERSIGHT BOARD TO THE
CITY OF SAN DIMAS SUCCESSORY AGENCY**

**JULY 12, 2012, 4:00 P.M.
SAN DIMAS COUNCIL CHAMBERS CONFERENCE ROOM
245 EAST BONITA AVENUE
SAN DIMAS, CA 91773**

1. Call to Order
2. Review of AB 1484 – State Legislation making changes to AB x1 26 and its implementation. Review of timeline of important implementation dates.
3. Report on “July True Up Payment” as prescribed by AB 1484.
4. Discussion regarding potential loan agreement between the Successor Agency and the City of San Dimas to make the “July True Up Payment”.
5. Report on Oversight Board Liability.
6. Approval of minutes for Oversight Board meetings of May 9 and May 22, 2012.
7. Public Comment
8. Reports of Board Members
9. Adjournment

POSTING STATEMENT: ON JULY 9, 2012, A TRUE AND CORRECT COPY OF THIS AGENDA WAS POSTED ON THE BULLETIN BOARDS AT 245 EAST BONITA AVENUE (SAN DIMAS CITY HALL); 145 NORTH WALNUT AVENUE (LOS ANGELES COUNTY PUBLIC LIBRARY, SAN DIMAS BRANCH); 300 EAST BONITA AVENUE (UNITED STATES POST OFFICE); AT THE VONS SHOPPING CENTER (PUENTE/VIA VERDE) AND THE CITY’S WEBSITE AT WWW.CITYOFSANDIMAS.COM/MINUTES.CFM.



Oversight Board Staff Report

TO: Honorable Chair and Oversight Board Members
For the Meeting of July 12, 2012

FROM: Ken Duran, Staff to the San Dimas Successor Agency

SUBJECT: Review of AB 1484

DISCUSSION:

AB 1484 was a Budget Trailer Bill which was approved by the State Legislature and signed by the Governor on June 27, 2012. The Bill was drafted by the Department of Finance as "clean-up" legislation to AB x1 26. AB 1484 makes some very significant changes to the dissolution implementation process and the roles of the various agencies involved in the process.

The attached "Major Provisions of AB 1484" and "Important Dates" documents from the League of California Cities provide an overview of the legislation. Staff will provide a report at the meeting reviewing the major provisions and the specific impacts on San Dimas and the Oversight Board. Staff will also review the timeline and discuss the important actions required by the Oversight Board over the next several months.

RECOMMENDATION

No action required, for information only.



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
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AB 1484: Important Dates

- July 9: County auditor-controller notifies successor agency of amount of funds owing taxing entities based upon December 2011 property tax payment¹
- July 12: Successor agency must make payment to auditor-controller for deposit into Redevelopment Property Tax Trust Fund and distribution to taxing entities.²
- July 16: Auditor-controller distributes money received from successor agencies to taxing entities. Monies received after July 12 date distributed within 5 days of receipt.³
- July 18: **City sales tax payment suspended if successor agency doesn't make July 12 payment.**⁴
- August 1: Successor housing entity must submit to DOF a list of housing assets that contains explanation of how assets meet criteria set forth in the law. DOF will prescribe format for list. DOF may object to any of the assets within 30 days. If after meet and confer, DOF continues to object, asset must be returned to the successor agency.⁵
- August 10: Successor housing entity notifies successor agency of any designations of use or commitments of funds that successor housing entity authorizes successor agency to retain.⁶
- August 15 +/-: Oversight board meets to consider ROPS for January 1, 2013 through June 30, 2013 which must be submitted to DOF by September 1.
- September 1: ROPS for January 1, 2013 through June 30, 2013 must be submitted electronically to DOF after oversight board approval.⁷ DOF makes determinations within 45 days. Within 5 days of determination, successor agency may request additional review and meet and confer.

¹ Section 34183.5(b)(2)(A). Note: The statute, that may be drafted in error, states that if June 1 property tax payment has not been made to successor agencies, the amount owing to taxing entities will be deducted from that same June 1 payment (34183.5(b)(1)).

² Section 34183.5(b)(2)(A).

³ Section 34183.5(b)(2)(A).

⁴ Section 34183.5(b)(2)(A)

⁵ Section 34176(a)(2). Definition of "housing asset" found at section 34176(e).

⁶ Section 34179.6(c)

⁷ Section 34177(m). Future ROPS must be submitted to DOF 90 days prior to property tax distribution. **City subject to civil penalty of \$10,000 per day for successor agency's failure to timely submit ROPS (Section 34177(m)(2)).**

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- October 1: Auditor-controller may provide notice to successor agency of any objections to items on January – June 2013 ROPS.⁸
- October 1: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of the LMIHF conducted by the licensed accountant agency must retain.⁹ Note: licensed accountant must be approved by the county auditor-controller.
- October 1: County auditor-controller completes agreed-upon procedures audit of each redevelopment agency.¹⁰ Auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.¹¹
- October 15: Oversight Board must review, approve, and transmit LMIHF audit to DOF, auditor-controller. Note that oversight board must hold a public session to consider audit at least five business days prior to the meeting of oversight board in which LMIHF audit is considered for approval.¹²
- November 9: Last day for DOF to complete review of LMIHF audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.¹³

W/in 5 days of receipt of DOF

audit findings: Successor agency may request meet and confer to resolve disputes with DOF findings on LMIHF audit.¹⁴ DOF must confirm or modify its determination and decisions within 30 days.

W/in 5 days of receipt of DOF final audit

determination: Successor agency to transfer LMIHF funds to auditor-controller.¹⁵ **City sales tax/property tax may be offset for unfunded amounts.**

December 1: Successor agency may report to auditor-controller that total amount of available revenues will be insufficient to fund enforceable obligations.¹⁶

⁸ Section 34182.5.

⁹ Section 34179.6(a). The requirement to retain a licensed accountant is found in section 34179.5. The audit provided by the county auditor-controller can be substituted for an audit by a licensed accountant if it contains the information required by Section 34179.5.

¹⁰ Section 34182(a)(1).

¹¹ Section 34182(c)(3)

¹² Section 34179.6(c) and (b)

¹³ Section 34179.6(d)

¹⁴ Section 34179.6(e)

¹⁵ Section 34179.6(f)

¹⁶ Section 34183(b)

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December 15: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of all other fund and account balances by licensed accountant.¹⁷

2013

- January 2: Auditor-controller makes distributions of property tax for January – June 2013 ROPS.¹⁸
- January 15: Oversight board must review, approve, and transmit other funds audit to DOF, auditor-controller.¹⁹
- March 3: Successor agency submits ROPS for July 1, 2013 through December 31, 2013 to DOF after oversight board approval.²⁰
- April 1: County auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.²¹
- April 1: DOF completes review of other funds audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.²²
- April 6 +/-: No later than 5 days after receiving DOF determination on other funds audit, successor agency may request meet and confer to resolve disputes with DOF findings. DOF must confirm or modify its determination and decisions within 30 days.
- April 10: +/- Successor agency to transfer other "cash and assets" audit payment to auditor-controller if meet and confer process complete.²³ **City sales tax/property tax may be offset for unfunded amounts.**
- May 1: Successor agency reports to auditor-controller if total amount of available revenues will be insufficient to fund enforceable obligations.²⁴

¹⁷ Section 34179.6(a).

¹⁸ Section 34183(b).

¹⁹ Section 34179.6(a).

²⁰ Section 34177(m).

²¹ Section 34182(c)(3).

²² Section 34179.6(a).

²³ Section 34179.6(f). The statute does not allow sufficient time between completion of DOF review on April 1 and required payment on April 10.

²⁴ Section 34183(b).

June 28, 2012



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Major Provisions of AB 1484¹

1. **Three payments:** Successor agency must make three payments:

- July 12: Taxing entities' share of December 2011 property tax distribution to redevelopment agency/successor agency
- November 9+/-: Low-Moderate Income Housing Fund
- April 10 +/- : Unencumbered cash

In addition to these three payments, if a successor agency did not make complete 2011-12 pass-through payments, amount of payment not made will be deducted from property tax distribution from auditor-controller.²

2. **New audit by October 1:** Successor agency must retain licensed accountant to audit books:³

- Audit of LMIHF
- Audit of cash assets
- Audit of cash transfers to public agencies and private parties⁴

3. **New penalties:**

- Failure to make July 12 payment: successor agency subject to civil penalty of 10% of the amount owed plus 1.5% of the amount owed for each month that payment is not made unless DOF finds that payment of penalty will jeopardize payment of enforceable obligations. Until payment is made,

¹ The League will continue to refine this analysis with the assistance of its RDA Attorney Working Group and other city officials.

² Additional information about these payments is found in the Appendix.

³ Agreed-upon procedures audit completed by auditor-controller can substitute for the licensed accountant audit if it includes all statutory requirements

⁴ Successor agency must attempt to recover cash transferred to public agency without an enforceable obligation.

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successor agency may only pay bond debt. City subject to same civil penalty. City will not receive July 18 sales tax payment (up to amount owed).⁵

- Failure to transfer LMIHF funds: Offset of city sales tax or property tax of the amount required to be transferred⁶
- Failure to transfer cash assets: Offset of city sales tax or property tax of the amount required to be transferred⁷
- Failure to recover cash transferred to local agency without enforceable obligation: Offset of sales tax or property tax of the local agency to which the cash was transferred.⁸
- Failure to submit ROPS by September 1, 2012 and subsequent deadlines: City to pay civil penalty of \$10,000 per day for each day beyond deadline

4. Safe Harbor: Finding of Completion⁹

The Department of Finance will issue a finding of completion to a successor agency that pays the following amounts:

- ✓ The amount determined in the audit of the LMIHF¹⁰
- ✓ The amount determined in the audit of all other funds¹¹
- ✓ The amount (if any) owing to taxing entities from the December 2011 property tax payment¹²

The following applies to a successor agency that is issued a finding of completion:

- ✓ Loan agreements entered into between the redevelopment agency and the city are deemed to be enforceable obligations if oversight board makes a finding that loan was for legitimate redevelopment purposes. As enforceable obligations, payments are listed on ROPS¹³.

Repayments of loans may not begin prior to 2013-14 fiscal year at maximum amount described in statute. Repayment amounts received by city must first be used to retire outstanding amounts borrowed and owed to LMIHF of the

⁵ Section 34183.5(b)(2)

⁶ Section 34179.6(h)

⁷ Section 34179.6(h)

⁸ Section 34179.6(h); see, also 34179.8

⁹ Section 34191.1.

¹⁰ Section 34179.6

¹¹ Section 34179.6

¹² Section 34183.5

¹³ DOF continues to retain final authority to approve items listed on ROPS.

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former redevelopment agency for purposes of the SERAF payment. 20% of loan repayment amount must be transferred to LMIH Asset Fund.¹⁴

- ✓ Bond proceeds derived from bonds issued on or before 12/31/10 shall be used for the purposes for which the bonds were sold. Proceeds which cannot be spent consistent with bond covenants shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.¹⁵ Use of bond proceeds listed on ROPS.¹⁶
- ✓ Real property assets: In lieu of the provisions of AB 26 which require disposal of real property assets at the direction of the oversight board, successor agency prepares a long-range property management plan and submits to oversight board and DOF for approval. Permissible uses of property include retention for governmental use; retention for future development; sale of property; use of the property to fulfill enforceable obligations. If plan directs use or liquidation of property for a project identified in an approved redevelopment plan, the property shall transfer to the city. No transfers until plan approved by oversight board and DOF.¹⁷
- ✓ Statute of Limitations: The longer statutes of limitations (2 years) to challenge actions of the former redevelopment agencies do not apply.¹⁸

5. New Power of State Controller¹⁹

AB 1484 directs the Controller to review the activities of successor agencies to determine whether an asset transfer occurred after January 31, 2012, between the successor agency and the city or county that created the redevelopment agency, or any other public agency that was not pursuant to an enforceable obligation on an approved ROPS. The Controller is directed to order the assets returned to the successor agency. "City" is defined very broadly to include any entity which is controlled by the city or for which the city is financially responsible or accountable.²⁰

6. Increase in authority for Department of Finance

- DOF may eliminate or modify any item on an oversight board-approved ROPS. The auditor-controller must distribute property tax in accordance with changes made to the ROPS by DOF. If successor agency disputes DOF

¹⁴ 34191.4(b)(2).

¹⁵ 34191.4(c)

¹⁶ DOF continues to retain final authority to approve items listed on ROPS.

¹⁷ Section 34191.5

¹⁸ Section 33500, 33501

¹⁹ Section 34178.8

²⁰ Section 34167.10. AB 26 directed the State Controller to review asset transfers from redevelopment agencies to the city or county that created the agency that occurred after January 1, 2011. If the city or county was not contractually committed to a third party for the expenditure or encumbrance of those assets, the Controller was directed to order the return the assets to the redevelopment agency or successor agency.

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action, disputed item may be carried on ROPS. If dispute resolved in favor of successor agency in the future, the past allocation of property tax to the successor agency is not changed nor is a "liability" created for any affected taxing entity.²¹

- DOF may review and object to oversight board actions approving (1) establishment of new repayment terms for outstanding loans; and (2) setting aside amounts in reserves as required by bond indentures, and similar documents²²

7. New restrictions on authority of Successor agency

- No new enforceable obligations except (1) as specifically authorized by the statute; (2) in compliance with enforceable obligations that existed prior to June 28, 2011; or (3) to hire staff, acquire professional services and procure insurance.²³
- May not transfer revenues or powers to any other public or private party except pursuant to enforceable obligation on an approved ROPS. Any such transfer of authority or revenues are "void" and successor agency required to reverse transfers. Controller may audit and order return of transfers of authority or revenues.²⁴
- Actions taken by redevelopment agencies pursuant to VARP (Voluntary Alternative Redevelopment Program in AB 27) are "ultra vires" and do not create enforceable obligations.²⁵
- If successor agency exercised power to reenter into agreements with city (section 34178) and agreement was approved by oversight board but rejected by DOF, successor agency and oversight board may not act to restore funding for the reentered agreement.²⁶
- No reestablishment of loan agreements between successor agency and city except pursuant to safe harbor provisions.²⁷

8. Miscellaneous

- City loans to successor agency: City may loan or grant funds for administrative costs, enforceable obligations or project-related expenses. Receipt and use of these funds shall be reflected on the ROPS or in the

²¹ Section 34179(h)

²² Section 34181(f)

²³ Section 34177.3(a); 34177.3(b)

²⁴ Section 34177.3(c)

²⁵ Section 34177.3(d)

²⁶ Section 34178(a)

²⁷ Section 34180(a)

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administrative budget subject to oversight board approval. An enforceable obligation is created for repayment of loans.²⁸

- New Oversight Board Provisions²⁹
 - ✓ Auditor-controller may determine “largest special district”
 - ✓ Section 1090 does not apply to employee representative on oversight board
 - ✓ Oversight board members are protected by immunities applicable to public entities and public employees
 - ✓ Meetings at which oversight board will consider disposal of successor agency assets or allow set-aside of reserves required by bond indentures requires 10 days’ public notice.³⁰
 - ✓ Written notice and information about all oversight board actions must be provided to DOF by electronic means. DOF has 40 (instead of 10) days to review and approve, reject, or modify oversight board action.
 - ✓ Oversight board may direct successor agency to provide additional legal or financial advice.
 - ✓ Authorized to contract with the county or other public or private agencies for administrative support
 - ✓ On matters within its purview, decisions made by oversight board “supersede those made by the successor agency or the staff of the successor agency.”³¹
- New authority for auditor-controller³²: A county auditor-controller can object to an item on the ROPS or to the funding source listed for an item on the ROPS. Objections are sent to DOF to resolve.
- Polanco Act protection for successor agency: Cleanup plans and liability limits of redevelopment agency transferred to successor agency and to housing entity, upon entity’s request.³³
- Limited authority for successor agency to refinance existing debt.³⁴
- Successor agency is separate public entity.³⁵

²⁸ Section 34175(h)

²⁹ Section 34180

³⁰ Section 34181(f)

³¹ Section 34179

³² Section 34182.5

³³ Section 34173(f)

³⁴ Section 34177.5

³⁵ Section 34173(g)

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Appendix - Successor Agency Required Payments/Fund Transfers

✓ Transfer of Unencumbered Balances³⁶

AB 26 requires that a successor agency transfer unencumbered cash balances and low and moderate income housing funds to the county auditor-controller for distribution to the taxing entities. AB 1484 requires a successor agency to retain the services of a licensed accountant to audit (1) the balance in the LMIHF; (2) the balance in other cash funds; (3) cash payments that were made in compliance with an enforceable obligation; and (4) cash transfers that were made without an enforceable obligation. In addition to transferring the balances in the LMIHF and other cash funds, a successor agency must make efforts to recover the cash transferred without an enforceable obligation.

✓ Payment of December 2011 Taxing Entity Property Tax³⁷

AB 26 distributes property tax through a "waterfall" of payments which includes passthrough payments, payments to successor agencies for enforceable obligations, payments to successor agencies for administrative costs, and payments to taxing entities. The waterfall for the December 2011 property tax payment did not operate as intended because of the stay imposed by the Court in *Matosantos*. The property tax payment to taxing entities was not made. AB 1484 requires successor agencies to make those payments by July 12.

✓ Payment of 2011-12 Passthrough Payments

Some successor agencies made 2011-12 passthrough payments and some did not. AB 1484 requires the auditor-controller to reduce property tax payments to those successor agencies that did not make pass through payments in 2011-12.

³⁶ Section 34179.5; 34179.6

³⁷ Section 34183.5

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Oversight Board Staff Report

TO: Honorable Chair and Oversight Board Members
For the Meeting of July 12, 2012

FROM: Ken Duran, Staff to the San Dimas Successor Agency

SUBJECT: Report on "July True Up Payment"

DISCUSSION:

One of the many significant issues in AB 1484 is what is being referred to as the "July True Up Payment". AB 1484 attempted to clarify what the Department of Finance felt was confusion in the implementation dates and treatment of tax increment payments remitted to Redevelopment Agencies in the Fall of 2011. AB 1484 treats those payments as the payment to the Redevelopment Retirement Trust Fund and funds that should have used to fund the January – June 2012 ROPS. Therefore, it concludes that funds over and above the amount necessary to fund the ROPS should be redistributed to the various taxing entities. Though this interpretation is clearly not what was anticipated by Agencies.

AB 1484 lays out a process for Agencies to make any excess payment to the County for redistribution. The timeline is such that the County is to notify Agencies on July 9th of the amount of the payment owed. Agencies are to make the payment by July 12th. If payments are not made by the 12th Agencies are subject to penalties and the withholding of sales and property taxes.

Though the dates within AB 1484 are fixed, information about this process is quite fluid. As of the writing of this report the Agency has not received information from the County Auditor Controller on any payment amount. Staff will provide a report at the meeting on the impact of the July True Up Payment to San Dimas.

RECOMMENDATION

There may be action recommended as more information is known on the impacts of the payment.



Oversight Board Staff Report

TO: Honorable Chair and Oversight Board Members
For the Meeting of July 12, 2012

FROM: Ken Duran, Staff to the San Dimas Successor Agency

SUBJECT: Discussion on potential loan agreement in regards to the July True Up Payment

DISCUSSION:

As discussed in the report on the July True Up Payment all the information and impacts of the payment are not known but more will be known by the meeting. One scenario that may exist to address a payment due by the Agency is to borrow funds from the City. This may or may not be a viable, desirable or even necessary option. However, staff has placed this item on the Agenda just in case it needs to be considered by the Board.

RECOMMENDATION

There may be action recommended as more information is known on the impacts of the payment and whether or not a loan is a necessary option.



Oversight Board Staff Report

TO: Honorable Chair and Oversight Board Members
For the Meeting of July 12, 2012

FROM: Ken Duran, Staff to the San Dimas Successor Agency

SUBJECT: Report on Oversight Board Liability

DISCUSSION:

A question was raised at a prior meeting regarding liability to Oversight Board Members. The City Attorney has provided the attached memo addressing this issue. If you have further questions they can be addressed at the meeting. If there still is a feeling that Errors and Omissions Insurance coverage should be explored, staff has a recommendation.

RECOMMENDATION

No action recommended.

McKenna Long
& Aldridge LLP

MEMORANDUM

TO: Member of the Oversight Board to the City of San Dimas Successor Agency
FROM: J. Kenneth Brown, San Dimas City Attorney
DATE: July 12, 2012
RE: Oversight Board Member Liability

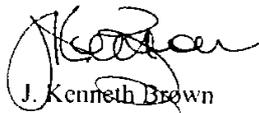
At the initial meeting of the oversight board a question was asked regarding the potential liability of members of the oversight board for its actions. I stated that this issue had been generally addressed in the existing provisions of ABX 1 26. However as a result of the budget trailer bill, Section 34179(d) now provides:

Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

These are the same immunities which are applicable to members of the City Council and public employees and those members of the oversight board who are members of other public entities.

If you have any questions regarding this I would be pleased to discuss them.

Respectfully submitted,


J. Kenneth Brown

**MINUTES
OVERSIGHT BOARD TO THE
CITY OF SAN DIMAS SUCCESSOR AGENCY**

**MAY 9, 2012, 4:00 P.M.
CITY COUNCIL CONFERENCE ROOM
245 EAST BONITA AVENUE
SAN DIMAS, CA 91773**

1. Call to Order and Pledge of Allegiance

Assistant City Manager Duran called the special meeting of the Oversight Board to the San Dimas Successor Agency to order at 3:58 p.m. and led the flag salute. He expressed appreciation to, and welcomed, attendees to the first meeting of the Oversight Board to the San Dimas Successor Agency.

2. Roll Call/Introductions

PRESENT: Board Members A.F. Feldbush, David Hall, Curt Morris, Ann Sparks, Larry Stevens, Brian Stiger,

City Staff: City Manager Blaine Michaelis, Assistant City Manager Ken Duran, City Attorney J. Kenneth Brown, Finance Manager Barbara Bishop, Senior Accounting Technician Steven Valdivia, Oversight Board Secretary Ina Rios

3. Swearing in of Oversight Board Members

The oath of office was administered to Board Members by San Dimas City Clerk Rios.

4. Election of Chairperson and Vice Chairperson and Designation of Contact Person

RECOMMENDED BOARD ACTION:

Elect one member of the Board to serve as Chair and one member to serve as Vice Chair of the Oversight Board and designate Contact Person for Department of Finance inquiries and Adopt: OB Resolution No. 001, A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE SAN DIMAS REDEVELOPMENT AGENCY DESIGNATING A CHAIRPERSON, VICE-CHAIRPERSON, AND PUBLIC OFFICIAL FOR THE DEPARTMENT OF FINANCE CONTACT PURPOSES AS REQUIRED BY HEALTH AND SAFETY CODE SECTION 34179.

MOTION: It was moved by Board Member Stevens, seconded by Board Member Sparks, to nominate Curt Morris as Chairperson and David Hall as Vice-Chairperson.

In response to Assistant City Manager Duran, Board Members Curtis and Hall acknowledged acceptance and the motion carried unanimously.

MOTION: It was moved by Board Member Stevens, seconded by Board Member Feldbush, and carried unanimously to appoint Ken Duran as contact to the Department of Finance.

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Sparks, to waive further reading and adopt **OB RESOLUTION NO. 001**, A RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE SAN DIMAS REDEVELOPMENT AGENCY DESIGNATING A CHAIRPERSON, VICE-CHAIRPERSON, AND PUBLIC OFFICIAL FOR THE DEPARTMENT OF FINANCE CONTACT PURPOSES AS REQUIRED BY HEALTH AND SAFETY CODE SECTION 34179. The motion carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

5. Review and Consideration of By-Laws and adoption of Resolution OB Resolution No. 002 approving By-Laws:

RECOMMENDED BOARD ACTION:

Adopt OB Resolution No. 002, A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING BY-LAWS.

Assistant City Manager Duran pointed out that item 7 of the Bylaws states the Oversight Board shall cease to exist when all indebtedness of the dissolved RDA has been repaid. He requested the bylaws be amended pursuant to Health and Safety Code 34188 that states the Oversight Board shall terminate after four years from the date of the first meeting of the Oversight Board, and the County shall appoint one Oversight Board.

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Hall, to waive further reading and adopt **OB RESOLUTION NO. 002**, A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING BY-LAWS as amended. The motion carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

6. Review and Consideration of Conflict of Interest Code and adoption of Resolution OB Resolution No. 003 approving the Conflict of Interest Code.

RECOMMENDED BOARD ACTION:

Adopt OB Resolution No. 003, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE

City Attorney Brown stated that the Oversight Board meetings shall be governed by, and subject to the Brown Act, including the requirement to file Conflict of Interest Statements Form 700.

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Hall, to waive further reading and adopt **OB RESOLUTION NO. 003**, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY ADOPTING A CONFLICT OF INTEREST CODE. The motion carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

7. Regular Meeting Schedule

RECOMMENDED BOARD ACTION:

Adopt a regular meeting schedule date and time.

CONSENSUS: It was the consensus of Board Members to adopt the second and fourth Thursdays, at 4:00 p.m. as the regular meeting schedule. The next meeting was tentatively scheduled for 4:00 p.m. on May 24, 2012.

8. Role and Responsibilities of Oversight Board

Staff will provide an overview report on the role and responsibilities of the Oversight Board and due dates of documents.

Assistant City Manager Duran provided a summary of the Oversight Board functions and responsibilities pursuant to Health and Safety code section 34179. He mentioned that many Board Members are serving on multiple Boards and have received orientation from the agencies that appointed them.

9. Review and Consideration of Successor Agency Administrative Budget

RECOMMENDED ACTION:

Review the proposed Administrative Budgets for the periods of February 1, 2012 – June 30, 2012 and July 1, 2012 – December 31, 2012 and adopt:

OB Resolution No. 005, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177.

OB Resolution No. 006, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE PERIOD OF JULY 1, 2012 THROUGH DECEMBER 31, 2012, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177.

City Manager Michaelis stated that AB1x26 requires the preparation of an administrative budget for a period of six months to allow the Successor Agency to recover costs associated with the dissolution process. He stated that the administrative budget was prepared for the Oversight Board's consideration for two time periods: 1) February-June 2012 with a total projected budget of \$245,794 for personnel, overhead and office rent; and 2) July-December 2012 with a total projected budget of \$131,842 for personnel, overhead and office rent. Staff's recommendation is to adopt OB Resolution No. 005 and OB Resolution No. 006 approving the respective administrative budgets.

Board Member Stevens inquired if attorney time would be included on the individual projection in the Recognized Obligation Payment Schedule or as a separate administrative cost.

Assistant City Manager Duran replied that all consultant costs are listed as a separate line item in the Recognized Obligation Payment Schedule, including attorney costs, consultants, and bond trustees.

In response to specific questions by Board Members, Mr. Duran explained the breakdown of costs listed in the Recognized Obligation Payment Schedule and the hierarchy of reimbursement of administrative costs.

Board Member Stiger recommended that attorney's fees for services to the Successor Agency be removed from the Recognized Obligation Payment Schedule and be listed in the administrative budget.

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Hall, to amend Exhibit A to reflect legal costs as a separate bracketed item with totals in the administrative budget, waive further reading and adopt **OB RESOLUTION NO. 005**, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE PERIOD OF FEBRUARY 1, 2012 THROUGH JUNE 30, 2012, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177. The motion carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Hall, to amend Exhibit A to reflect legal costs as a separate bracketed item with totals in the administrative budget, waive further reading and adopt **OB RESOLUTION NO. 006**, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE PERIOD OF JULY 1, 2012 THROUGH DECEMBER 31, 2012, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177. The motion carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

10. Review and Consideration of Agreement between the Successor Agency and the City of San Dimas for advance and reimbursement of expenses for city staff, office space, supplies and equipment.

RECOMMENDED ACTION:

Adopt OB Resolution No. 007, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING AN AGREEMENT FOR THE ADVANCE AND REIMBURSEMENT OF EXPENSES FOR CITY STAFF, OFFICE SPACE, EQUIPMENT AND SUPPLIES BY AND BETWEEN THE CITY OF SAN DIMAS AND THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY.

Board Member Stevens recommended that the date on page 2 of the Agreement, under Sections 2 and 3, be amended from January to February 1, 2012.

MOTION: After the title was read, it was moved by Board Member Stevens to amend Section 2 and Section 3 of the Agreement to change the date from January 1 to February 1, 2012, and to waive further reading and adopt **OB RESOLUTION NO. 007**, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING AN AGREEMENT FOR THE ADVANCE AND REIMBURSEMENT OF EXPENSES FOR CITY STAFF, OFFICE SPACE, EQUIPMENT AND SUPPLIES BY AND BETWEEN THE CITY OF SAN DIMAS AND THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY. The motion was seconded by Board Member Hall and carried 6.0 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

11. Review and Consideration of January 1, 2012 - June 30, 2012 Recognized Obligation Payment Schedule and July 1, 2012 – December 31, 2012 Recognized Payment Obligation Schedule

RECOMMENDED ACTION:

Review the January 1, 2012 – June 30, 2012 Recognized Payment Obligation Schedule and adopt:

OB RESOLUTION NO. 008, A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF SAN DIMAS REDEVELOPMENT AGENCY APPROVING THE JANUARY 1, 2012 THROUGH JUNE 30, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g).

Review and consideration of the July 1, 2012 – December 31, 2012 Recognized Payment Obligation Schedule and adopt:

OB RESOLUTION NO. 009, A RESOLUTION OF THE OVERSIGHT BOARD APPROVING THE JULY 1, 2012 – DECEMBER 31, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g).

Assistant City Manager explained the Recognized Obligation Payment Schedule (ROPS) and said the ROPS will be submitted for reimbursement to the State Department of Finance and County Auditor-Controller in six month increments for two periods: 1) January- June 2012 and 2) July-December 2012. He stated that the first ROPS 1 was expected to be submitted to the State and County by April 15, 2012, with reimbursement due May 16, 2012. However, the Los Angeles County Auditor-Controller made the determination they would not be paying the obligation under this payment schedule because the first one-half of the tax increment payments was made under the normal schedule. Their interpretation is that those funds should have been used to make payment on our obligation for January-June 2012. Mr. Duran stated that

ROPS 2 for period July-December 2012 is due May 11, 2012 with payment made to us by June 1. Additionally, staff prepared a summary that identified obligations that staff felt are supported and enforceable.

Staff responded to specific questions from the Board regarding the list of obligations.

After much discussion about the obligations listed on the ROPS, Board Member Stiger expressed concern that AB1x26 clearly states that loans not created within the two year period are not considered enforceable obligations.

City Manager Michaelis replied that provisions of AB1x26 state that only loans made within two years will be honored. He said all loans listed as enforceable obligations were not made within the first two years, however, those loans were included in the ROPS because staff felt they are binding legal documents between the City and the Redevelopment Agency, supported by Resolutions and payment schedules with reasonable interest terms. He added that, if approved, AB1585 honors these loans.

Successor Agency Attorney Brown suggested that a footnote be included in the ROPS to justify including those loans in the document.

Mr. Michaelis stated the footnote would state that if ever state law provides for this in the future, this loan could qualify as an enforceable obligation. As an alternative, he suggested that a letter can be submitted with the ROPS to indicate that the Oversight Board considered that these items should be included.

Board Member Stevens recommended approving and submitting the Recognized Obligation Payment Schedule as reported, wait for County and State feedback, then adjust it at that point in time.

Board Member Hall confirmed that lines 4, 5 and 6 are in question.

It was the consensus of the Board Members to continue the discussion on Thursday, May 10, 2012, at 4:00 p.m.

RECESS UNTIL THURSDAY, MAY 10, 2012

Mayor Morris called a recess at 5:42 p.m. to meet on Thursday, May 10, 2012, at 4:00 p.m. to continue discussions on item 11. The meeting reconvened at 4:04 p.m. on Thursday, May 10, 2012, with all members of the Oversight Board present.

In response to Board Member Stiger's concerns about listing city loans as enforceable obligations on the ROPS, Assistant City Manager Duran explained that there are three agreements between the Redevelopment Agency and the City of San Dimas, to reimburse the use of city staff, which is similar to the Administrative Agreement adopted for the Successor Agency. He said those agreements were in place when the Agency dissolved, and those agreements dissolved with the Agency. He stated that the only reason they were listed as a line item on the ROPS, was the requirement to reflect those expenses for January-June. He stressed that those line items do not appear on the ROPS for July-December and the new Administrative Budget approved on May 9, 2012 takes the place of prior agreements.

Additionally, Mr. Duran stated he will change the funding source column of administrative costs for item 12 administrative costs allowance.

In response to Mayor Morris, Mr. Duran replied that it is unclear whether or not the costs for item 12 should be allocated as an administrative budget, or as a separate line item as an enforceable obligation. This item will be included on the ROPS with a footnote.

Assistant City Manager Duran further replied to Board Member Stiger's concern about item 18, County administrative fee, and said the County was charging the City for collecting and administering the tax increment. The County Auditor/Controller was contacted and they have confirmed they will not be billing the City for that cost. That item will be removed from the ROPS and the City will not request reimbursement.

Assistant City Manager Duran reviewed the two types of pass-through payments: 1) statutory pass-through payments with a fixed formula amount and 2) negotiated pass-through payments with other taxing entities. He said pass-through payments were made in November and those payments are reflected on the ROPS for the current fiscal year.

Board Members discussed in length the letter explaining the footnotes and the city's loans on the ROPS.

Board Member Stiger expressed concern that the Board would be placed in an advocacy role. He suggested the letter come from the Successor Agency.

After additional lengthy discussion on the contents of the letter, it was moved by Board Member Hall, seconded by Board Member Feldbush, to approve the proposed letter with the amendment that the first three sentences of paragraph 3 be stricken. The motion carried 5.1 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Morris; NOES: Board Member Stiger; ABSTAIN: None; ABSENT: None

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Sparks, to adjust the Recognized Obligation payment Schedule January-June line item 12 to change the funding source to administrative costs allowance and eliminate line 18 County administrative fee, and to waive further reading and adopt **OB RESOLUTION NO. 008, A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING THE JANUARY 1, 2012 THROUGH JUNE 30, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g)**. The motion carried 5.1 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Morris; NOES: Board Member Stiger; ABSTAIN: None; ABSENT: None

MOTION: After the title was read, it was moved by Board Member Stevens, seconded by Board Member Sparks, to adjust item 9 administrative costs allowance on the Recognized Obligation payment Schedule July-December, and to waive further reading and adopt **OB RESOLUTION NO. 009, A RESOLUTION OF THE OVERSIGHT BOARD APPROVING THE JULY 1, 2012 – DECEMBER 31, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g)**. The motion carried 5.1 as follows: AYES: Board Members Feldbush, Hall, Sparks, Stevens, Morris; NOES: Board Member Stiger; ABSTAIN: None; ABSENT: None

Board Members expressed a conflict for the meeting of May 24, 2012. The meeting was cancelled subject to scheduling a special meeting.

12. Public Comment

Chairman Morris opened the public comments period. There being no one wishing to speak, the public comment period was closed.

13. Reports of Board Members

- a) Board Member Stiger requested a review of the Oversight Board's responsibilities pursuant to AB 1x26, statute 34181 at the next meeting.
- b) Board Member Hall requested a report about possible financial and legal exposure assumed as a member of the Oversight Board.

Assistant City Manager Duran explained that provisions in the statute indemnify Board Members.

Chairman Morris expressed his gratitude to the appointees for serving on the Board.

14. Adjournment

Chairman Morris adjourned the meeting at 5:21 p.m. The next meeting will be a special meeting with a date to be determined.

Respectfully submitted,

Ina Rios, Oversight Board Secretary

**MINUTES
OVERSIGHT BOARD TO THE
CITY OF SAN DIMAS SUCCESSORY AGENCY**

**MAY 22, 2012, 3:00 P.M.
SAN DIMAS COUNCIL CONFERENCE ROOM
245 EAST BONITA AVENUE
SAN DIMAS, CA 91773**

PRESENT: Board Members Bonnie Bowman, A.F. Feldbush, David Hall (arrived 3:06 p.m.), Curt Morris, Ann Sparks, Larry Stevens, Brian Stiger

City Staff: City Manager Blaine Michaelis, Assistant City Manager Ken Duran, City Attorney J. Kenneth Brown, Finance Manager Barbara Bishop, Senior Accounting Technician Steven Valdivia, Oversight Board Secretary Ina Rios

1. Call to Order and Pledge of Allegiance

Chairman Morris called the meeting of the Oversight Board to the San Dimas Successor Agency to order at 3:01 p.m. and led the flag salute.

2. Review and Reconsideration of January 1, 2012 - June 30, 2012 Recognized Obligation Payment Schedule and July 1, 2012 – December 31, 2012 Recognized Obligation Payment Schedule

RECOMMENDED ACTION:

Review and reconsideration of the January 1, 2012 – June 30, 2012 Recognized Payment Obligation Schedule and adopt **RESOLUTION NO. 010** – A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING THE JANUARY 1, 2012 THROUGH JUNE 30, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g)

Review and reconsideration of the July 1, 2012 – December 31, 2012 Recognized Payment Obligation Schedule and adopt **RESOLUTION NO. 011** – A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING THE JULY 1, 2012 THROUGH DECEMBER 31, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180 (g)

Assistant City Manager Duran stated that on Friday, May 11, 2012, the Recognized Obligation Payment Schedule (ROPS) was submitted to the State Department of Finance. On May 14, the State notified City staff that they would be questioning some items. On Friday, May 18th, a call was received from the State Auditor stating that they concluded that city loans are not recognized obligations and they would be denying the entire ROPS based upon the inclusion of city loans on the ROPS. However, they offered approval of the ROPS if the city loans were voluntarily removed from the ROPS. The Auditor clarified that she understood the points made in the letter and the offer would allow city loans to be kept as a line item and the total amount due would be approved if there was not a payment requirement for six months period of the ROPS. Mr. Duran said the purpose of this meeting is to have the Oversight Board amend the ROPS. Staff feels this is the best compromise and stated that if the loan amount is kept on the January-July 2013 ROPS, revenue would be received this fiscal year.

In response to Board Member Feldbush, Mr. Duran replied that the same amount would be received whether the loans were included in the January or July obligation schedule. He explained that one loan to the Walker House, LLC, item 7, is not a city loan. He said the Walker House is a legal separate entity and the source of revenue used for that loan came from historic tax credit, not tax increments. The Auditor agreed this was a legitimate loan that could be considered an enforceable obligation.

Staff recommended that the Oversight Board approve the amended Recognized Obligation Payment Schedule and adopt OB Resolution No. 010 approving the amended ROPS for period January-June 2012 and OB Resolution No. 011 approving the amended ROPS for period July-December 2012.

In response to Board Member Stiger, Mr. Duran replied that the Department of Finance would recommend approval of the ROPS with that one change.

After the title was read, it was moved by Board Member Feldbush, seconded by Board Member Sparks, to waive further reading and adopt **RESOLUTION NO. 010** – A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING THE JANUARY 1, 2012 THROUGH JUNE 30, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g) as amended. The motion carried 7.0 by the following vote: AYES: Board Members Bowman, Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

After the title was read, it was moved by Board Member Feldbush, seconded by Board Member Sparks, to waive further reading and adopt **RESOLUTION NO. 011** – A RESOLUTION OF THE SAN DIMAS OVERSIGHT BOARD APPROVING THE JULY 1, 2012 THROUGH DECEMBER 31, 2012 RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34180(g). The motion carried 7.0 by the following vote: AYES: Board Members Bowman, Feldbush, Hall, Sparks, Stevens, Stiger, Morris; NOES: None; ABSTAIN: None; ABSENT: None

7. Public Comment

City Manager Michaelis stated that provisions in AB1x26 allow a Successor Agency to enter or re-enter into an agreement with the City that formed the Redevelopment Agency, provided that those agreements are approved by its Oversight Board.

8. Reports of Board Members

City Manager Michaelis welcomed new Board Member Bonnie Bowman.

In response to Board Members, Assistant City Manager Duran replied that the next meeting is scheduled for Thursday, June 14, 2012, at 4:00 p.m., in the City Council Conference Room.

9. Adjournment

Chairman Morris adjourned the meeting of the Oversight Board at 3:20 p.m.

Respectfully submitted,

Ina Rios, Secretary
Oversight Board