

AGENDA
CITY OF POMONA
SUCCESSOR AGENCY
OVERSIGHT BOARD

Special Meeting
September 13, 2012
1:30 P.M.

Pomona City Council Chambers

505 S. Garey Avenue, Pomona, CA

Board Members:

Leslie Barnes, Representative of the Los Angeles County Office of Education
Mike Gregoryk, Representative of California Community College
Gerry Hertzberg – Representative of the Los Angeles County Flood Control
Alfa Lopez - Representative of the City of Pomona
Elliott Rothman, Representative of the City of Pomona
Bruce Saito, Representative of the County of Los Angeles
Carrie Sutkin, Representative of the County of Los Angeles

1. CALL TO ORDER

- A) Roll Call by the City Clerk
- B) Pledge of Allegiance

2. PUBLIC COMMENT

This is the time set aside for public comments on only those items listed on the agenda. When recognized by the Chairperson, please step forward to the podium and state your name and city of residence for the record.

3. APPROVAL OF MINUTES

- (A) MEETING OF MAY 3, 2012
- (B) MEETING OF MAY 24, 2012

4. ADOPTION OF A RESOLUTION TO CHANGE THE REGULAR MEETING DAY AND TIME OF THE OVERSIGHT BOARD FROM THE FOURTH THURSDAY OF THE MONTH AT 9:30 A.M. TO THE SECOND THURSDAY OF THE MONTH AT 1:30 P.M.

Recommended Action

It is recommended that the Oversight Board adopt Resolution No. OB 2012-__ establishing a regular meeting schedule.

5. **ADOPTION OF A RESOLUTION APPROVING A CONFLICT-OF-INTEREST CODE**

Recommended Action

It is recommended that the Oversight Board adopt Resolution No. OB 2012-__ approving a Conflict of Interest Code for the Oversight Board and directing staff to submit it to the Pomona City Council as the Code Reviewing Body pursuant to the California Political Reform Act.

6. **DEPARTMENT OF FINANCE COMMUNICATIONS**

7. **FUTURE AGENDA ITEMS**

8. **ADJOURNMENT**

Adjournment to the next regularly scheduled meeting on Thursday, October 11, 2012 at 1:30 p.m. in the Pomona City Council Chambers.

NOTICE: Copies of all agenda materials are available for public review in the City Clerk's Office and at the Pomona Library Reference Desk. Materials related to an item on this agenda submitted after distribution of the agenda packet are available for public inspection in the City Clerk's Office, 505 S. Garey, Ave., Pomona, during regular business hours of 7:30am to 6:00pm, Monday through Thursday. Such documents are also available on the City's website at www.ci.pomona.ca.us subject to staff's ability to post the documents before the meeting.

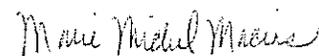
Should any person have a question concerning any of the above agenda items prior to the meeting described herein, he or she may contact Economic Development Director Raymond Fong, either in person at the Administration Offices at Pomona City Hall, or by calling at (909) 620-2410.

Persons who have questions concerning any agenda item may call the City Clerk's Office at (909) 620-2341 to make inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at (909) 620-2051 at least forty-eight (48) hours prior to the meeting to allow the City to make reasonable arrangements to ensure accessibility to this meeting.

AFFIDAVIT OF POSTING

I, Marie Michel Macias, City Clerk for the City of Pomona, hereby certify under penalty of perjury under the laws of the State of California, that the foregoing notice was posted in the front bulletin board of the City Council Chambers, the City Hall Lobby, and posted on the City's website on September 6, 2012.



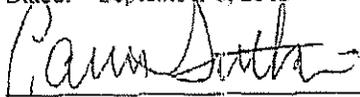
Marie Michel Macias, MMC

NOTICE AND CALL OF A SPECIAL MEETING
OF THE CITY OF POMONA
SUCCESSOR AGENCY OVERSIGHT BOARD

NOTICE IS HEREBY GIVEN that City of Pomona Successor Agency Oversight Board will conduct a Special Meeting on Thursday, September 13, 2012 at 1:30 p.m. in the City Council Chambers, located at 505 S. Garey Avenue, Pomona, for discussion of the following:

1. CALL TO ORDER
 - (A) ROLL CALL BY THE CITY CLERK
 - (B) PLEDGE OF ALLEGIANCE
2. PUBLIC COMMENT
3. APPROVAL OF MINUTES
 - (A) MEETING OF MAY 3, 2012
 - (B) MEETING OF MAY 24, 2012
4. ADOPTION OF A RESOLUTION TO CHANGE THE REGULAR MEETING DAY AND TIME OF THE OVERSIGHT BOARD FROM THE FOURTH THURSDAY OF THE MONTH AT 9:30 A.M. TO THE SECOND THURSDAY OF THE MONTH AT 1:30 P.M.
5. ADOPTION OF A RESOLUTION APPROVING A CONFLICT-OF-INTEREST CODE
6. DEPARTMENT OF FINANCE COMMUNICATIONS
7. FUTURE AGENDA ITEMS
8. ADJOURNMENT

Dated: September 6, 2012



CARRIE SUTKIN, CHAIRPERSON

By Order of the Oversight Board:
(August 14, 2012)

DECLARATION OF NOTIFICATION AND POSTING:

I, MARIE MICHEL MACIAS, City Clerk of the City of Pomona, do hereby certify that on the 6th day of September, 2012, I emailed and/or mailed a true copy of the above notice, by placing same in an envelope, and mailed it sealed, postage prepaid, in a United States mailbox in Pomona, California, addressed as follows:

Leslie Barnes, Representative of the LA Co. Office of Education

Mike Gregoryk, Representative of California Community College

Gerry Hertzberg, Representative of the LA Co. Flood Control

Alfa Lopez, Representative of the City of Pomona

Elliott Rothman, Representative of the City of Pomona

Bruce Saito, Representative of the County of Los Angeles

Carrie Sutkin, Representative of the County of Los Angeles

Inland Valley Daily Bulletin

P.O. Box 4000

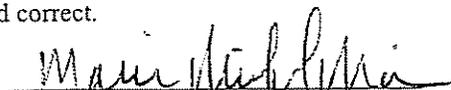
Ontario, CA 91761

Attn: Monica Rodriguez

FAX: (909) 948-9038

NOTE: Above addresses on file

and posted said notice in the City Hall Lobby, City Council Chambers, and on the City's website on September 6, 2012. I declare under penalty of perjury that the foregoing statement is true and correct.


Marie Michel Macias, MMC

MINUTES
City of Pomona
Successor Agency Oversight Board
Special Meeting
May 3, 2012
9:30 a.m.

Pomona City Council Chambers

505 S.Garey Avenue, Pomona

Board Members Present

Leslie Barnes, Board Member
Mike Gregoryk, Board Member
Gerry Hertzberg, Board Member
Elliott Rothman, Vice Chair
Carrie Sutkin, Chair

Board Members Absent

Bruce Saito, Board Member
Vacant Seat: Representative from the City of Pomona

Staff Members Present

Linda Lowry, City Manager
Arnold Alvarez-Glasman, City Attorney
Paula Chamberlain, Director of Finance
Raymond Fong, Director of Redevelopment
Mark Lazzaretto, Director of Community Development
Marie Michel Macias, City Clerk

Members of the Public

LaTayvius Alberty, Los Angeles County Counsel
Edward Kopkin, Private Attorney

1. CALL TO ORDER

A) Roll Call by the City Clerk

The Roll Call was taken by the City Clerk.

B) Pledge of Allegiance

The Pledge of Allegiance was led by the City Clerk.

2. SELECTION OF SPECIAL COUNSEL FOR THE OVERSIGHT BOARD AND DISCUSSION OF CONFLICT OF INTEREST CODE

Recommended Action:

It is recommended that the Oversight Board review the request for Qualifications (RFQ) responses and provide direction to staff.

On suggestion of Board Member Hertzberg, the Board agreed to table this item for discussion following Agenda Item No. 3 Review and Approval of Remaining

Agenda Item No. **3A**

Items on the Recognized Obligation Payment Schedule (ROPS). Staff was instructed to work with Chair Sutkin for order of items on future agendas. The Board agreed to hold off on the discussion regarding the Conflict of Interest Code until they had legal counsel.

City Manager Lowry provided an update as requested at the last Board meeting. She deferred to Paula Chamberlain, Director of Finance, who oversees the Purchasing Department. She reported that a RFQ for Legal Counsel had been sent out and ten proposals had been received.

On motion of Board Member Gregoryk, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, the Board approved the establishment of the Subcommittee, comprised of Chair Sutkin, Vice Chair Rothman, and City Manager Lowry, with the task of reviewing and submitting one counsel/law firm for approval by the Board at the next meeting on May 24, 2012.

3. **REVIEW AND APPROVAL OF REMAINING ITEMS ON THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS)**

Paula Chamberlain, Director of Finance and Raymond Fong, Director of Redevelopment presented the changes requested by the Board at the meeting of April 26, 2012. The Board reviewed the revised ROPS for the period of January 1, 2012 through June 30, 2012 (ROPS 1) as follows:

Section A, Line Item 13: Project Name: Direct Project Management Cost, Payee: City of Pomona Employees.

Ms. Chamberlain informed the Board that this item was not part of the Administrative Budget because it was more of a project-specific direct cost to administering the bonds.

On motion of Board Member Gregoryk, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section A, Line Item 13: Project Name: Direct Project Management Cost, Payee: City of Pomona Employees, was approved.

Section C, Line Item 1: Project Name: Direct Project Management Cost, Payee: City of Pomona Employees.

Ms. Chamberlain informed the Board that item was not part of the Administrative Budget because the cost is for the actual oversight of the agreements, reviewing the contracts, etc.

On motion of Board Member Hertzberg, seconded by Vice Chair Rothman, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 1: Project Name: Direct Project Management Cost, Payee: City of Pomona Employees, was approved.

Section C, Line Item 2: Project Name: Auto Center Participations, Payee: Pomona Auto Center Owners.

On motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0) Board Member

Saito excused, Section C, Line Item 2: Project Name: Auto Center Participations, Payee: Pomona Auto Center Owners, was approved.

Section C, Line Item 3: Project Name: Walgreen Company, Payee: Walgreen Company.

On motion of Chair Sutkin, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 3: Project Name: Walgreen Company, Payee: Walgreen Company, was approved.

Section C, Line Item 4: Project Name: Phillips Ranch Devel-Ku, Payee: Phillips Ranch Development.

Ms. Chamberlain reported that this item was for the Freeway Monument Sign and that the sign had been completed; however, there was \$4,720 left in the contract budget. Chair Sutkin suggested the Successor Agency's legal counsel write a closing letter for the project to release obligation for any further payments. Staff also reported that all of KU and Associates interests in the Amended and Restated Disposition and Development Agreement (ARDDA) had been acquired by YK America as the sole developer of Phillips Ranch Plaza and that Phillips Ranch Devel-Ku would be changed to Phillips Ranch Devel-YK in the Project Name column on the ROPS 1 and 2.

On motion of Board Member Gregoryk, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 4: Project Name: Phillips Ranch Devel-Ku, Payee: Phillips Ranch Development, was approved.

Section C, Line Item 5: Project Name: Phillips Ranch Devel-Ku, Payee: Phillips Ranch Development.

This item was removed from ROPS 1 and 2.

Section C, Line Item 6: Project Name: Phillips Ranch Devel-Ku, Payee: Phillips Ranch Development and Section C, Line Item 7: Project Name: Phillips Ranch Plaza-landfill Site, Payee: Phillips Ranch Development.

Following discussion, on motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 6: Project Name: Phillips Ranch Devel-Ku, Payee: Phillips Ranch Development and Section C, Line Item 7: Project Name: Phillips Ranch Plaza-landfill Site, Payee: Phillips Ranch Development, were removed from the ROPS Exhibit A and B for placement for

approval on a future ROPS pending review of the contract and determination if it is an enforceable obligation and Section C, Line Item 6: Project Name: Phillips

Ranch Devel-Ku was amended to reflect the name change from Phillips Ranch Devel-Ku to Phillips Ranch Devel-YK.

Section C, Line Item 8: Project Name: Pomona Brewery, Payee: Pomona Brewery.

Mark Lazzaretto, Director of Community Development, provided an update and reported that the construction was not complete because there were some changes that had to be made. He further reported that the Jason Abboud, dba Pomona Brewery, had not applied for the Certificate of Occupancy.

Following discussion, on motion of Board Member Hertzberg, seconded by Board Member Barnes, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 8: Project Name: Pomona Brewery, Payee: Pomona Brewery, was approved on ROPS Exhibit A and Exhibit B, with the caveat that the June payment would not be released until review by legal counsel on provisions within the Agreement that would allow the Successor Agency (SA) to declare Mr. Abboud in default and enable the SA to recover the funds that had been released.

Section C, Line Item 9: Project Name: Thomas Group, Payee: Thomas Group.

On motion of Chair Sutkin, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 9: Project Name: Thomas Group, Payee: Thomas Group was approved.

Section C, Line Item 10: Project Name: Cal Spas (Lloyds Material Supply Co.), Payee: Lloyds Material Supply Co.

On motion of Vice Chair Rothman, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 10: Project Name: Cal Spas (Lloyds Material Supply Co.), Payee: Lloyds Material Supply Co., was approved.

Section C, Line Item 11: Project Name: Mission Promenade, Payee: Mission Promenade LLC.

On motion of Vice Chair Rothman, seconded by Board Member Barnes, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 11: Project Name: Mission Promenade, Payee: Mission Promenade LLC., was approved.

Section C, Line Item 12: Project Name: Fox Theater, Payee: Fox Theater.

Vice Chair Rothman asked staff to provide the number of dates that the City had received for community events at the Fox Theatre, and the Board requested an update for discussion at the June meeting.

On motion of Board Member Gregoryk, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section C, Line Item 12: Project Name: Fox Theater, Payee: Fox Theater, was approved.

Section C, Line Item 13: Project Name: Superior Duct, Payee: Superior Duct.

On motion of Vice Chair Rothman, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0) Board Member Saito excused, Section C, Line Item 13: Project Name: Superior Duct, Payee: Superior Duct, was approved.

Section C, Line Item 14: Project Name: Target Center, Payee: Transtech and
Section C, Line Item 15: Project Name: Target Center, Payee: Undetermined.

Raymond Fong, Director of Redevelopment, provided an overview of the staff report. He reported that the DDA had been approved by City Council during a Public Hearing on June 20, 2011. However, the final DDA had not been executed until June 29th, which was past the date for items to be considered enforceable obligations.

Arnold Alvarez-Glasman, City Attorney, stated that Target would have good cause to sue the City of Pomona should they default on the DDA.

Mr. Fong mentioned that the payments listed on the ROPS were for the consultant to prepare design plans, and they would not meet the schedule if the payments stopped. Vice Chair Rothman added that there were no payments due until September 2012.

Following discussion, on motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by majority vote of the members present (4-1-1-0) Chair Sutkin opposed and Board Member Saito excused, Section C, Line Item 14: Project Name: Target Center, Payee: Transtech, and Section C, Line Item 15: Project Name: Target Center, Payee: Undetermined, were approved with no payments scheduled without Oversight Board approval and acknowledgment that this is a significant legal issue that must be resolved.

Section C, Line Item 16: Project Name: Commercial Facade.

On motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section C, Line Item 16: Project Name: Commercial Façade, was removed from ROPS 1 and 2.

Section C, Line Item 17: Project Name: Guadalajara Supermarket, Payee:
Guadalajara Supermarket.

On motion of Vice Chair Rothman, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section C, Line Item 17: Project Name: Guadalajara Supermarket, Payee: Guadalajara Supermarket, was removed from ROPS 1 and 2.

Section C, Line Item 18: Project Name: LA County Fair Convention Center, Payee: LA County Fair and Section C, Line Item 19: Project Name: Waterline Relocation Assistance, Payee: Mission BP, LLC – C.19.

On motion of Board Member Gregoryk, seconded by Vice Chair Rothman, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section C, Line Item 18: Project Name: LA County Fair Convention Center, Payee: LA County Fair and Section C, Line Item 19: Project Name: Waterline Relocation Assistance, Payee: Mission BP, LLC – C.19, were approved.

Section D, Line Item 4: Project Name: Employees MOU Obligations, Payee: Former Pomona Employees.

On motion of Board Member Gregoryk, seconded by Chair Sutkin, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section D, Line Item 4: Project Name: Employees MOU Obligations, Payee: Former Pomona Employees, was approved.

Section D, Line Item 5: Project Name: Oversight Board Expense/Legal.

On motion of Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section D, Line Item 5: Project Name: Oversight Board Expense/Legal, was approved with the caveat that the legal costs stay within the allotted administrative budget cap.

Section D, Line Item 5.1: Project Name: Oversight Board Expense/Material, Payee: OB of Successor Agency.

On motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section D, Line Item 5.1: Project Name: Oversight Board Expense/Material, Payee: OB of Successor Agency, was approved with the caveat that it may be adjusted accordingly so that it does not exceed the allotted administrative budget percentage.

Section D, Line Item 7: Project Name: Equipment Maintenance Repair, Payee: Konica Minolta and Section D, Line Item 8: Project Document Filing System, Payee: Archives.

These items were removed from ROPS 1 and 2.

Section E. Other Liabilities, Line Items 1, 2, 3, and 4.

On motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member

Saito excused, Section E. Other Liabilities, Line Items 1, 2, 3, and 4, were approved.

Section F. Property Disposition Project Cost, Line Items 1, 2, 3, 4, 5, 6, 7, and 8.

On motion of Vice Chair Rothman, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (4-0-2-0) Board Member Hertzberg Absent and Board Member Saito excused, Section F. Property Disposition Project Cost, Line Items 1, 2, 3, 4, 5, 6, 7, and 8, were approved.

Section G, Line Item 1: Project Name: Direct Project Management Cost; Line Item 2: Project Name: Lead Match; Line Item 3: Project Name: Abate hazardous Buildings; and Line Item 4: Project Name: Neighborhood Improvement Program.

On motion of Board Member Gregoryk, seconded by Board Member Barnes, carried by unanimous vote of the members present (4-0-2-0) Board Member Hertzberg Absent and Board Member Saito excused, Section G, Line Item 1: Project Name: Direct Project Management Cost; Line Item 2: Project Name: Lead Match; Line Item 3: Project Name: Abate hazardous Buildings; and Line Item 4: Project Name: Neighborhood Improvement Program, were approved.

Section G. Property Related Program Obligations, Line Items 5, 6, 7, 8, 9, 10 and 11.

These items were removed from ROPS 1 and 2.

Section J. Administrative Expense, Line Items 1, 2, (Line Item 3 was removed), 4, 5, and 6.

This section would reflect prior changes to the ROPS and stay within the administrative budget cap.

On motion of Board Member Hertzberg, seconded by Vice Chair Rothman, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section J. Administrative Expense, Line Items 1, 2, (Line Item 3 was removed), 4, 5, and 6 were approved.

Section K, Line Item 1: Project Name: Target Center-property purchase, Payee: RVC Realty & Chrysler Finance.

On motion of Board Member Hertzberg, seconded by Board Member Gregoryk, carried by majority vote of the members present (4-1-1-0) Vice Chair Rothman opposed, Board Member Saito excused, Section K, Line Item 1: Project Name: Target Center-property purchase, Payee: RVC Realty & Chrysler Finance, was removed from ROPS 1 and 2.

Section K, Line Item 2: Project Name: Highway Improvement- 71 to Freeway Payee: Caltrans.

On motion of Chair Sutkin, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section K, Line Item 2: Project Name: Highway Improvement- 71 to Freeway Payee: Caltrans, was approved.

Section K, Line Item 3: Project Name: Streetscape Garey Med Beautification.
Payee: KASA Construction Inc.

On motion of Chair Sutkin, seconded by Board Member Gregoryk, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Section K, Line Item 3: Project Name: Streetscape Garey Medians Beautification, Payee: KASA Construction Inc., was approved.

Section K-RDA Bond Proceed CIP Obligations, Line Items 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.

Board Member Hertzberg suggested scheduling further discussion of the bonds at a future meeting.

On motion of Chair Sutkin, seconded by Board Member Gregoryk, carried by majority vote of the members present (4-1-1-0) Vice Chair Rothman opposed, Board Member Saito excused, Section K-RDA Bond Proceed CIP Obligations, Line Items 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, were removed from the ROPS 1 and 2.

A) REVIEW AND APPROVE RESOLUTION NO. OB 2012-06 APPROVING THE REVISED RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012 (ROPS 1);

On motion of Chair Sutkin, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Resolution NO. OB 2012-06 and the Revised Recognized Obligation Payment Schedule (ROPS) for the period of January 1, 2012 through June 30, 2012 (Exhibit A), was approved as amended.

Paula Chamberlain, Director of Finance, reviewed the changes previously approved for January 1, 2012 through June 30, 2012 (ROPS 1) to be amended on July 1, 2012 through December 31, 2012 (ROPS 2).

Section A- RDA/PFA Bonds

Same change as previously approved on ROPS 1.

Section B-Loans & Notes

No changes. This section was approved at the May 3, 2012 meeting.

Section C-Development Agreement Obligations/Business Assistance Loans

Same changes as previously approved on ROPS 1, with the same notes for Section C, Line Item 14: Project Name: Target Center, Payee: Transtech and Section C, Line Item 15: Project Name: Target Center, Payee: Undetermined, that no payments be scheduled without Oversight Board approval.

Director Chamberlain stated that ROPS 2 demonstrated payments for Line Item 8: Project Name: Pomona Brewery and Line Item 13: Project Name: Superior

Duct. However, these payments would not be made without the Oversight Board's approval.

Section D- Other Obligations

Same changes as previously approved on ROPS 1.

Section E-Other Liabilities

Same changes as previously approved on ROPS 1.

Section F-Property Disposition Project Cost

Same changes as previously approved on ROPS 1. Ms. Chamberlain stated that there were fewer addresses listed under Payee for Line Item 3: Project name Redevelopment Property Maintenance.

Section G-Property Related Program Obligations

Same changes as previously approved on ROPS 1. The section will be eliminated in ROPS 2.

Section H-Other Loans

No changes. This section was approved at the May 3, 2012 meeting.

Section I-Pass-through Obligations

No items are listed. The County assumed this obligation.

Section J-Administrative Expense

Same changes as previously approved on ROPS 1.

Section K-RDA Bond Proceed CIP Obligations

Same changes as previously approved on ROPS 1.

B) REVIEW AND APPROVE RESOLUTION NO. OB 2012-07 APPROVING THE REVISED ROPS FOR THE PERIOD OF JULY 1, 2012 THROUGH DECEMBER 31, 2012 (ROPS 2); AND

C) DIRECT SUCCESSOR AGENCY STAFF TO TRANSMIT THE APPROVED ROPS DOCUMENTS TO THE LOS ANGELES COUNTY AUDITOR CONTROLLER, THE STATE CONTROLLER, AND THE STATE DEPT. OF FINANCE

On motion of Board Member Hertzberg, seconded by Board Member Barnes, carried by majority vote of the members present (4-1-1-0) Vice Chair Rothman opposed, Board Member Saito excused, Section K-RDA Bond Proceed CIP Obligations, Line Items 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, and Resolution No. OB 2012-07 and the Revised Recognized Obligation Payment Schedule (ROPS) for

the period of July 1, 2012 through December 31, 2012 (ROPS 2) were approved as amended.

4. **APPROVAL OF THE ADMINISTRATIVE BUDGET FOR JULY 1, 2012 THROUGH DECEMBER 31, 2012**

On motion of Board Member Gregoryk, seconded by Chair Sutkin, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, Resolution No. OB 2012-08 approving the Successor Agency Administrative Budget for July 1, 2012 through December 31, 2012 was approved.

5. **DIRECTION ON THE PREPARATION OF THE SUCCESSION AGENCY'S REAL PROPERTY DISPOSITION PLAN**

On motion of Chair Sutkin, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (5-0-1-0), Board Member Saito excused, this item was continued to the June meeting.

6. **PUBLIC COMMENT**

Edward Kopkin, Attorney, spoke with regard to Agenda Item No. 2, and asked the Board to consider utilizing his legal services.

7. **ADJOURNMENT**

The meeting was adjourned at 12:03 p.m. to the next Regular Meeting on Thursday, May 24, 2012 at 9:30 a.m. in the City Council Chambers, 505 South Garey Avenue, Pomona.

Marie Michel Macias, Clerk

ATTEST:

Carrie Sutkin, Chairperson

MINUTES
City of Pomona
Successor Agency Oversight Board
Regular Meeting
May 24, 2012
9:30 a.m.

Pomona City Council Chambers

505 S.Garey Avenue, Pomona

Board Members Present

Leslie Barnes, Board Member
Gerry Hertzberg, Board Member
Alfa Lopez, Board Member
Elliott Rothman, Vice Chair
Bruce Saito, Board Member
Carrie Sutkin, Chair

Board Members Absent

Mike Gregoryk, Board Member

Staff Members Present

Linda Lowry, City Manager
Arnold Alvarez-Glasman, City Attorney
Scott Nichols, Deputy City Attorney for Former Redevelopment Agency
Paula Chamberlain, Director of Finance
Raymond Fong, Director of Former Redevelopment Agency
Marie Michel Macias, City Clerk

Members of the Public

Basilio Granadas
Tomas Ursua

1. CALL TO ORDER – 9:38 A.M.

A) Roll Call by the City Clerk

The Roll Call was taken by the City Clerk.

B) Pledge of Allegiance

The Pledge of Allegiance was led by the City Clerk.

2. APPROVAL OF MINUTES – MEETING OF APRIL 26, 2012

On motion of Vice Chair Rothman, seconded by Board Member Barnes, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Minutes of April 26, 2012 were approved.

3. SELECTION OF SPECIAL COUNSEL FOR THE OVERSIGHT BOARD

Chair Sutkin reported that she had chaired an Ad-Hoc Committee comprised of Vice Chair Rothman, and Board Member Hertzberg for the selection of special counsel.

The Committee met via teleconference and interviewed the three top attorneys that completed and submitted a Request for Quotation. She announced that the Committee was unanimously recommending that the Board hire Teresa L. Highsmith of Colantuono and Levin.

On motion of Chair Sutkin, seconded by Board Member Hertzberg, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Board approved to instruct Successor Agency staff to negotiate, finalize and enter into contract with Teresa L. Highsmith of Colantuono and Levin.

4. APPROVAL OF THE REVISED ADMINISTRATIVE BUDGET FOR FEBRUARY 1, 2012 THROUGH JUNE 30, 2012

Paula Chamberlain, Finance Director, reminded the Board that they had approved the first six months of the budget at the first Oversight Board meeting held on April 26, 2012. However, the Board had requested clarification on the administrative cost allowance based on the 5% and 3% restriction and the information had been provided to the Board at the May 3, 2012 meeting. At the May meeting, staff indicated that the first six months of the budget would be resubmitted to match the amount reflected in the ROPS and ensure the total of the two budgets stayed within the estimated allowance.

Director Chamberlain also informed the Board that the budget included an estimated amount of \$10,000 for both May and June for legal services for the Oversight Board. However, on the July-December 2012 ROPS the amount for legal services had been reduced to \$3,500 per month, in order to stay within the administrative cost allocation amount. The Board reviewed the revised Administrative Budget as presented.

On behalf of Linda Lowry, City Manager, Director Chamberlain provided a detailed chronological report on the verbal, written, and email communications with the Department of Finance on the ROPS. The Board requested that this report be a standing item on the agenda.

On motion of Board Member Hertzberg, seconded by Board Member Saito, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Board adopted Resolution No. 2012-09 approving the revised Administrative Budget for February 1, 2012 through June 30, 2012.

5. CLOSED SESSION (Taken out of order by the Board)

The Board convened into Closed Session at 10:40 a.m. following discussion of Item No. 6.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Pursuant to Government Code Section 54956.8)

Property: 101 W. Mission Blvd., Mission Promenade
Negotiating Parties: Suite 103 - Boost Mobile Pomona
Suite 107 - Sub Café
Suite 109 - Flame Broiler

Suite 212 – Los Angeles County Public Defender's Office
Suite 222 – Pomona Chamber of Commerce
Suite 101 – Sakura Ichi Restaurant

Successor Agency's
Negotiator: Linda Lowry, City Manager
Under Negotiation: Term of Leases

Property: 25 and 35 Rio Ranch Road
Negotiating Parties: Polo and Vitalo Investments, Inc. &
Daimler-Chrysler Financial

Successor Agency's
Negotiator: Linda Lowry, City Manager
Under Negotiation: Price and Terms

Property: Northeast Corner of White Ave. and Auto Center Drive
APN 8344-024-934

Negotiating Party: Lewis Land Developers, LLC

Successor Agency's
Negotiator: Linda Lowry, City Manager
Under Negotiation: Price and Terms

The Board reconvened into Open Session at 11:25 a.m.

LEGAL COUNSEL REPORT OUT OF CLOSED SESSION

City Attorney Alvarez-Glasman reported that all six Board Members had been present in Closed Session, with the exception of Board Member Gregoryk. He reported that the Board had discussed only the first item pertaining to property at 101 West Mission Blvd., and no action had been taken. He informed that the other matters listed on the agenda had not been discussed, as they had been discussed in Open Session under Item No. 6.

6. ADOPTION OF RESOLUTIONS APPROVING (1) A PURCHASE AND SALE AGREEMENT FOR THE SALE OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF AUTO CENTER DRIVE AND WHITE AVENUE, OWNED BY THE FORMER REDEVELOPMENT AGENCY, APN #8344-024-934, AND (2) A RESOLUTION APPROVING ASSIGNMENT OF THE OPTION AGREEMENT AND THE AGREEMENT CONFERRING RIGHT OF FIRST REFUSAL TO LEWIS LAND DEVELOPERS, LLC FOR THE DEVELOPMENT OF A TARGET CENTER PROJECT AT 25 AND 35 RIO RANCHO ROAD

Raymond Fong, Director of the Former Redevelopment Agency and Arnold Alvarez-Glasman, City Attorney, presented the staff report to the Board and answered several questions posed by the Board. The Board was concerned that there would be a risk to the Successor Agency if Lewis Land Developers backed out on the property purchase or the development of Target. Director Fong assured the Board that there was no risk.

Chair Sutkin expressed concern that there was no stipulation in the sale regarding land use, to ensure that the Target Center or similar would be built. Scott Nichols, Deputy City Attorney, explained that the option agreement and purchase agreement worked hand-in-hand, and that Lewis Land Developers had shown every good faith effort that the Target Center would go forward. The Successor Agency believes that transferring the land to Lewis Land Developers gives the best opportunity to see the land developed as a commercial property to benefit the City of Pomona.

The Chair recognized Mr. Tomas Ursua, Pomona resident, who provided public comment and expressed his skepticism that Target would actually want to build a center in that location because he felt there was superior property along the 60 Freeway. He also expressed concern that the land was being sold for \$2.6 million, but it would cost \$2 million for storm drain improvements.

On motion of Board Member Barnes, seconded by Vice Chair Rothman, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Board unanimously approved Resolution No. OB 2012-10, approving the assignment of the Option Agreement and the Agreement conferring Right of First Refusal to Lewis Land Developers, LLC for the purchase of properties known as the former Chrysler Dealership site on Rio Rancho Road and Auto Center Drive; and Resolution No. OB 2012-11 approving the sale of property commonly known as a 2.2 acre parcel of property on Auto Center Drive in the Pomona Auto Center to Lewis Land Developers, LLC.

7. ADOPTION OF A RESOLUTION APPROVING COMMERCIAL LEASES WITH SIX TENANTS AT 101 MISSION BLVD. – MISSION PROMENADE

On motion of Board Member Hertzberg, seconded by Board Member Barnes, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Board adopted Resolution No. OB 2012-12 authorizing the City Manager to execute the commercial leases for the following businesses at 101 Mission Blvd.-Mission Promenade: Suite 103- Boost Mobile Pomona, Suite 107- Sub Café, Suite 109- Flame Broiler, Suite 212- Los Angeles County Public Defender's Office, Suite 222 – Pomona Chamber of Commerce, and Suite 101- Sakura Ichi Restaurant.

On motion of Board Member Hertzberg, seconded by Vice Chair Rothman, carried by unanimous vote of the members present (6-0-1-0) Board Member Gregoryk absent, the Board approved the following conditions for the Suite 222-Pomona Chamber of Commerce commercial lease at 101 Mission Blvd.-Mission Promenade: that the outstanding amount of \$12,000 be held in abeyance, that it continue as an obligation to the Successor Agency, and in the event, one year from now, the lessee is current on their existing renewed lease, the matter comes back to the Oversight Board.

8. FUTURE AGENDA ITEMS

The following items were requested to be placed on a future agenda:

- Update on Department of Finance communications
- A quarterly financial report on Mission Promenade
- Update on pending litigation
- Further discussion on Target Disposition and Development Agreement (DDA)
- Review contract with recommended legal counsel

9. PUBLIC COMMENT (Taken out of order by the Board)

The Chair recognized the following individuals who submitted speaker cards:

Mr. Basilio Granadas, Pomona Resident, who expressed his concern with projects that should have been completed in a year and have been going on for several years. He stated that some projects on the Recognized Obligation Payment Schedule were not feasible or profitable, and others that would better benefit the community were not being moved forward

Mr. Tomas Ursua spoke in regards to a letter that he sent requesting financial analysis information from the Oversight Board.

10. ADJOURNMENT

The meeting was adjourned at 11:33 a.m. to a Special Meeting on Thursday, June 7, 2012 at 9:30 a.m. in the City Council Chambers, 505 South Garey Avenue, Pomona.

Marie Michel Macias, Clerk

ATTEST:

Carrie Sutkin, Chairperson

Pomona Successor Agency Oversight Board

September 13, 2012

To: Chair and Members of the Oversight Board

From: Linda Lowry, City Manager *Lowry*

Submitted By: Raymond M. Fong, Deputy City Manager *RJ*

Subject: Adoption of a Resolution to Change the Regular Meeting of the Oversight Board from the Fourth Thursday of the Month to the Second Thursday

SUMMARY

Recommendation - That the Oversight Board to the Successor Agency of the former Redevelopment Agency adopt a resolution approving a new regular meeting schedule.

BACKGROUND/DISCUSSION

During the August 14, 2012, special meeting of the Oversight Board, the Board requested that the regular meeting of the Oversight Board be changed from the fourth Thursday to the second Thursday of each month with the new meeting time to begin at 1:30 pm. The change would accommodate Board members that are also serving on other Oversight Board in the region. This change would allow them to attend the other Oversight Board meeting on the same day.

The Pomona Oversight Board meeting will continue to be held in the City Council Chamber.

Attachment: Resolution

RESOLUTION NO. OB 2012-__

**A RESOLUTION OF THE POMONA SUCCESSOR AGENCY
OVERSIGHT BOARD ESTABLISHING A REGULAR MEETING
SCHEDULE**

WHEREAS, the Pomona Successor Agency Oversight Board (the "Oversight Board") has been established to direct the Successor Agency to take certain actions to wind down the affairs of the redevelopment agency in accordance with the California Health and Safety Code; and

WHEREAS, at its initial meeting on April 26, 2012, the Oversight Board established by minute order a schedule for regular Board meetings to occur on the fourth Thursday of each month at 9:30 a.m., in the Pomona City Council Chambers; and

WHEREAS, at a Special Meeting on August 14, 2012, the Oversight Board, determined to cancel the regular meeting of August 23, 2012 and change the schedule for regular Board meetings to the second Thursday of each month at 1:30 p.m., to continue to be held in the Pomona City Council Chambers; and

WHEREAS, AB 1484 provides that all actions of the Oversight Board must be taken by Board Resolution.

NOW, THEREFORE, the Oversight Board does hereby resolve as follows:

SECTION 1. The regular meetings of the Pomona Oversight Board shall be held on the second Thursday of each month beginning at 1:30 p.m. in the Pomona City Council Chambers.

SECTION 2. The Clerk of the Oversight Board shall certify to the adoption of this Resolution and submit an electronic copy to the state Department of Finance.

SECTION 3. The Clerk of the Pomona Successor Agency Oversight Board shall attest and certify to the passage and adoption of this resolution and it shall be in effect within five business days from its adoption, unless otherwise questioned by the Department of Finance.

APPROVED AND ADOPTED THIS 13th DAY OF SEPTEMBER, 2012.

Carrie Sutkin
Chairperson of the Pomona Successor Agency
Oversight Board

ATTEST:

Marie Michel Macias
Clerk of the Oversight Board

APPROVED AS TO FORM:

Teresa L. Highsmith, Legal Counsel

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CLERK of the Pomona Successor Agency Oversight Board do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Oversight Board on the 13th day of September, 2012 by the following vote:

AYES: BOARD MEMBERS:
NOES: BOARD MEMBERS:
ABSENT: BOARD MEMBERS:
ABSTAIN: BOARD MEMBERS:

Marie Michel Macias
Clerk of the Oversight Board

Pomona Successor Agency Oversight Board

September 13, 2012

To: Chair and Members of the Oversight Board

From: Linda Lowry, City Manager 

Submitted By: Raymond M. Fong, Deputy City Manager 

Subject: Adoption of a Resolution Approving the Conflict-of-Interest Code

SUMMARY

Recommendation - That the Oversight Board to the Successor Agency of the former Redevelopment Agency adopt a resolution approving the conflict-of-interest code.

BACKGROUND

Under the Political Reform Act (the "Act"), all public agencies are required to adopt a conflict-of-interest code (code). A code designates positions required to file Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

DISCUSSION

With the passage of AB 1x 26 and AB 1484, the Oversight Board to the Successor Agency to the Pomona Redevelopment Agency is a separate legal public entity, and thus, is required to adopt a Conflict of Interest Code.

Staff is requesting the Oversight Board to approve the attached resolution approving a Conflict of Interest Code for the Oversight Board and directing staff to submit it to the Pomona City Council for review pursuant to California Political Reform Act.

Members of the Oversight Board and the necessary consultants have already completed Form 700. Staff members are staff of the City, not the Successor Agency or the Oversight Board, and are therefore not listed under the designated positions on appendix A. Staff have already completed forms 700 for their role in City business.

The Fair Political Practices Commission has issued a letter dated April 25, 2012 regarding the applicability of the conflict-of-interest code and financial disclosure provisions of the Political Reform Act to new local government agencies and officials holding positions in those agencies created by Assembly Bill 1X 26. A copy of this letter is provided to the Oversight Board as Attachment 2.

- Attachment:
1. Resolution, Exhibit A – Conflict of Interest Code
 2. FPPC Opinion on Conflict of Interest Code letter date April 25, 2012

RESOLUTION NO. OB 2012-

**A RESOLUTION OF THE POMONA SUCCESSOR AGENCY
OVERSIGHT BOARD APPROVING A CONFLICT OF INTEREST
CODE FOR THE OVERSIGHT BOARD AND DIRECTING STAFF
TO SUBMIT IT TO THE POMONA CITY COUNCIL AS THE
CODE REVIEWING BODY PURSUANT TO THE CALIFORNIA
POLITICAL REFORM ACT**

WHEREAS, pursuant to ABx1 26, all California redevelopment agencies were dissolved effective February 1, 2012; and

WHEREAS, as added by ABx1 26, California Health and Safety Code Sections 34171(j) and 34173 provide that a city or county that formed a redevelopment agency (the "Sponsoring Jurisdiction") would serve as the successor agency to the dissolved redevelopment agency unless the Sponsoring Jurisdiction affirmatively elected not to fill that role; and

WHEREAS, as added by ABx1 26, California Health and Safety Code Section 34173(b) provides that the authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies are vested in the successor agencies; and

WHEREAS, by operation of law, the City of Pomona ("City") became the successor agency to the Redevelopment Agency of the City of Pomona (the "Agency") commencing upon the dissolution of the Agency on February 1, 2012; and

WHEREAS, Assembly Bill 1484, enacted June 27, 2012, modified ABx1 26 to clarify that successor agencies are separate legal entities from the Sponsoring Jurisdiction; and

WHEREAS, in accordance with both AB x1 26 and AB 1484, an Oversight Board is also a separate public agency for purposes of the Brown Act, Public Records Act and Political Reform Act; and

WHEREAS, California Government Code §87300 requires that every public agency adopt and promulgate a Conflict of Interest Code;

WHEREAS, pursuant to Sections 87300, 87302 and 87303 of the California Political Reform Act of 1974, the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Pomona has adopted and incorporated by reference the terms of the standard model conflict of interest code adopted by the Fair Political Practices Commission (FPPC) by Title 2, Division 6, California Code of Regulations, Section 18730; and

WHEREAS, the Political Reform Act requires that Conflict of Interest Codes approved by a local government agency be approved by a "code reviewing body", which for the Oversight Board is the Pomona City Council;

NOW THEREFORE, BE IT RESOLVED by the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Pomona as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. That the Conflict of Interest Code adopts and incorporates by reference Cal Code of Regulations, section 18730 and its amendments thereby standardizing the Oversight Board's Conflict of Interest Code.

SECTION 3. That said Conflict of Interest Code consists of two (2) parts;

a) the body of the code contains basic provisions required by section 87300 such as the manner of reporting financial interests, the procedure for filing statements of economic interest, and the method to be used by designated position when they are required to disqualify themselves from participating in decision; and

b) the appendix to said code lists those designated positions within the Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Pomona and the corresponding disclosure categories for each.

SECTION 4. Successor Agency staff is directed to submit this Conflict of Interest Code to the Pomona City Council, the code reviewing body pursuant to Government Code § 82011(b).

APPROVED AND ADOPTED THIS 13th DAY OF SEPTEMBER, 2012.

Carrie Sutkin
Chairperson of the Pomona Successor Agency
Oversight Board

ATTEST:

Marie Michel Macias
Clerk of the Oversight Board

APPROVED AS TO FORM:

Teresa L. Highsmith, Legal Counsel

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CLERK of the Pomona Successor Agency Oversight Board do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Oversight Board on the 13 day of September, 2012 by the following vote:

AYES: BOARD MEMBERS:
NOES: BOARD MEMBERS:
ABSENT: BOARD MEMBERS:
ABSTAIN: BOARD MEMBERS:

Marie Michel Macias
Clerk of the Oversight Board

RESOLUTION NO. OB 2012-__

EXHIBIT A

CONFLICT OF INTEREST CODE OF POMONA OVERSIGHT BOARD

The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2Cal. Code of Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Pomona Oversight Board.

Designated employees shall file statements of economic interests with the agency who will make the statements available for public inspection and reproduction (Gov. Code Section 81008). Upon receipt of the statements of the Pomona Oversight Board members, the Pomona Oversight Board shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the City Clerk of the City of Pomona, acting as the Clerk of the Pomona Oversight Board.

CONFLICT OF INTEREST CODE

Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions, which may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in the same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a Conflict of Interest Code for another agency, if all of the following apply:

- A. The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- B. The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and
- C. The filing officer is the same for both agencies.^{1/}

^{1/} Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's Conflict of Interest Code.^{2/}

Section 5. Statements of Economic Interests: Time of Filing.

A. Initial Statements.

All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

B. Assuming Office Statements.

All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

C. Annual Statements.

All designated employees shall file statements no later than April 2.

D. Leaving Office Statements.

All persons who leave designated positions shall file statements within 30 days after leaving office.

^{2/} See Government Code Section 81010 and 2 Cal. Code of Regs. Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

- A. Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:
 - 1. File a written resignation with the appointing power; and
 - 2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interests.

A. Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

B. Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

C. Contents of Annual Statements.

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Government code section 87302.6, the day after the closing date of the most recent statement filed by the member to 2 Cal. Code Regs. Section 18754.

D. Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

A. Investment and Real Property Disclosure.

When an investment or an interest in real property^{3/} is required to be reported,^{4/} the statement shall contain the following:

1. A statement of the nature of the investment or interest:
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.
3. The address or other precise location of the property.

^{3/} For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

^{4/} Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

B. Personal Income Disclosure.

When personal income is required to be reported,^{5/} the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
2. A statement on whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, or greater than \$10,000, or greater than \$1,000,000.
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address, business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

C. Business Entity Income Disclosure.

When income of a business entity, including income of a sole proprietorship, is required to be reported,^{6/} the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

^{5/} A designated employee's income includes his or her community property interest in the income of his or her spouse, but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

^{6/} Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

D. Business Position Disclosure.

When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

E. Acquisition or Disposal During Reporting Period.

In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Prohibition on Receipt of Honoraria.

- A. No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This Section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the prohibitions in this Section.

This Section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

- A. No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This Section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code Section 89503 shall apply to the prohibitions in this Section.

Section 8.2. Loans to Public Officials

- A. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer's agency has direction and control.
- B. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- C. No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
- D. No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- E. This section shall not apply to the following:
 - 1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

Section 8.3. Loan Terms.

- A. Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.
- B. This section shall not apply to the following types of loans:
 1. Loans made to the campaign committee of the elected officer.
 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
 3. Loans made, or offered in writing, before January 1, 1998.
- C. Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

Section 8.4. Personal Loans.

- A. Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:
 1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of \$100 or more was made on the loan.
 - c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.
- B. This section shall not apply to the following types of loans:
1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
 2. A loan that would otherwise not be a gift as defined in this title.
 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
- C. Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- A. Any business entity which the designated employee has a direct or indirect investment worth \$2,000 or more;

- B. Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
- C. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- D. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- E. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this Section.

Section 9.5 Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of Section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

- A. Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- B. Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest.

Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 and 2 Cal. Code Regs. Sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this Section requires the attorney for the agency to issue any formal or informal opinion.

Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

APPENDIX A

POSITIONS REQUIRED TO REPORT PURSUANT TO
2 CAL. CODE OF REGS. § 18723

DESIGNATED POSITIONS	DISCLOSURE CATEGORIES ASSIGNED
Pomona Oversight Board members	1, 2, 3
General Counsel, Consultant	1

APPENDIX B

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property, which the designated employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments, interests in real property, income, and any business entity in which the person is a director, officer, partner, trustee, employee, or holds any position of management. These financial interests are reportable only if located within and subject to the jurisdiction of the Pomona Oversight Board (which is the same jurisdiction as the former Pomona Redevelopment Agency) or if the business entity is doing business or planning to do business in an area subject to the jurisdiction of the Pomona Oversight Board, or has done business within an area subject to the jurisdiction of the Pomona Oversight Board at any time during the two (2) years prior to the filing of the statement.

Category 2: All investments and business positions in business entities and income from sources that provide materials, equipment or services of the type used by the Pomona Oversight Board.

Category 3: All investments business positions, and sources of income of the type which:

(1) engage in land development, construction or the acquisition or sale of real property; and

(2) have interests in real property located within the jurisdiction of the Pomona Oversight Board, including property located within a two mile radius of any property owned or used by the City of Pomona, as Successor Agency to the former Pomona Redevelopment Agency.



FAIR POLITICAL PRACTICES COMMISSION

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April 25, 2012

Patrick Whitnell
General Counsel
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

Re: Your Request for Advice
Our File No. I-12-060

Dear Mr. Whitnell:

This letter responds to your request for advice on behalf of the California League of Cities regarding applicability of the conflict-of-interest code and financial disclosure provisions of the Political Reform Act (the "Act")¹ to new local government agencies and officials holding positions in those agencies created by Assembly Bill IX 26 ("AB 1X 26"), that was passed by the Legislature and signed into law in 2011. Because you have sought general guidance not limited to a particular public official or specific set of facts, we are treating your request as one for informal, rather than formal, assistance. (See Regulation 18329(b)(8)(B), (C) and (F).)²

FACTS

Since the 1950's, California redevelopment agencies have functioned under the Community Redevelopment Law (Health and Saf. Code § 33000 et seq.). AB 1X 26 (Stats. 2011, 1st Ex. Sess. 2011-2012, ch. 5) made extensive amendments to the Community Redevelopment Law. You have provided a summary of the provisions of the legislation that you think are relevant to your questions and we rely partially on this, as well as our own reading of the legislation, to summarize the pertinent provisions. However, given the length and complexity of the legislation and the possibility of further litigation on its provisions, we caution that our advice could change if there emerges a subsequent alternative interpretation or version of the legislation that affects applicability of the Act.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

The legislation provides for the dissolution of redevelopment agencies and an administrative process to wind down agency activities and dispose of agency assets, including distribution of all unencumbered redevelopment agency assets to the cities, county and various special districts in the county entitled to receive property tax proceeds. (Health and Saf. Code § 34177(d).) It creates two new public entities: successor agencies and oversight boards.

Successor agencies are designated as the successor entities to the former redevelopment agencies. (Health and Saf. Code §§ 34171(j), 34173(a).) All authority, rights, duties, and obligations previously vested with the former redevelopment agency are now vested in the successor agency. (Health and Saf. Code Secs. 34173(b), 34177.) The entity that serves as the successor agency is determined in one of several ways:

1. The city, county, city and county, or entities forming the joint powers authority that created the redevelopment agency is, in your view, by implication under the statute, designated as the successor agency unless it adopts a resolution electing not to serve as the successor agency. (Health and Saf. Code Sec. 34173(d)(1).)

2. If an agency that created the redevelopment agency elects not to be the successor agency, then the local agency (defined as “any city, county, city and county, or special district in the county of the former redevelopment agency”) in the county that first adopts a resolution electing to become the successor agency, and submits the resolution to the county auditor-controller, is deemed the successor agency. (Health and Saf. Code § 34173(d)(2).) Thus, for example and however unlikely, it is possible that a school district or another city in the county of a city that originally formed the redevelopment agency could become the successor agency for that redevelopment agency.

3. If no local agency elects to serve as successor agency, a public body referred to as a “designated local authority” is formed, and has all the powers and duties of a successor agency. The Governor appoints three residents of the county to serve as the governing board of the authority. (Health and Saf. Code § 34173(d)(3).)

Each successor agency has an oversight board composed of seven members. (Health and Saf. Code §§ 34171(f), 34179(a).) The oversight board directs staff of the successor agency to perform work in furtherance of the oversight board’s duties and responsibilities. (Health and Saf. Code §§ 34177(e), 34179(c), 34180, 34181.) The board members are selected as follows: 1. One member appointed by the county board of supervisors; 2. One member appointed by the mayor for the city that created the redevelopment agency; 3. One member appointed by the largest special district; 4. One member appointed by the county superintendent of education; 5. One member appointed by the Chancellor of the California Community Colleges; 6. One member of the public appointed by the county board of supervisors; 7. One member representing the employees of the former redevelopment agency appointed by the mayor or the chair of the board of supervisors. (Health and Saf. Code § 34179(a)(1-7).) The Governor may appoint individuals to fill oversight board member seats not filled by May 15, 2012, or that remain

vacant for more than 60 days. (Health and Saf. Code c 34179(b).) For purposes of the Act, the oversight board is deemed to be a local entity. (Health and Saf. Code §§ 34179(e).) Oversight board members do not receive compensation or reimbursement for expenses. (Health and Saf. Code §§ 34179(c).) Also, under Health and Safety Code, section 34179(j), commencing on and after July 1, 2016, all oversight boards existing in a county are consolidated under one oversight board whose members are appointed by various entities similar to those who appoint members to the original oversight boards.

You state that the relationship of the successor agency to the city or county that created the redevelopment agency is “murky at best.” With respect to the successor agency, various sections of AB 1X 26 imply that the city or county that created the redevelopment agency is the successor agency (unless they affirmatively elect not to be). (See, e.g., Health and Saf. Code §§ 34171(j), 34173(a), 34173(d)(1).) But, in your view, other sections of the legislation may indicate that a different interpretation is required. For example, Health and Safety Code section, 34190(c) provides that the successor agency is a public agency for purposes of the Meyers-Milias-Brown Act (MMBA) and Health and Safety Code Section 34190(d) provides that the successor agency shall become the employer of all employees of the redevelopment agency as of the date of the agency’s dissolution. In your view, these sections seem to imply that the successor agency is a separate public agency. Further, proposed amendments to AB 1X 26 provide that a successor agency is a public entity separate from the entity or entities that authorized the creation of each redevelopment agency.

In contrast, you state that it appears clear from the legislation that the oversight board is a separate public agency from the city or county that created the redevelopment agency. As noted above, the oversight board is a local entity for purposes of the Act (as well as the Public Records Act (Sec. 6250 et seq. and the Brown Act (Sec. 54950 et seq.)). Further, the oversight board has a fiduciary duty to the taxing entities that benefit from the distributions of property tax, which would include cities and counties. (Health and Saf. Code § 34179(i).) This same section also provides that the provisions of Section 1090 apply to oversight boards. Thus, in your view, the legislation apparently makes clear that the oversight boards are separate legal entities from the cities and counties that created the redevelopment agencies.

GENERAL SUMMARY OF THE ACT’S PROVISIONS APPLICABLE TO FINANCIAL DISCLOSURE BY PUBLIC OFFICIALS AND CONFLICT-OF-INTEREST CODES

The Act requires specified public officials of state and local government agencies to periodically file Statements of Economic Interests (FPPC Form 700) disclosing defined financial interests. These officials fall into two categories: (1) Officials holding positions specified in Section 87200, who are required to disclose the broadest range of financial interests (Sections 87200 – 87210); and (2) Officials holding agency positions that involve participation in government decisions that have financial impacts. These positions are designated in the agency’s conflict-of-interest code and disclosure for each position is tailored to the scope of the official’s job duties. (Sections 87300 – 87313.)

Each government agency is required, within certain timelines, to adopt a conflict-of-interest code (Section 87300) and amend it to reflect changes in the decision-making positions in the agency (Section 87306). It is the Act's stated policy that conflict-of-interest codes are formulated at the most decentralized level possible, with issues of what should be deemed an "agency" resolved by the code reviewing body. (Section 87301.) The code reviewing body is the government agency charged with reviewing and approving an agency's conflict-of-interest code. No code is effective unless approved by the code reviewing body. (Section 87303.)

Section 82011 details which agencies are code reviewing bodies. As is pertinent to your questions, the following are the code reviewing bodies for local government agencies: (1) The Fair Political Practices Commission (the "Commission") for any local government agency with jurisdiction in more than one county (Section 82011(a)); (2) The county board of supervisors for any county agency and any other local government agency with jurisdiction wholly within the county, other than the board itself, an agency of the judicial branch or a city agency (Section 82011(b)); and (3), the city council for any city agency except for the council itself (Section 82011(c)).

Section 87500 states where public officials are required to file their Statements of Economic Interests. As is generally pertinent to your question, officials in local government agencies file as follows: (1) With the county clerk, if the person holds the office of chief administrative officer, district attorney, county counsel, county treasurer, or member of the board of supervisors (Section 87500(e)); (2) With the city clerk, if the person holds the office of city manager or chief administrative officer, city councilmember, city treasurer, city attorney, or mayor (Section 87500(f)); (3) With his or her own agency, if the person is a planning commissioner (Section 87500(g), head of a local government agency, or member of a local board or commission for which the Commission is the code reviewing body (Section 87500(l); and (4) With his or her own agency or the agency's code reviewing body as designated by the code reviewing body, if the person is not otherwise covered under (1) – (3) above (Section 87500(p)).

QUESTIONS AND CONCLUSIONS

1. Who adopts the conflict-of-interest codes for the successor agency and the oversight board?

Conclusion: Unless determined otherwise by their code reviewing body, the successor agency and the oversight board both adopt their own conflict-of-interest codes.

Analysis: As set forth in Section 87300, each agency is required to adopt its own conflict-of-interest code. Furthermore, the Act, in Section 87301, requires that each conflict-of-interest code be formulated at the most decentralized level possible, which indicates that it is desirable that an autonomous or semi-autonomous governmental entity be classified as an "agency" and adopt its own code because it is most familiar with the job duties of its officers and employees. However, Section 87301 ultimately leaves the determination of what constitutes an "agency," and thus the decision of which entity is obligated to adopt the code, to the code reviewing body.

For example, assume that a city elects to be the successor agency for either its own or another entity's redevelopment agency. Based on the conclusions and analysis in Questions 2 and 3 below, the city council would therefore be the code reviewing body for both the successor agency and its oversight board and, under Section 87301, could: (1) determine that the successor agency or oversight board, or both, are new "agencies" and require them to adopt new conflict-of-interest codes; or (2) determine that the city itself is the "agency" and amend its own conflict-of-interest code to cover designated employees in the successor agency and oversight board.

2. Who are the code reviewing bodies for the successor agency and the oversight board?

Conclusion: The code reviewing body for a successor agency and its oversight board (except for consolidated oversight boards formed pursuant to Health and Safety Code Sec. 34179(j), see below) are as follows:

If a city, or subdivision thereof, serves as a successor agency, the code reviewing body of the successor agency and its oversight board is the city council. (Section 82011(c).)

If a county, city and county, "designated local authority" or other local government agency with jurisdiction wholly within a county, or subdivision thereof, serves as a successor agency, the code reviewing body of the successor agency and its oversight board is the county, or city and county, board of supervisors. (Section 82011(b).)

If a "designated local authority" or other local government agency with jurisdiction in more than one county, or subdivision thereof, serves as a successor agency, the code reviewing body of the successor agency and its oversight board is the Commission. (Section 82011(a).)

The code reviewing body of an oversight board formed on or after July 1, 2016 pursuant to Health and Safety Code Section 34179(j) is the county board of supervisors.

Analysis: At the outset, we think that a successor agency and oversight board should have the same code reviewing body. One of the purposes of the Act is to require public officials to disclose information about their financial interests that can be materially affected by their official actions and to disqualify them from acting when they have conflicts of interest. (Section 81002(c).) As the agency with the primary duty of administering and implementing the Act (Section 83111), we are charged to liberally interpret its provisions to accomplish its purposes (Section 81003). While we recognize that under AB 1X 26, successor agencies and their oversight boards are governed by different authorities and may at times have conflicting goals and interests, they also have control and oversight over the same obligations, assets and property. Therefore, it is logical and also serves the Act's desire for accurate financial disclosure that the same code reviewing body assesses how these obligations, assets and property can be affected by decisions in both agencies.

Under AB 1X 26, there appear to be, for purposes of the Act, five general types of entities that can become successor agencies. These are a city, county, city and county, other non-

city local government agency (such as a joint powers authority), and a “designated local authority.” (Health and Saf. Code Sec. 34173(d); also see Health and Saf. Code Sec. 34173(c).)

As described above, subdivisions (a), (b) and (c) of Section 82011 are very explicit as to which agency is the code reviewing body for four of these entities, namely, a city, county, city and county, and other non-city local government agency. Thus, in our view, it is clear that if one of these entities becomes a successor agency, the code reviewing body for the successor agency is the code reviewing body for that entity set forth in Section 82011(a), (b), or (c). In addition, as discussed, we think it proper under the Act that the oversight board’s code reviewing body be the same.

A slightly more difficult question arises in relation to “designated local authorities.” These entities are created pursuant to Health and Safety Code, section 34173(d) when no other local government agency elects to serve as the successor agency. In that case, the ““designated local authority” shall be immediately formed . . . in the county and shall be vested with all the powers and duties of a successor agency” (Health and Saf. Code § 34173(d).) The “designated local authority,” is formed when the Governor appoints three residents of the county to serve as the successor agency. (*Ibid.*) Since this entity is formed in a county and is run by three gubernatorial appointees who are required to be from that county, it seems apparent that a “designated local authority” is a type of local government agency operating in a county that is not under the control of a city. Accordingly, we conclude that the code reviewing body for a “designated local authority,” and its oversight board, would be the board of supervisors of that county pursuant to Section 82011(b) or, if the entity operates in more than one county, the Commission pursuant to Section 82011(a).

Finally, as mentioned above, we must craft a special rule for oversight boards formed on or after July 1, 2016 pursuant to Health and Safety Code Section 34179(j). These boards represent a consolidation of all oversight boards existing in a county having more than one oversight board as of that date. These boards are clearly non-city local government agencies operating within a county and thus, under Section 82011(b), their code reviewing body is the county board of supervisors.

3. Should entities that adopted separate conflict-of-interest codes for their redevelopment agencies repeal those codes?

Conclusion and Analysis: If an entity that adopted a conflict-of-interest code for its redevelopment agency does not become a successor agency for the redevelopment agency, we suggest that it repeal the code once the redevelopment agency is dissolved. However, if the entity becomes a successor agency for the redevelopment agency and assumes the responsibility of adopting a conflict-of-interest code for the successor agency, it may: (1) repeal the redevelopment agency’s code and either adopt a new code or amend its own code to cover designated employees of the successor agency; or (2) amend the redevelopment agency’s code to apply, as appropriate, to the activities of the successor agency. (See Sections 82011, 87300, 87301, 87303 and 87306.)

As for the oversight boards, the code reviewing bodies may either add the oversight board to an existing conflict-of-interest code of the agency or adopt a new conflict-of-interest code for the oversight board. Since Section 87301 states that conflict-of-interest codes shall be formulated at the most decentralized level possible and that questions relating to the formation of a code are resolved by the code reviewing body, each code reviewing body makes this determination, not the Commission. (Also see Regulation 18329.5.)

Please note that, since Section 87302.6 requires members of new boards and commissions to file Statements of Economic Interests in the same manner as individuals who file under Section 87200, members of these boards, subject to certain exceptions (see Section 87202(a)), must generally file assuming office Statements of Economic Interests within 30 days of assuming office and continue to file as if 87200 filers until the oversight board's conflict-of-interest code is in place. The timeline for adopting a new code or amending a code to reflect the addition of the oversight board is provided in Sections 87303 and 87306.

Regulation 18732.5 provides direction on the filing, processing and retention of Statements of Economic Interests for agencies that are to be dissolved. Statements filed for designated employees of the redevelopment agencies must be maintained for seven years.

4. **Do 87200 filers appointed to the oversight board have to file an assuming office Statement of Economic Interests with the oversight board? If not, will they be required to file an amendment to their Statement of Economic Interests to include the board position?**

Conclusion and Analysis: If the agency for which the official files a Statement of Economic Interests under Section 87200 shares the same, or is wholly located within the same, geographical jurisdiction as the oversight board, the official does not have to file a Statement of Economic Interests with the oversight board. (Regulation 18754(a)(3)(A).) For example, a city councilmember serving on an oversight board for the city's former redevelopment agency would not have to file a Statement of Economic Interests with the city in connection with her service on the oversight board because the city and the oversight board share the same jurisdiction.

However, if this is not the case, the official must file Statements of Economic Interests with both agencies, although the official can expand his or her statements to cover reportable interests in both jurisdictions and file copies in both jurisdictions (so long as each filed statement is signed and verified by the official as if it were the original statement) if the oversight board adopts a conflict-of-interest code incorporating the provisions of Regulation 18730(b)(3), footnote 1. (See Regulation 18730(a).)

5. **Do designated employees employed by the successor agency or appointed to the oversight board have to file an assuming office statement? If not, will they be required to file an amendment to include their employment or their board position? What is the timing of any required filing or amendment?**

Conclusion and Analysis:

Successor Agencies:

If the successor agency is the entity that formed the redevelopment agency and the entity adopts a new conflict-of-interest code for the successor agency, the designated employees of the successor agency must file assuming office Statements of Economic Interests because the successor agency would be considered a new agency.³ (Sections 87300 and 87303.) Pending the effective date of the code, employees who make or participate in making agency decisions that may foreseeably have a material effect on any financial interest must file Statements of Economic Interests pursuant to Regulation 18734, and that regulation also governs treatment of these filings in relation to the filing requirements once the code becomes effective (see Regulation 18734(e)).

If the successor agency is the entity that formed the redevelopment agency and the entity instead amends the code of the former redevelopment agency to apply, as appropriate, to the activities of the successor agency (see Question 3 above), existing designated employees would file Statements of Economic Interests pursuant to the provisions of Regulation 18735 and employees in newly created positions would file pursuant to Regulation 18734.

If the successor agency is not the entity that formed the redevelopment agency, it must adopt a new conflict-of-interest code for that agency or incorporate designated employees in the successor agency into its existing conflict-of-interest code. In that case, until the new code or amendments become effective, employees who make or participate in making agency decisions that may foreseeably have a material effect on any financial interest must file Statements of Economic Interests pursuant to Regulation 18734 and, as mentioned above, that regulation also governs treatment of these filings in relation to the filing requirements once the code becomes effective (see Regulation 18734(e)).

Oversight Boards: As stated above, the oversight boards are new agencies and thus members of the boards must file assuming office and other Statements of Economic Interests pursuant to Section 87302.6 until the board or its code reviewing body adopts or amends a code to reflect addition of the oversight board.

³ In this instance, since the code reviewing body considers the successor agency a new agency, the designated employees of the former redevelopment agency must file leaving office Statements of Economic Interests in connection with their employment with the former redevelopment agency. (Section 87302(b).)

6. **Who is the filing officer? If only an amendment is required, is the filing officer the agency in which the board member filed the original statement? Who is the filing officer for statements filed by the governing board of a “designated local authority?”**

Conclusions and Analysis:

Successor Agencies:

The filing officer for the head of a successor agency, including the head of a “designated local authority,” and members of the board of a “designated local authority” is the Commission if the Commission is the successor agency’s or authority’s code reviewing body. (Section 87500(l).)

Otherwise, the filing officer for a successor agency’s, including a “designated local authority’s,” designated employees and board members, if any, is the successor agency or the successor agency’s code reviewing body as designated by the code reviewing body. (Section 87500(p).) For example, if a city becomes a successor agency and the city council is the successor agency’s code reviewing body, the city council must determine which city official or subdivision is the filing officer for the successor agency. (*Ibid.*)

Oversight Boards:

The filing officer for the head, or board member, of an oversight board is the Commission if the Commission is the oversight board’s code reviewing body. (Section 87500(l).)

Otherwise, the filing officer for the oversight board’s designated employees, including its board members, is the oversight board or the board’s code reviewing body as designated by the code reviewing body. (Section 87500(p).)

See Question 2 above to determine which agency is a successor agency’s or oversight board’s code reviewing body.

7. **Do members of the public appointed to a “designated local authority” or an oversight board have an obligation to file a Statement of Economic Interests? If so, who is deemed the filing officer?**

Conclusion and Analysis: Since the Act requires that conflict-of-interest codes be formulated at the most decentralized level possible (Section 87301), we normally defer to the judgment of the agency and its code reviewing body in determining which agency officials are required to be included in the code and, thus, file Statements of Economic Interests. Therefore, we decline to answer this question, although we note that, under AB 1X 26, all the board members of “designated local authorities” and oversight boards certainly appear to be making or participating in making agency decisions that may foreseeably affect financial interests.

8. What is the assuming office date for oversight board members?

Conclusion and Analysis: For purposes of this question and pursuant to Regulation 18722, an oversight board member assumes office on the earlier of the date he or she either is authorized to serve in the position, such as by being sworn in (Regulation 18722(a)(1)(A)), or begins to perform the duties of the position such as by making, participating in making, or using his or her official position to influence a government decision (Regulation 18722(a)(1)(B)).

9. What is the jurisdiction of a successor agency or oversight board?

Conclusions:

Except for oversight boards formed pursuant to Health and Safety Code Section 34179(j) (see Question 2 above and discussion below), the jurisdiction of a successor agency and its oversight board is the same.

If the successor agency is any type of local government agency other than a “designated local authority,” the jurisdiction of the successor agency and its oversight board is the same as that local government agency and includes any real property owned by the former redevelopment agency.

If the successor agency is a “designated local authority,” the jurisdiction of the successor agency and its oversight board is the county in which the successor agency operates and includes any real property owned by the former redevelopment agency.

Analysis: As previously discussed, successor agencies and their oversight boards are local government agencies under the Act. Section 82035 states that the jurisdiction of a local government agency is “the region, county, city, district or other geographical area in which it has jurisdiction” as well as, with respect to real property, any part of the property located within or not more than two miles outside the jurisdiction or within two miles of any land owned or used by the local government agency.

Thus, the jurisdiction of a successor agency is the jurisdiction, including the real property owned by the former redevelopment agency, of any local government agency that becomes the jurisdiction of the successor agency and, logically, the successor agency's oversight board. However, while it is relatively easy to determine the jurisdiction of an existing government agency such as a city or county, more explanation is required for newly formed “designated local authorities.” As discussed above, we think a “designated local authority” is a non-city local government agency whose code reviewing body is the county, pursuant to Section 82011(b). Accordingly, for the sake of consistency, we think the proper jurisdiction of a “designated local authority” and its oversight board should be the county in which it is located plus any real property owned by the former redevelopment agency.

Finally, in the case of an oversight board formed on or after July 1, 2016 pursuant to Health and Safety Code Section 34179(j), since its authority extends over any successor agency in a county, we conclude that its jurisdiction is the county in which it is located plus any real

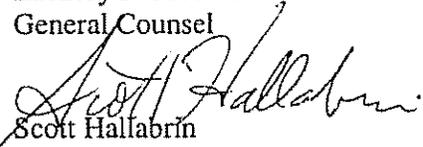
property owned by the successor agencies for which it has oversight (also see discussion under Question 2 above).

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

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