Summary Minutes

Oversight Board
Wednesday, December 5, 2012
2:00 p.m. – 4:00 p.m.

City Hall
1017 Middlefield Road
Redwood City, CA 94063
Conference Room 2B – Second Floor

Members:
David Holland, Chair - Present
Mike Roberts, Vice Chair - Present
Steve Abbors – Absent
Alicia Aguirre - Present
Barbara Christensen – Present
Blake Lyon - Present
Enrique Navas - Present

City Staff as Successor Agency Attendees:
Bob Bell, City Manager - Present
Bill Ekern, Community Development Director - Present
Alison Freeman, Financial Services Manager - Present
Brian Ponty, Finance Director/Assistant City Manager - Present
Veronica Ramirez, Assistant City Attorney – Present
Pamela Thompson, City Attorney – Present
Silvia Vonderlinden, City Clerk - Present
Craig Labadie, Counsel to the Oversight Board - Present
Don Fraser, with Fraser and Associates - Present

1. Call to Order – Chair Holland called the meeting to order

2. Roll Call – Per City Clerk Vonderlinden and as denoted above.

3. Public Comments – No public comment.

NOTE: Speakers are limited to three minutes, unless modified by the Chairperson. The Board cannot take action on any matter raised under this item.


M/S Christensen/Navas to approve the minutes as submitted. Motion carried unanimously with Member Abbors absent.

5. Public Comment Session on Second Due Diligence Review –

Member Christensen asked about exhibit 3 on the change of assets and specifically about a particular figure each under FYs 10, 11, 12. Mr. Ponty said this is based on guidelines that the Department of Finance (DOF) provided and he went on to explain that these are the balance sheet figures for each of the years for the Redevelopment Agency and the Successor Agency. Ms. Christensen said she was focused on the assets and wanted to know what was leading these changes fluctuations. Ms. Freeman responded that this is a summary. Ms. Christensen seemed satisfied.
6. **Unfunded Pension Liabilities** —

Mr. Ponty provided a brief synopsis of how this had been before the Oversight Board a few times and how the actuary offered to do a report with the information on the PERS liability. Mr. Ponty said the PERS liability has been reduced considerably and he provided the specific figures. He asked the Oversight Board to approve the $2 million for the unfunded OPEB and paid pension liabilities would come back on the fourth ROPS.

Mr. Navas asked about a document that was sent to the City of South San Francisco and why the DOF does not have an official position. Mr. Ponty said that this seems to indicate that the concept is acceptable to the DOF, but that they still want to get the details on how the figures were calculated/determined. Mr. Navas asked why this needs to be handled now since other jurisdictions will be in the same situation. The Chair also made some comments on this issue. Mr. Ponty believes that going to PERS and addressing this now is the appropriate time so that the 1st of 10 payments can be placed on the fourth ROPS.

Vice Chair Roberts asked if this is going to be an allowed obligation and if so what are the next steps. Mr. Ponty noted that the agreement still needs to go to the City Council for approval. Again, Mr. Navas asked why we now need to do this since other agencies will also need to handle this. Chair Holland said that he has a different take on this and that the DOF is open to this approach, so he concurs with it. Mr. Ponty said that he has heard that some agencies are hiring actuary firms to look at this, but he is comfortable with this approach. One Member asked why the five-year timeline and Mr. Ponty said this was a starting point and that it balances the city’s desire to be paid over a reasonable amount of time period without severely reducing the residual distributions from the RPTTF.

Chair Holland and Member Navas thanked Mr. Ponty for answering multiple questions on this issue. The Chair noted that now the Oversight Board should take action by voting on the matter.

M/S Christensen/ Roberts to approve Oversight Board Resolution 12-05 as submitted by staff. **Motion carries 6-0 with Member Abbors absent.**

7. **AB 1290 Pass Through Payments** —

Mr. Ponty said this issue was brought to the City’s attention earlier this year by Keiser Marston. The discovery was that in late 2002 the City adopted an ordinance that eliminated the debt establishment limits for the RDA. In doing so, pass through payments should have kicked in.

Once staff found this out, the City asked Mr. Fraser to calculate how much was owed to the affected entities. The payments are $940,000 to cover the retroactive amounts and will go on the fourth ROPS. Mr. Ponty said that CEOs of each of the taxing agencies were informed about this and Mr. Fraser was available to answer any questions. Mr. Holland said that the documentation provided a lot of answers.

There were some questions about the formula and Mr. Fraser said that it depends on which formula each agency is using. The money will still flow to the agency but it might be under a different computation. Member Navas asked for confirmation that the statute of limitations is three years and Mr. Fraser confirmed.

8. **Priority of Pass through Payments under AB 1484** —

Mr. Ponty noted that this is an item that was requested by Ms. Christensen to be placed on the agenda and no action is required. This is mainly to note that the current legislation places the affected taxing entities at a disadvantage. Ms. Christensen noted that AB 1484 changed the way pass through payments are treated from how it was initially outlined in AB 26. Originally, distributions from the RPTTF, including pass through payments, were supposed to be equal to each taxing entities’ pro rata share of property taxes (the AB 8 share). AB 1484 requires that pass through payments be made prior to any other distributions from the RPTTF. The effect of this is that most taxing entities are not getting their AB 8 pro rata share of the property taxes. Those agencies that have pass through payments are receiving more than their AB 8 share. Prop 1A, a constitutional amendment passed in 2004, prohibits the state from altering any taxing entities’ AB 8 share. Ms Christensen indicated that the County is making the calculations as the Department of Finance has instructed them to do so. The question is whether this calculation method is constitutional or not.

Ms. Christensen added that Countywide the County is receiving $5.4 million dollars that is being taking away from other taxing entities to fund the County pass through. She noted that Redwood City loses $548,000 because of this calculation method. The College District and other school districts are trying to put together a coalition of cities and different agencies to go to the Attorney General to provide an opinion if these calculations are constitutional or not. She also indicated the coalition could also consult with elected leaders on this matter.
Member Christensen asked if this Oversight Board would be part of a coalition and she also suggested this be taken to the City Council. Mr. Fraser added details on the history of this issue and how in his opinion this seems to be an inequity in the law. Ms. Christensen said she is very surprised that despite the League of CA Cities not agreeing with this law, the League does not plan to take it further. Mr. Labadie said that in talking with the Leagues’ Counsel, it does not look like the League is interested in pursuing this as a litigation issue. Mr. Fraser said he is aware of some jurisdictions that are looking at this and pondering options.

Ms. Christensen said that if the Attorney General opines that this is an unconstitutional approach, then she is hopeful something will get changed to alter the fundamental unfairness of the law. Mr. Navas asked if this needs to come back for formal support. The Chair and staff confirmed. Ms. Christensen would like to urge the Attorney General to opine on this issue and she would like the Mayor to bring this to the City Council for review. Chair Holland said there has been a lot of discussion of whether the Oversight Board needs to get involved or if this a specific agencies’ issue. After general discussion, it was agreed that this matter is really one that individual taxing entities should be considering that it is not an appropriate issue for the Oversight Board.

Dr. Bell commented that in order for the City to analyze this further, prior to serving it up to the City Council, he would like to discuss the matter at the Mayor/Vice Mayor meeting. Member Aguirre concurred.

9. **Set Date and Agenda for Next Board Meetings**

   a. **Due diligence review of Non-Housing Fund balances per AB1484**
      
      *(Oversight Board Binder Tab No. 3)*

      Brian Ponty

      Ms. Ramirez confirmed that the next DDP needs to be approved prior to the next January 15, 2013 date. Mr. Labadie added the legal requirements associated with the Brown Act and holding a telephonic meeting. The next Oversight Board meeting is scheduled for January 10, 2013 at 4:00 p.m.

10. **Oral Communications from the Successor Agency Contact**

    Brian Ponty

    Mr. Ponty said that a group of people are going to Sacramento to meet and confer with the DOF on Friday December 7, 2012.

11. **Adjourn**

    The meeting adjourned at 2:47 p.m. per general consensus.

    Chair

Respectfully submitted,

Sylvia Vonderlinden,
City Clerk

Approved at the Oversight Board meeting of January 10, 2013.