



Minutes Of The Special Meeting Of The Oversight Board To The City Of Ridgecrest Successor Redevelopment Agency

CITY COUNCIL CHAMBERS

100 West California Avenue
Ridgecrest, CA 93555

May 7, 2012

5:00 p.m.

This meeting was recorded and will be on file in the Office of the City Clerk for a certain period of time from date of approval by the Oversight Board. Meetings are recorded for the purpose of preparation of minutes.

CALL TO ORDER 5:00pm

ROLL CALL

Present: D. Clark, T. Sloan, G. Rice, P. Breeden, J. Fallgatter, G. Lebsock
Absent: None
Staff Present: City Manager Kurt Wilson, Administrative Secretary Ricca Charlon
Others: Thomas Clarke, Attorney

APPROVAL OF AGENDA

*Suggestion made to swap items 6, 7, & 8 with items 1, 2, & 3 by J. Fallgatter.
Motion To Approve Agenda as Amended Was Made By P Breeden, Second By G. Rice.
Motion Carried By Roll Call Vote of 6 Ayes, 0 Nays, 0 Absent, 0 Abstain.*

APPROVAL OF MINUTES – April 30, 2012

*Motion To Approve Minutes From the April 30, 2012 Oversight Board Special Meeting Was Made By P. Breeden, Second By G. Lebsock.
Motion Carried By Roll Call Vote of 6 Ayes, 0 Nays, 0 Absent, 0 Abstain.*

PUBLIC COMMENT - None

DISCUSSION AND OTHER ACTION ITEMS

1. **Discussion Of Sources Of Legal Guidance/Interpretation On Which The Oversight Board Should Base Its Decisions And Whether To Seek Outside Counsel As A Source Of Guidance** Fallgatter
 - J. Fallgatter would like the Board to consider outside Counsel. He noticed other cities have been doing it. Action the Board is taking is considerable in size and it would be greatly beneficial and eliminate quite a few questions if we have opinions we can rely on that are independent.

- P. Breeden – interested in the topic but where would funds come from? Would it affect what is already in the budget? Would we get considerable difference in advice? Would like to see who would we get and would they be independent from whom?
- D. Clark – Based on the obligation schedule provided in the packets we have Lemieux & Oneill @ 15k, Carlsons Group @ 3k, employee costs @ 333K Is it your professional opinion that we have enough legal counsel in the budget or do we need additional?
- K. Wilson – Remember that he and staff represent the Successor Agency. He does have a great deal of confidence with what we have. Source of funds would be from the administrative budget. Of the Successor Agency and non-project specific costs.
- T. Clark – There is no legal authority to hire counsel. He has been asked on his other boards to act as counsel. Administrative budget will detract from excess monies that would go to taxing entities. Oversight Boards have been ruled somewhat irrelevant to the DOF. DOF has challenged every single ROPS that he is aware. Even every same item on each. Anything with City Agency in it, use of bond proceeds, administrative agreement between the city and the successor agency- all questioned.
- G. Rice – did I understand that the cost of attorney services for our Board would come out of the administrative fees?
- K. Wilson – yes that is the way I understand it.
- G. Rice- feels a need to understand contract law. Believes it is a necessary idea for legal representation. We might require that type of review/opinion and wants to seriously consider the option.
- J. Fallgatter- last meeting we were asked to approve an administrative budget which we did so that the administrative people could start working for the Board, so are you saying those people are at risk of not getting paid?
- T. Clark – City provides staff, DOF has challenged/rejected each of these cooperative agreements, so all staff is at risk.
- J. Fallgatter – Cooperative agreement on agenda tonight is necessary for the City/Board, correct? Why are we spending our time on this only to be trumped by the DOF? Independence guidance is starting to flow and is accessible.
- K. Wilson – LAO and the other agencies have credibility but no authority.
- J. Fallgatter – My opinion is let's not rush to judgment, let's take our time as long as we are not holding anything up. Let's let the dust settle. Look at larger cities for guidance that have a larger budget and such that will be doing the battle. Pleads for a little more time. He feels pushed without enough info provided to him.
- T. Clark – that has lots to do with legislation and their timelines. We were forced to bring stuff forward with little or no info provided. We are stuck but after that we will have the luxury of time.

- D. Clark – referring to page 10 of the rules and duties – it states no liability for decisions and actions subject to review by DOF. So, the lawyer concept can be reevaluated at the next meeting. At this point in time, with no liability for the Board, for this meeting at least, I am comfortable with waiting.
- J. Fallgatter – Not in favor of that. Believes we have the authority to hire an attorney.
- T. Clark – No specific authority within the law to staff an attorney. It says the Successor Agency will staff the Oversight Board which means lawyer too, but the lawyer on occasion will have conflicts.
- D. Clark – Suggests waiting to hire an attorney – polled members
 - Lebsock – riding the fence. Lots of information to absorb. Having trouble getting up to speed but feels we have time.
 - Sloan – okay with tabling the idea, reevaluate and see what other cities are doing.
 - Rice – not in favor of waiting, would prefer that since asked to make decisions he wants to be comfortable with them.
 - Breeden – walking the fence, don't want to make rash decisions. If there is a necessity to hire counsel she would like to make sure it is going to be something different than staff has already been provided since it would be spending money 'not ours to spend'. Believes that anyone that takes actions without outside advice is foolish.
- K. Wilson – He hears the frustration with the timing which is out of our control and apologized for that. Good news is going forward we expect to have a much better cushion. Importance of having objective legal advice and becoming technically proficient in this new arena is two different sides. Staff can advise one on one or in a study session to bring members up to speed.
- J. Fallgatter – seems to him that the 'punt' till December seems silly. We represent a number of different constituents. They are not looking for a rubber stamp. He is not willing to waste his time on things that are meaningless and should take queue from what others are doing and thinks we should get outside Counsel. State mandated dates -No one is going to jail for not appointing a board member. They are in a whirl wind also. These dates are not going to be held to the floor and let the state come back and 'slap our hand.' He rejects the pressure to rush to judgment from the Agency. Recommending that we take a little time. What is the down side of taking a month and getting the Board up to speed?
- D. Clark – Where did the May 15, 2012 date come from?
- T. Clark – The May 15 is a function of the tax increment the city will lose money if we don't have a valid ROPS. DOF points out in the letters that they won't fund. Dangerous to wait.
- D. Clark – Do we want to go to staff and ask for Legal Counsel?

- K. Wilson – meeting every six months is in relation to when the county will make payments. Once we do hear back from DOF it is likely that we will meet again quickly.
- G. Rice – As an observation, we have counsel here which validates the importance of needing it. If Counsel can sit and isolate himself to our functions then that is fine, he will work.
- D. Clark – to T. Clark – Can you give us what the board needs and still represent the City as well? Or do we need different counsel? Do you have a conflict of interest?
- T. Clark – I can see where the DOF is going I can give you where their concerns have been and general background.
- P. Breeden – many of the items are coming back from the DOF- who is defending those questions.
- T. Clark – the DOF is sending back a number of items and remands it for reconsideration for the Oversight Board. That is a point when counsel may be appropriate.
- P. Breeden – Given that we would need counsel to answer those questions would we not?
- T. Clark – they have uniformly rejected all enforceable obligations listed that don't have something current. There is discrepancy in whether the 'contract' has been entered into with a third party contract.
- J. Fallgatter – T. Clark is being very straight forward. We have been asked tonight to approve 5 million (approx) worth of payments to be on the June payments. By approving these ROPS do we legitimize and are we saying as a Board that we believe they fall into the statutory scheme. In other words Board, we are saying that there are 3rd party contracts behind all this money.
- T. Clark – Fallgatter is right but I am seeing from other Boards what a colossal waste of time this is that the decisions are going to be made at the DOF level, issues are very narrow. They have a script so they know what they are doing before they see the ROPS. We are all becoming irrelevant.
- G. Rice – Our staff's responsibility is to bring forward items that have been through an attorney and our accurate and necessary. Can we move to item #2 and it might bring some more clarity and comfort to us?

2. **Discussion Of The Responsibilities Of The Successor Agency Staff Funds Identified As Supporting The Oversight Board In Its Duties**

Fallgatter

- Fallgatter- to staff - how do you vet these things
- Rice – how do these items come to the table before the Oversight Board?

- Wilson – 2nd half of calendar year ROPS is what we are talking about. Looks similar to last ROPS this Board approved and was previously approved by the City Council. Prior to getting to the point, the Technical staff and Finance department have had meetings, discussions, etc. and it was very similar to budget process.
- Rice – This is a normal process? You vet, we see, approve, then council?
- Wilson – NO City Council will not be involved. In the pecking order of things Staff, Successor Agency, Oversight Board, then DOF.
- D. Clark – Relative to our Council and their involvement - How much legal advice and direction did they give you?
- K. Wilson – Staff and legal counsel was in regular communication as to whether what should be put on the ROPS or not. Much like any other agenda item we bring forward to Council the process is the same.
- J. Fallgatter – Have the items met the criteria that we know to date? I understand this is a work in progress, by asking us to take action today; you are asking us to put something in concrete. Is that really what you want us to do? Wouldn't you think it would be a good idea to not go totally in concrete till we know what we should be doing?
- D. Clark – What are the wishes of the Board in relation to items 1 and 2?
 - Fallgatter – This is not City money we would spend. This money is for carrying out the Oversight Board responsibilities. Yes, wants to find Counsel. *Made motion to ask Successor Agency as support to Oversight Board that they provide a list for outside Counsel that is serving Oversight Boards at this time.*
 - Lebsock – Would like to wait to employ counsel, maybe not December meeting but no later than August/Sept. Would like to see flow of information from other agencies. Corrected Fallgatter that is is not 5 million we are approving today, but 34 million from last 6 month ROPS and 3.7 million for the next 6 month ROPS.
 - Sloan – would like to wait to employ counsel, same as G. Lebsock.
 - Rice – Would like to give staff direction, agrees with Fallgatter motion.
 - Breeden – would like to wait, same as G. Lebsock
 - D. Clark - would like to wait and give staff direction to acquire list for adoption if we decide to go that way.
- K. Wilson – Please be aware of the emails and communication in regards to the Brown Act when we do distribute the list as the current stream of emails has come dangerously close to violation.

3. Discussion Regarding Correspondence Between Successor Agency And City With Department of Finance (DOF) Fallgatter

- Fallgatter - What is the correspondence that has gone between the agencies? Requests that there is an immediate notification to the Board of any correspondence.

- D. Clark – Supports this and would like to see the correspondence.
- Wilson – Communications between the staff/DOF and staff/County Auditor are in the regular act of work so we have quite a bit of verbal correspondence. When we do we will bring it to you. But at this point, they 'checked the box' to gain them some time as they are overwhelmed. We would be happy to share as the communication happens.
- T. Clark – Has seen the rejections from the DOF. They will give specific line items when we get the letter back. We will have to dispute and/or prove that the items are valid.
- J. Fallgatter – We have a fiduciary duty not to pass this current ROPS on the agenda due to the denial of the first.

4. **Review and Approve Recognized Obligations Payment Schedule (ROPS)** **Staheli**

- Staheli – This is similar to ROPS last week you approved, but is for the next six months. County payment is June 1st. We are on a deadline of the the May 15th in order to give the DOF time to review and still meet the payment. About 3.6 million for this payment.
- T. Clark – pass though is on the ROPS? Strikes page four because it does not need to be on there.
- D. Clark. Read paragraph 1 of Staff report as summary of Board duties in relation to the ROPS.
- G. Lebsock – page 1 attorney fees-why not on administrative page.
- Staheli – these are legal fees associated with the bond issuance and projects. Not part of administrative budget and the Board.
- Fallgatter – if we approve ROPS tonight would we be in concrete on the administrative budget and how it is disperses or would we be able to revisit it?
- T. Clark – Line item for the attorneys can always be revised but without it we would be short for June 1 payment.
- Wilson – there is probably enough in there as it would replace a line item
- Fallgatter – So the administrative budget is not being put in concrete by approving this ROPS?
- T. Clarks – The amount is but how it is spent is not.
- Rice – are we approving an administrative budget next? Noticed within the ROPS there is nothing that addresses the School district issue. Can I have some clarification?
- Wilson – School district issue is still unresolved. Certain pass throughs are through the County as is the case in Kern County. The school district was one of those. Somewhere along the lines the local school district was trying to build a school. They struck a deal with the RDA for 4 million. Last year the question was raised did the school district ever repay this loan, we investigated with the consultant and found the money had been paid back, at the time of analysis, there was a credit.

- (Wilson Continued)The regular pass throughs accrued to that portion. We agree that the money is owed to the school district.
- Rice – Wants to make sure there is not a liability somewhere down the line that we are not recognizing today. Just wants to make sure we are aware, this is an ongoing process, and that this is a possible liability to the Successor Agency. Do you have a time frame?
- Wilson – The sooner it is resolved the better. We have to find out where the money went. Then we will come back to you with answer.
- G. Rice – Gave direction to staff to continue the process and bring back any news to the next meeting.

Public Comment – None

Staff Comments –

- Fallgatter – Could Mr. Wilson please reiterate the process of what has been done to validate the items on the list.
- Staheli – bond payments went through the bond covenants. Other items outside bond we are going by the same debt that was on the previous ROP. All items went through previous Agency Counsel at that time, D. McEwan.
- T. Clark – sees many that will be declined by the DOF sue to the way listed.
- Fallgatter – absolutely there are cities that are doing a different job in presenting to the Board that would make the board more comfortable with their decisions. If we press to judgment it may not end up how you want it to end up.
- Rice – what sort of information do you feel is missing Mr. Fallgatter?
- Fallgatter – referenced minutes from Milpitas Oversight Board and how they were answered with more specific details.
- T. Clark – These are not even that issue. They are in this case not debatable.
- Staheli – bond proceeds are not on this ROPS. They were on the previous.
- T. Clark – TAB money is being paid to bond debt service. Bond proceeds are an issue.
- J. Fallgatter – have all the bond proceeds been obligated to third party contracts?
- P. Breeden – Would like to see how the vetting took place so no one can come back and say yes or no to their approval.

Motion To Approve A RESOLUTION OF THE OVERSIGHT BOARD TO THE CITY OF RIDGECREST SUCCESSOR REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JULY 1, 2012 – DECEMBER 31, 2012 as amended to strike page 4 Was Made By G. Lebsock , Second By T. Sloan. Motion Carried By Roll Call Vote Of 5 Ayes, 0 Nays, 0 Absent, 1 Abstain(Fallgatter).

5. Approval Of Successor Agency Administrative Budget And Resolution 12- Xx As Presented By Adoption Staheli

- Lebsock – Is this a six month period budget?
- Staheli – yes, six month budget and another six months will be approved at the next meeting.

Public comment - none

Motion To Approve A RESOLUTION OF THE OVERSIGHT BOARD TO THE CITY COUNCIL of the city of RIDGECREST, acting as SUCCESSOR AGENCY to THE RIDGECREST REDEVELOPMENT AGENCY adopting and APPROVING THE SUCCESSOR AGENCY’S PROPOSED ADMINISTRATIVE BUDGET as amended to add Oversight Board in the place of Successor Agency (2 places within resolution) Was Made By T. Sloan, Second By G. Lebsock.

Motion Carried By Roll Call Vote Of 6 Ayes, 0 Nays, 0 Absent, 0 Abstain.

6. Transfer of Housing Rights and Assets to the Ridgcrest Housing Authority and Approval of Resolution presented by Adoption

McRea

- McRea – Went over the property list. This is a snap shot of time as at any time a person could sell their home, due to that, we cannot assign a value.
- Breeden – for the record Breeden on the list is for her ex-daughter in law and does not create a conflict.
- T. Clark – Correct, no conflict with Ms. Breeden
- Fallgatter – AMG loan is under construction. Loan is from whom to whom?
- McRea – from the low and moderate fund 19 to AMG for residual receipts. Loan will be paid off in 2015-2017.
- Fallgatter – Does the DOF question this? Why is the Oversight Board being asked to review this?
- McRea – The Oversight Board was asked as a duty to transfer the housing responsibility to the housing authority that is it.
- T. Clark – State is taking the position that cash and assets are to stay with the Agency in the interest of full disclosure
- Fallgatter – Does desert willow grant fall under same category.

- McRea - Has a 35 year covenant saying it has to be used for purposes intended the housing authority will be stuck with. Same as the High Desert Haven item.

Public comment - none

Motion To Approve A RESOLUTION OF THE OVERSIGHT BOARD TO THE CITY OF RIDGECREST SUCCESSOR REDEVELOPMENT AGENCY APPROVING THE TRANSFER OF HOUSING PROPERTIES AND ASSETS TO THE HOUSING AUTHORITY

Was Made By P Breeden, Second By G. Rice.

Motion Carried By Roll Call Vote Of 6 Ayes, 0 Nays, 0 Absent, 0 Abstain.

7. Establish Future Meeting Dates And Approve Resolution 12-Xx By Adoption Staff

- Wilson - Can schedule regular meeting schedule and then call special meetings.
- Rice – likes Mondays at 5pm
- Breeden – second and last Mondays are out
- Sloan – no conflicts
- Lebssock – depends on particular week but Mondays at 5pm is fine.
- Fallgatter - depends on particular week but Mondays at 5pm is fine.
- Clark – How often would you like to meet? Every month? Quarterly?
- Rice – Thus far our purpose is to approve ROPS, is there something in between?
- Wilson – Take out the piece with DOF, and with the exception of training, we would have nothing else pending requiring a meeting.
- T. Clark – once noticed from DOF we would call a meeting.
- Rice – Suggesting two dates - one in December due to statutory obligations; another sooner for the review of counsel.
- D. Clark – Monday Dec 3rd 5pm suggested - Okayed by Board for next regular meeting to meet January payment date.
- Fallgatter – Is it Counsels opinion that the Board has done everything we are supposed to per your interpretation of the law and that we have done our due diligence?
- T. Clark – You have done way more than some of the other Oversight Boards and are ahead in his opinion.

8. Approval Of Cooperative Staffing Agreement Between The City Of Ridgcrest And The Successor Agency Staff

This was included in item 5, staff would like to pull this item.

Board Member Comments

- Breeden – none
- Rice – none
- Sloan- none
- Lebssock – none
- Fallgatter – This is an agreement we would want to have reviewed by outside counsel. Not the funding but the agreement itself is what counts. We don't want to not fund, it is a comprehensive document and we are being asked to support.
- T. Clark – RDA entered into the exact same agreements with the Cities before the abolishing of the Agencies, it is modeled after that and has the same process.
- D. Clark – look at last week's ROPS page 2 of 4 is a list of projects we have been working on as a City. These were the lists that council, community, and committees all came up with. He would like to suggest to the DOF they see these projects as community priority. Don't know if it will make a difference and may be rejected, but in terms of the reflects of minutes that we feel, as a Board, that this is important to our community.
- Breeden – we are not saying a project is worthy or not worthy, that is the Councils responsibility.
- D. Clark – Just wants it stated that they are priority to our community and would like Board to support these issues. We as a Board support the projects presented on Page 2 of 4 on the ROPS.
- Breeden –okay with giving support to Dan's suggestion.
- Fallgatter – 3 million for the corporate yard – it is absolutely not clear what community wants.
- Wilson – Topic has been the subject of quite a bit of debate among Council, suspects it is not going to end, it is unlikely to find a unanimous vote. What made it more confusing is there was official decision by council, and separate action by committees that are not binding and has no formal bearing on the process but created confusion in relation to bond proceeds.
- T. Clark – Bond proceeds will be spent per bond documents. Does not think the DOF will be swayed by the Boards support or not.

Support Staff Comments

- Wilson – Thanked staff for hard work

Adjournment 7:20pm