



Staff will be asking the City Council to add an emergency item that would ask the City Council to elect to be the Successor Agency for the dissolution of the La Palma Community Development Commission. Should the City Council place the item on tonight's Agenda, the associated Staff Report is attached for reference and review.



AGENDA ITEM

Item Number:

Staff Request for Proposed
Emergency Item

TO: CITY COUNCIL

FROM: CITY MANAGER

Submitted By:

Douglas Dumhart,
Community Development
Director

Meeting Date:

January 3, 2012

Subject: Resolution Electing to be the Successor Agency
for the Dissolution of the La Palma Community Development
Commission

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution electing to be the Successor Agency for the dissolution of the La Palma Community Development Commission (CDC).

SUMMARY:

On Thursday, December 29, 2011, the California Supreme Court ruled Assembly Bill (AB) 1X 26 to dissolve redevelopment agencies is legal. They also found that the companion bill, AB 1X 27 to keep redevelopment agencies alive through payments to the State was invalid. There is a lot of speculation as to whether the Legislature will try to salvage redevelopment when they reconvene in the New Year. For the moment, however, the City and Community Development Commission can only look to the implementation of AB 1X 26.

The Supreme Court also noted in their decision that AB 1X 26 contained numerous critical deadlines that have passed and can no longer be met due to the lawsuit and court ordered stay. To that end, they have exercised their power of reformation to revise each of the effective dates in AB 1X 26 to take effect either four months later or within 15 days of the issuance of their opinion (i.e., January 13, 2012). There is one decision the City Council has to make by January 13, which is whether the City will be the "Successor Agency" to the dissolved CDC. For that reason this item is being requested to be considered tonight.

BACKGROUND:

The California Supreme Court issued its opinion in *CRA v. Matosantos* and upheld the validity of AB 1X 26, the bill that dissolves all the redevelopment agencies in the State, and invalidated AB 1X 27, the bill that would have allowed redevelopment agencies to remain in operation by making a payment to assist the state budget. As a result of the Court's ruling, the dissolution of redevelopment agencies will be effective as of February 1, 2012.

One of the first actions, to be made by January 13, 2012, is for the City Council to formally determine if it will serve as the "Successor Agency" to the CDC with the responsibility of winding up its affairs, preparing various payment schedules, and taking on the other administrative tasks required. If the City declines, the Successor Agency will be the first other public agency within the boundaries of the Redevelopment Project Area (e.g., school district, county, or special district) that notifies the county auditor-controller that it will serve as the Successor Agency.

ANALYSIS:

If the City chooses to act as the Successor Agency, the City would be in a position to control the preparation and contents of the Recognized Obligation Payment Schedule (which is the document that lists the CDC's financial obligations—including outstanding bonds—to be paid from the pool of former tax increment) and would also then be the entity that would interact with the Oversight Board established by AB 1X 26 to review and approve actions of the Successor Agency in the dissolution process.

Any measure of control by the City of the dissolution process would be significantly lessened, if not eliminated, if the City is not the Successor Agency. Moreover, if the City is not the Successor Agency, the City is nonetheless likely to incur administrative costs in dealing with the dissolution of the CDC but then would have no means to obtain funds to pay those administrative costs. The public agency, including the City, that acts as the Successor Agency is entitled to receive up to 5% of its former tax increment for Fiscal Year 2011-2012, and up to 3% each year after that, but not less than \$250,000 each year, to meet the administrative expenses of serving as the Successor Agency. The CDC currently receives approximately \$3.375 million in tax increment per year. Because 5% and 3% of that figure are below the minimum standard established by the law, the City would receive the minimum of \$250,000 for administrative charges.

The Successor Agency's liability for serving in this capacity is expressly limited in AB 1X 26 [Health & Safety Code Section 34173(e)] to the property tax increment the Successor Agency receives to pay enforceable obligations and the value of any CDC assets transferred to it, so the City's general funds and other funds are not at risk if the City elects to be the Successor Agency to the dissolved CDC.

It should be noted that there is some discussion over the need to adopt the proposed resolution. One subdivision of H&S Code Section 34173 says the City has to adopt a resolution if the City declines to be the Successor Agency and file that resolution with the County Auditor-Controller by January 13 (the new date specified by the Supreme Court), while another says the "city" or other public entity electing to the Successor Agency is to file a resolution to that effect with the County Auditor-Controller. One can read these provisions as saying that if the City did nothing it would automatically be the Successor Agency. Another way to read it is that the City should affirmatively determine if it wishes to be the Successor Agency and file a resolution affirming the decision with the County Auditor-Controller. Because of the potential uncertainty in the interpretation of Section 34173, the City Attorney is recommending

the City Council consider in open session whether it wishes to be the Successor Agency, to adopt the appropriate resolution, and to file that resolution with the County Auditor-Controller by January 13, 2012.

Therefore, it is recommended the City Council serve as the Successor Agency to the CDC and adopt the Resolution affirming its decision. If, however, the City Council decides to not have the City serve as the Successor Agency, the City Council is required to adopt the Resolution declining to serve as the Successor Agency.

A copy of the adopted Resolution will need to be filed with the County Auditor-Controller by close of business on January 13, 2012.

CONCLUSIONS:

The recent ruling by the Supreme Court is a significant change in California public policy that will have significant immediate and lasting effects on La Palma. By choosing to act as the Successor Agency, the City will be able to cover its administrative expenses and will have the greatest level of control afforded by the law in seeing how the assets of the CDC are dissolved.

FISCAL IMPACT:

The La Palma Economic Development Plan activities are primarily funded by redevelopment tax increment. Expenditures on these activities have been suspended since the Supreme Court stay. \$525,000 has been budgeted in the CDC Capital Improvement Plan Fiscal Year 2011-12 Budget for Arterial Street Rehabilitation. A new source of funding for the planned rehabilitation project will need to be found.

Agenda action items regarding the two loans owed by the CDC to the City will be agendized for the January 17, 2012 meeting.

Over the long term, the City's General Fund may see additional revenues, as property tax revenues that were formerly redevelopment tax increment would be redistributed to taxing entities. Given current tax increment revenues of \$3,375,000 and a City property tax share of 11%, the amount of this revenue would be approximately \$371,250. By acting as the Successor Agency to the CDC, the City would also receive an additional \$250,000 for administering the wind-down of the CDC.

Attachments: 1. Proposed Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA PALMA DETERMINING THAT THE CITY ELECTS TO, AND SHALL, SERVE AS THE SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF LA PALMA PURSUANT TO HEALTH AND SAFETY CODE SECTION 34173

WHEREAS, the Community Development Commission of the City of La Palma (“Redevelopment Agency”) is a public body, corporate and politic, organized and existing under the California Community Development Commission Law (Health & Safety Code Section 34100) and the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq.) as a Community Development Commission that functions without a housing authority and thus only as a redevelopment agency; and

WHEREAS, the City of La Palma is a municipal corporation and a general law city of the State of California (“City”); and

WHEREAS, on December 29, 2011, the California Supreme Court issued its opinion in the case California Redevelopment Association, et al. v. Ana Matosantos, etc., et al., Case No. S196861, and upheld the validity of Assembly Bill 1X 26 (“AB 1X 26”) and invalidated Assembly Bill 1X 27; and

WHEREAS, the Court’s decision results in the implementation of AB 1X 26 which dissolves all the redevelopment agencies in the State of California as of February 1, 2012; and

WHEREAS, pursuant to a provision of AB 1X 26, codified as Health and Safety Code Section 34173(d)(1), the city, in the case of a redevelopment agency of a city, automatically becomes the “Successor Agency” to its dissolved redevelopment agency and is charged with the responsibility of winding up the affairs of the dissolved redevelopment agency pursuant to AB 1X 26, unless the city council adopts a resolution electing to not serve as the Successor Agency and thereafter files a copy of such resolution with the county auditor-controller; and

WHEREAS, the California Supreme Court, in Footnote 25 of its opinion, extended to January 13, 2012, the deadline for a city to make its decision on whether to decline to be the Successor Agency to its dissolved redevelopment agency; and

WHEREAS, the City Council, having considered the matter, has determined, in its legislative discretion, that it is in the best interests of the City for the City to serve as the Successor Agency to the dissolved Redevelopment Agency; and

WHEREAS, although pursuant to Health & Safety Code Section 34173(d)(1), the City would automatically become the Successor Agency unless it affirmatively elects to not serve as the Successor Agency by Resolution, the City nonetheless wishes to

express its intention and decision to serve as the Successor Agency to the dissolved Redevelopment Agency.

NOW, THEREFORE, the City Council of the City of La Palma resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The City Council of the City of La Palma hereby affirmatively determines that the City of La Palma elects to, and shall, serve as the Successor Agency to the dissolved Community Development Commission of the City of La Palma.

SECTION 3. This Resolution shall not be effective if the State adopts legislation preventing, or a court of competent jurisdiction prevents, the dissolution of redevelopment agencies in the State of California and thus enables the continuation of the Community Development Commission of the City of La Palma.

SECTION 4. The City Manager and his authorized designees are hereby authorized and directed to take such other and further actions and sign such other and further documents as is necessary and proper to implement this Resolution on behalf of the City.

SECTION 5. The City Manager or City Clerk shall file a copy of this Resolution with the Orange County Auditor-Controller not later than 5:00 p.m. on January 13, 2012.

PASSED, APPROVED, AND ADOPTED this 3rd day of January, 2012.

G. Henry Charoen,
Mayor

Laurie A. Murray, CMC,
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF LA PALMA)

I, LAURIE A. MURRAY, City Clerk of the City of La Palma, HEREBY DO CERTIFY that the foregoing resolution was adopted at a regular meeting of the City Council of the City of La Palma, held on the 3rd day of January, 2012.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:

Laurie A. Murray, CMC,
City Clerk