

A G E N D A

Special
Joint Meeting of the
Scotts Valley City Council, and
Redevelopment Agency Board of Directors

Date: January 11, 2012 **Time: 1:00 p.m.**

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted 1-10-12 at City Hall and on the Internet at www.scottsvalley.org .
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CALL TO ORDER

SPECIAL SET MATTERS:

REGULAR AGENDA:

1. Consider approval of Resolution No. CRA-108 expressing its intent to serve as the successor agency of the Redevelopment Agency of the City of Scotts Valley, pursuant to Health and Safety Code Section 34171(j) and Section 34173, and to elect to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Scotts Valley, pursuant to Health and Safety Code Section 34176 (City/RDA)

CLOSED SESSION:

1. Conference with legal counsel regarding real property negotiations.
Legal Authority: Govt Code Section 54956.8
APN: 022-211-80, 022-721-02, 022-231-03, 022-601-01, 022-211-36,
022-481-18
Staff Present: City Manager, City Attorney, Comm Dev Dir/Deputy City Mgr
2. Conference with legal counsel regarding existing litigation.
Legal Authority: Govt Code Section 54956.9a
Case: City of Scotts Valley vs. County of Santa Cruz, et al
Case No. CIV467230 San Mateo County Superior Court and
Case No. A126357 Court of Appeal, First District
Staff Present: City Manager, City Attorney, Comm Dev Dir/Deputy City Mgr

REPORT ON ACTION TAKEN DURING CLOSED SESSION

ADJOURNMENT

**City of Scotts Valley
INTEROFFICE MEMORANDUM**

DATE: January 11, 2012
TO: Honorable Mayor and City Council
FROM: Kirsten Powell, City Attorney
SUBJECT: Election Regarding Successor Agency/Successor Housing Agency of Dissolving Redevelopment Agency

SUMMARY OF ISSUES:

On December 29, 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding ABx1 26 (the "Dissolution Act") largely constitutional and AB1x27 (the "Alternative Redevelopment Program Act") unconstitutional. The Court's bifurcated decision means that all California redevelopment agencies, including the Redevelopment Agency of the City of Scotts Valley (the "Redevelopment Agency"), will be dissolved under the constitutional Dissolution Act, and none will have the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act.

As a result, the Redevelopment Agency will be dissolved on February 1, 2012. The Redevelopment Agency's non-housing funds and assets will then be turned over to a successor agency (the "Successor Agency") charged with the responsibility of paying off the former Redevelopment Agency's existing debts, disposing of the former Redevelopment Agency's properties and assets to help pay off debts and return revenues to the local government entities that receive property taxes (the "Taxing Entities"), and winding up the affairs of the former Redevelopment Agency. The Redevelopment Agency's affordable housing assets, other than its existing housing fund balance, will be turned over to a successor housing agency (the "Successor Housing Agency") to continue performing affordable housing activities. (The former Redevelopment Agency's affordable housing fund balance will be used to repay existing housing fund debts and/or remitted to the County Auditor-Controller for distribution to the Taxing Entities.)

The Dissolution Act provides that the City of Scotts Valley (the "City"), as the community that established the Redevelopment Agency, will be the Successor Agency to the former Redevelopment Agency unless the City elects not to serve as the Successor Agency, in which case the first other Taxing Entity making a proper election will be designated as the Successor Agency. If the City elects **not** to be the Successor Agency, it must adopt a resolution to that effect and notify the County Auditor-Controller by not later than January 13, 2012. Even if it elects to be the Successor Agency, it is recommended that a resolution to that effect and accompanying notice be provided by the County Auditor-Controller in order to have a clear record of the City's intention.

The Dissolution Act also authorizes the City to elect to become the Successor Housing Agency of the former Redevelopment Agency and to retain the housing assets (other than any existing housing fund balance) and affordable housing functions of the former Redevelopment Agency. If the City does not elect to become the Successor Housing Agency, then the local Housing Authority (or if there is no local Housing Authority, the California Department of Housing and Community Development) will become the Successor Housing Agency.

Analysis: The Successor Agency and the Successor Housing Agency will play a key day-to-day role in assuring that the existing obligations of the former Redevelopment Agency are properly paid, and that the former Redevelopment Agency's properties and other assets are disposed of in an appropriate manner. While the Successor Agency will be overseen by an "Oversight Board" of seven representatives selected largely by the County and various local education districts, the staff of the Successor Agency will have a strong role in initiating and implementing actions in a way that achieves not only the requirements of the Dissolution Act but also is sensitive to the long-term development needs of the City and local community, and that protects the good name of the City in the financial markets by assuring timely repayment of the former Redevelopment Agency's existing debts.

If the City elects not to serve this role, the Successor Agency will be some other Taxing Entity that is likely to have no experience in redevelopment financial and land disposition matters and that may not necessarily take into account the interests of the City and local community in performing its functions. Similarly, if the City elects not to serve as the Successor Housing Agency, then some other entity outside the City's control will perform various affordable housing functions in the City using affordable housing assets of the former Redevelopment Agency.

The Dissolution Act provides that the liability of the Successor Agency is limited to the funds and assets it receives under the Dissolution Act to perform its functions. Thus, if it takes on the role of Successor Agency (and Successor Housing Agency), the City would not expose its General Fund to liability to discharge the obligations of the former Redevelopment Agency (unless it was found to have mismanaged or misappropriated the funds and assets it does receive under the Dissolution Act). That said, it would be important for the City, if it becomes the Successor Agency (and Successor Housing Agency), to exercise the same care and prudence in the management and protection of the funds and assets that it receives from the former Redevelopment Agency as the City applies with its own funds and assets.

Subject to the approval of the Oversight Board and to specified reductions if other funds are available for administration, the Dissolution Act permits the Successor Agency to receive an annual operating budget to defray its administrative costs in an amount up to five percent (5%) of the property tax allocated to the Successor Agency for FY 2011-12 to pay the former Redevelopment Agency's existing debts, and up to three percent (3%) of the property tax allocated to the Successor Agency each succeeding fiscal year; provided, however, that the annual amount shall not be less than \$250,000 for any fiscal year (or such lesser amount as agreed to by the Successor Agency). It is possible, but not clear in the currently written Dissolution Act, that the City could receive a portion of this amount to perform its functions as the Successor Housing Agency. (Otherwise, the City would need to fund its Successor Housing Agency activities from asset-related revenues it receives (e.g., affordable housing loan repayments and other program income generated by the housing assets it inherits from the former Redevelopment Agency), or other revenue sources including the City General Fund.)

FISCAL IMPACT:

If the City elects to be the Successor Agency, the City's General Fund will receive the following to defray its administrative costs: up to five percent (5%) of the property tax allocated to the Successor Agency for FY 2011-12 to pay the former Redevelopment Agency's existing debts, and up to three percent (3%) of the property tax allocated to the Successor Agency each succeeding fiscal year; provided, however, that the annual amount shall not be less than \$250,000 for any fiscal year

STAFF RECOMMENDATION:

For the reasons set forth above, staff recommends that the City Council adopt the resolution, a copy of which is attached and on file with the City Clerk electing to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act.

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RESOLUTION NO. CRA-108

RESOLUTION OF THE CITY OF SCOTTS VALLEY TO EXPRESS ITS INTENT TO SERVE AS THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SCOTTS VALLEY, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND SECTION 34173, AND TO ELECT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SCOTTS VALLEY, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, Assembly Bill 1X 26 (the "Dissolution Act") and Assembly Bill 1X 27 (the "Alternative Redevelopment Program Act") were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court's decision means that all California redevelopment agencies will dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, the Dissolution Act provides that the city that authorized the creation of the redevelopment agency shall be the "successor agency" to the dissolved redevelopment agency unless the city elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the City of Scotts Valley (the "City") intends to, and shall serve as, the successor agency for the Redevelopment Agency of the City of Scotts Valley (the "Agency") in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law; and

WHEREAS, the City desires to elect to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

NOW, THEREFORE, BE IT RESOLVED, that the City hereby accepts the designation, and hereby declares its intent, to serve as the successor agency for the Agency in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law.

BE IT FURTHER RESOLVED, the City hereby elects to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby directed to file a copy of this resolution with the County Auditor-Controller.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Agency to the City, in its capacity as successor agency to the Agency, pursuant to Sections 34175 and 34176 of the Redevelopment Law.

The above and foregoing resolution was duly and regularly passed and adopted at a meeting by the City Council of the City of Scotts Valley on the 11th day of January, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna Lind, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk