

**MINUTES OF A SPECIAL MEETING OF THE
REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO HELD ON THE
26th DAY AUGUST OF 2011**

The Commissioners of the Redevelopment Agency of the City and County of San Francisco met in a special meeting at 1 South Van Ness, 5th Floor, Room 5080 in the City of San Francisco, California, at 3:00 p.m. on the 26th day of August 2011, at the place and date duly established for holding of such a meeting.

President Swig called the meeting to order at 3:00 p.m.

Mr. Swig welcomed members of the public and radio listening audience and asked that all electronic devices including pagers and cellular telephones be turned off during the meeting. Mr. Swig asked members of the public who wished to address the Commission to fill out speaker cards, and to state their names for the record, and to limit their remarks to three minutes. Mr. Swig stated that the appropriate time for members of the public to address the Commission on matters not on the current Agenda, but related to general Agency business, would be Item 6 on the agenda. This portion of the Agenda is not intended for debate or discussion with the Commission or staff, and members of the public should simply state their business or matter they wish the Commission or staff to be aware of, and if they had questions, to follow-up with staff or Commissioners during a break or after adjournment. It is not appropriate for Commissioners to engage in a debate or respond on issues not properly set in a publicly-noticed meeting agenda.

1. RECOGNITION OF A QUORUM

The Commission Secretary announced the presence of a quorum with the following Commissioners present:

Rick Swig, President
Darshan Singh, Vice President
Rosario M. Anaya
Miguel M. Bustos
Francee Covington
Leroy King
Agnes Briones Ubalde

Fred Blackwell, Executive Director, and staff members were also present.

2. REPORT ON ACTIONS TAKEN AT PREVIOUS CLOSED SESSION MEETING, IF ANY: No Reportable Actions.

3. MATTERS OF UNFINISHED BUSINESS: None.

4. MATTERS OF NEW BUSINESS:

(a) Adopting an Enforceable Obligation Payment Schedule pursuant to Community Redevelopment Law Section 34169(g), as required by AB 26. (Resolution No. 95-2011)

Presenters: Fred Blackwell, Amy Neches

Speakers: Ace Washington, Majeid Crawford

Commissioner Ubalde asked Ms. Neches for a subtotal for each section of the obligations.

Ms. Neches responded with a breakdown of the enforceable obligations that are coming up for payment: Housing obligations: September/\$7 million, October/\$7 million, November/ \$9 million, and December/\$17 million. Non housing payments: September/\$7.7 million, October/\$8 million, November/\$6 million, and December/\$5 million. Ms. Neches noted that they tend to overestimate rather than underestimate the payments because there is uncertainty as to what the actual amount will be but confirmed that they will only make payments of the actual amount invoiced.

Commissioner Ubalde also asked Ms. Neches to share the process that was carried out with staff and the community and what kind of preparation was done in gathering this list.

Ms. Neches responded that putting this together was a highly technical process. She reiterated that every enforceable obligation as defined under AB 26 had to be included on the list. Ms. Neches added that under the general suspension that the Agency is under, they cannot enter into any new contracts or continue with existing contracts, except those that are required as an enforceable obligation. The process was highly technical in that they took the language described as to what was an enforceable obligation, what must go into the payment schedule, put together spreadsheet templates which were distributed to all staff with detailed instructions of what kind of obligations they needed to include, and then staff started submitting the contract amounts for all the work being done. Ms. Neches stated that they went through many rounds of review and revisions to make sure they had included everything.

President Swig asked Ms. Neches for a definition of an enforceable obligation.

Ms. Neches responded that an enforceable obligation is an existing contractual legally-binding agreement between the Agency and a third party which may take the form of a construction contract, a personal services contract, a labor agreement, and/or certain other types of work orders that are pre-existing agreements, of which bonds are the Agency's clearest obligations. They listed them with the names and then projected, based on the budget of those approved agreements and contracts, what they expected the payments would be. Project managers were responsible for the contracts within their projects, housing staff for housing, finance staff was responsible for rent, payroll, etc. and then they did rounds of review. Ms. Neches added that this information is not really available to the public because this is not a discretionary matter. She explained that it is not under the discretion of staff or the Commission whether something should be included on the list but rather that it was a factual matter and if the item met the definition of enforceable obligation as stated in AB26, it had to be included on the list. Ms. Neches admitted that there may be mistakes on the list but that they had tried to be as complete and as accurate as they could be and they were open to corrections.

Commissioner Anaya stated that what she heard was that every enforceable obligation had to be included on this list.

Ms. Neches clarified that this was an enforceable obligation payments list, which meant that everything on the list was an enforceable obligation that had a payment obligation either now or in the future. She added that certain types of enforceable obligations, such as exclusive negotiations, are considered legally enforceable obligations but were not listed because they are not payment obligations. Ms. Neches indicated that any money going from the Agency to any other party at any time is listed on the schedule.

Commissioner Anaya inquired as to what would happen if there were errors on the list and whether the list is amendable.

Ms. Neches responded that she expects that they would return to the Commission periodically over the next few months to amend the list, to add anything missed or to adjust amounts, if necessary.

Commissioner Anaya asked her to describe the process to amend the list.

Ms. Neches responded that to change anything on the list, they would schedule it as an agenda item for the next meeting and submit the item to the Commission as a resolution to be adopted to amend any changes to the enforceable obligation list.

Commissioner Anaya put forth a motion to move this item, praised Ms. Neches and staff for putting such a complex list together in a short period of time.

Commissioner Covington seconded Ms. Anaya's motion. Ms. Covington then inquired about Exhibit A1 and where the landscaping and caretaking of all of the parks that they have would be.

Ms. Neches responded that landscaping would be listed under the specific contract for each project. She added that the list was organized alphabetically by project name.

Commissioner Covington inquired as to how she could get the number for all parks.

Ms. Neches responded that they would have to add up the different items.

Commissioner Covington inquired whether Commission meetings were reflected on the list and where they could be found.

Ms. Neches pointed out that meetings would be included under Commission expenses and pointed out where they could be found.

Commissioner Covington asked for clarification if the total amount of enforceable obligations was \$64 million.

Ms. Neches responded that the maximum amount was approximately \$68 million of scheduled payments over the next few months.

Commissioner Covington inquired about Exhibit A1, Line item 41, regarding payments to the city attorney and inquired as to whether this was a retainer and inquired as to whether they are charged more if there is a case going on.

Ms. Neches responded that they have an open letter of understanding with the city attorney, whereby if the city attorney's office provides legal services to them, the Agency pays them at an hourly rate. She added that the Agency only pays them if their help is requested. She explained that the amount on the list is the highest that they estimated it could be and that is what they used on the list. Ms. Neches indicated that they do regularly use the city attorney, especially on these types of matters and only pay them for actual hours worked.

Commissioner Covington inquired about any outstanding contracts that may be coming up for renewal; for instance, a company is coming to the end of a three-year contract. Ms. Neches inquired as to whether they were allowed to renew the contract or would they just forego their services.

Ms. Neches responded that in that instance, they would have to review it on a case-by-case basis. She reiterated that the general rule is that the Agency cannot enter into any new contracts except if there is another obligation that would require the Agency to enter into a new contract. A hypothetical example would be if their owner participation agreement with Mission Bay requires them to have landscaping services, they could point to that agreement which is clearly an enforceable obligation that would require them to enter into a new landscaping contract. However, Ms. Neches clarified, if there is not another contract, they cannot enter into any new contracts.

Commissioner Covington inquired as to whether they have identified which contracts might fall under those circumstances.

Ms. Neches stated that they have started that process and was hopeful to have that done either in late September or October. She stated they have been working rapidly on putting together the schedule and up to now, most effort has gone into finishing the payment schedule.

Commissioner Covington asked Director Blackwell what happens with attrition, when people go on vacation and don't come back. She inquired as to whether in those cases they would still be allowed to hire people and actively recruit.

Director Blackwell responded that they are not allowed to increase the number of people on staff but they can replace people who leave. He indicated there are two caveats: 1) that this is not the kind of environment in which they would want to recruit new staff because the type of people that would be qualified for their positions would probably not be interested in coming in at this time. 2) That until they have gathered up all the money they will need in order to make the payment that they might have to make, they need to hold expenses down as much as possible. Director Blackwell summarized that legally they can't hire and practically they wouldn't hire.

Commissioner Covington inquired about a breakdown of where the funds would come from for the Agency to be able to make the payment.

Director Blackwell responded that this depends on whether or not the Agency introduces the continuation ordinance and the budget amendment during this period. He clarified that what AB 27 says is that in order to be exempt from elimination, the post jurisdiction, or in this case, the Board of Supervisors, has to adopt a continuation ordinance that says that they intend to make the payment. If the Agency is going to be providing the funds to make the payment, they would have to do a budget amendment to show the Board how that payment would be made. With the stay that was recently issued, the court stated that AB 27 will not go into effect during this period, so the law of AB 27 allowing jurisdictions to adopt continuation ordinances is no longer around. As a result, many jurisdictions are not adopting continuation ordinances because the law that required it is no longer in effect. The Agency could however adopt a continuation ordinance that had a number of conditions in it that are associated with the court's decisions and they are currently having conversations with the Mayor and with the Board about their interest in passing such an ordinance. Director Blackwell stated that if that is the case, they would come back to the Commission with a budget amendment.

Director Blackwell added that the payment strategy will depend greatly on what strategies they have at their disposal. When the bills were initially signed, one of the options they had in front of them was to use their existing bond authority, which was \$84 million, to adjust the bond authority on the user's side to make the payment with bond proceeds. He stated that in order to issue bonds, you have to get validating opinions from bond counsel. Their own bond counsel and every other bond counsel has stated that while this case is pending, they will not be issuing validating opinions that had so many conditions because the bonds would not be saleable and nobody would want to purchase those bonds. Director Blackwell added that once the case runs its course, the bond counsels may change their positions and they may be able to use the existing bond authority to make the payment. But before that time, any required payment will have to be made with cash on hand.

Commissioner Singh inquired as to what happens once the Supreme Court does rule.

Ms. Neches responded that the court could decide in a number of ways. They could decide that both AB 26 (for dissolution) and AB 27 (for continuation) are not valid constitutionally and the Agency would be back in business as if none of this had happened. But, Ms. Neches speculated, that if that happens, they were sure that the Governor and legislature would come back next spring to look for new strategies to continue with this effort. Second, the court could decide that both bills are valid. In that case, the Agency would be ready and proceed immediately to adopt an ordinance with a budget amendment and make the payment as scheduled. The third option is that they could decide that AB 26 is valid and decide that AB 27 is invalid. Ms. Neches indicated that this would be the worst outcome for the Agency because they would be eliminated without any process and the only way for the Agency to get back into business would be to adopt all new legislation to bring back redevelopment. Ms. Neches stated that of course the Court has the right to invalidate some portions of the law and not others and they can do whatever they want. The Court has set up a schedule for submission of briefs from both sides and for oral argument in October and it looks like they are taking this issue very seriously. Ms. Neches indicated that it's a good sign that they are moving quickly on this.

Commissioner Singh inquired as to whether they would get the ransom money back.

Ms. Neches responded that they haven't yet paid the ransom and stated that she was not sure if they get to keep it or whether they will have to spend it.

Commissioner Bustos thanked the staff for all the hard work involved in putting this schedule together. He stated that it was sad that they had to vote like this and go through this process.

President Swig stated that all they can do is submit their best guesstimate with solid due diligence effort. Mr. Swig inquired as to who this goes to and what happens if something was missed or if there are inaccuracies.

Ms. Neches responded that it goes to the City Controller, the State Department of Finance and the State Controller's Office.

President Swig inquired as to what happens if they find errors and whether they are allowed to correct them or will they be considered in default.

Ms. Neches responded that the Department of Finance has the right to review and there is a process by which they will be able to post changes. She indicated that it would be surprising if the recipients had a problem with this list, other than perhaps some random questions about a couple of things. Ms. Neches stated that as long as the list looks complete and that the Agency had taken this seriously, she did not think the Department of Finance would go to a great level of detail on this. They have truly been as diligent as they can and they will take advantage of that clause and they believe that this is accurate today.

President Swig just wanted to clarify as to whether there are any new items on the list or whether these are all items that have all come before the Commission previously, have been approved by the Commission, and have all had some level of public scrutiny.

Ms. Neches confirmed that this was so.

ADOPTION: IT WAS MOVED BY COMMISSIONER ANAYA, SECONDED BY COMMISSIONER COVINGTON, AND UNANIMOUSLY CARRIED, THAT RESOLUTION NO. 95-2011, ADOPTING AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE PURSUANT TO COMMUNITY REDEVELOPMENT LAW SECTION 34169(G), AS REQUIRED BY AB 26, BE ADOPTED.

5. **MATTERS NOT APPEARING ON AGENDA:** None
6. **PERSONS WISHING TO ADDRESS THE MEMBERS ON NON-AGENDA, BUT AGENCY RELATED MATTERS.**

Speakers: Majeid Crawford, Ace Washington

7. REPORT OF THE PRESIDENT:

With regard to any request from the public and/or anything that appears on the website, Mr. Swig wanted to clarify that the point person for any inquiries is the Executive Director. Mr. Swig added that, as everyone knows, the Agency has been holding its regular meetings on the first and third Tuesday of the month and the purpose of special meetings is to deal with special issues. Mr. Swig then pointed out that there is every probability that they will cancel the first Tuesday meeting in September, October & November; however, the meetings held on the third Tuesday of every month will continue. Exception being in December when there will be a meeting on the first Tuesday and no meetings will be held during the Holiday's.

8. REPORT OF THE EXECUTIVE DIRECTOR:

The Executive Director reported that he had nothing to report.

9. COMMISSIONERS' QUESTIONS AND MATTERS: None

10. CLOSED SESSION: None

11. ADJOURNMENT:

It was moved by Commissioner King, seconded by Commissioner Covington, and unanimously carried that the meeting be adjourned at 4:01 p.m.

Respectfully submitted,

Gina E. Solis
Agency Secretary

ADOPTED: