

# NOTICE OF REGULAR MEETING

Pursuant to Section 54954.2 of the Government Code of the State of California, a Regular meeting of the **Oversight Board of the Successor Agency to the City of Tracy Community Development Agency** is hereby called for:

**Date/Time:** Tuesday, June 5, 2012, 3:30 p.m.  
(or as soon thereafter as possible)

**Location:** City Council Chambers, City Hall  
333 Civic Center Plaza, Tracy, CA 95376

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Oversight Board on any item, before or during consideration of the item. However no action shall be taken on any item not on the agenda.

1. CALL TO ORDER
2. ROLL CALL
3. ITEMS FROM THE AUDIENCE
4. APPROVAL OF MINUTES
5. ADOPT A RESOLUTION APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY
6. SUPPLEMENTAL INFORMATION REGARDING ASSETS OF THE FORMER TRACY COMMUNITY DEVELOPMENT AGENCY (CDA)
7. ADOPT A RESOLUTION AMENDING THE BY-LAWS FOR THE OVERSIGHT BOARD OF SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY TO SPECIFY THE RULES OF PROCEDURE AT MEETINGS AND THE APPOINTMENT OF ALTERNATES
8. DISCUSS AND PROVIDE DIRECTION ON THE SELECTION OF OVERSIGHT BOARD LEGAL COUNSEL
9. DISCUSS AND PROVIDE DIRECTION ON THE CANCELLATION OF THE REGULAR JULY 3, 2012 OVERSIGHT BOARD MEETING
10. ITEMS FROM THE AUDIENCE
11. BOARD MEMBER ITEMS
12. ADJOURNMENT

**May 31, 2012**  
Posted Date

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Oversight Board of the Successor Agency to the City of Tracy Community Development Agency regarding any item on this agenda will be made available for public inspection in the Development and Engineering Service Department located at 333 Civic Center Plaza, Tracy, California, during normal business hours.

OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF TRACY  
COMMUNITY DEVELOPMENT AGENCY

SPECIAL MEETING MINUTES

**Tuesday, May 1, 2012, 3:30 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

1. Board Member Ives called the meeting to order at 3:31 p.m.
2. Roll call found Board Members Borwick, Ives, Khan, Miller, and Sensibaugh present. Board Member Thomas joined the meeting at 3:34 p.m.

3. Assistant City Clerk Carole Fleischmann provided the Oath of Office.

4. Andrew Malik provided an introduction of staff and asked each member to introduce themselves.

Board Member Yatooma joined the meeting at 3:37.

5. It was moved by Board Member Khan and seconded by Board Member Yatooma to nominate Board Member Sensibaugh as the Chair. Voice vote found all in favor; passed and so ordered. Chair Sensibaugh asked for a motion for Vice Chair. It was moved by Board Member Khan and seconded by Chair Sensibaugh to nominate Board Member Ives as Vice Chair. Voice vote found all in favor; passed and so ordered.

6. DISCUSS THE GENERAL DUTIES AND RESPONSIBILITIES OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY AND THE REQUIREMENTS OF THE BROWN ACT

Andrew Malik stated that in the packet provided to the board members was a list of duties of the Oversight Board which includes monitoring the winding down of the operations of the Successor Agency and overseeing that its obligations are met.

Vice Chair Ives asked how often did staff believe the Oversight Board would be meeting and how long would the meetings last. Mr. Malik stated the bylaws call for monthly meetings and if needed, special meetings could be called. Board Member Yatooma indicated he serves on several oversight boards and they were going to hold them monthly. Board Member Miller asked how long it was going to take to care for the affairs of the Agency. Chair Sensibaugh stated he was not sure, but believed the ROPS would take the longest. Vice Chair Ives asked how long would it take to wind down the affairs of the Agency. Other members indicated until 2016. Discussion ensued regarding various scenarios and time frames.

City Attorney Dan Sodergren indicated he was counsel to the City and the Successor Agency and there may be times when the interests of the Oversight Board would be in conflict with the interests of the City and the Successor Agency and in those cases he was prohibited from representing both the Oversight Board and the Successor Agency. Given that conflict, Mr. Sodergren stated other cities have hired separate counsel while others have put off decisions until an outside representative could be hired. Mr. Sodergren further stated he was available for general questions such as Brown Act or

Conflict of Interest items, but substantive items that may cause a conflict, he could not advise the Board. Mr. Sodergren stated he could provide a list of names of attorneys who may be willing to represent them.

Chair Sensibaugh stated he appreciated that Mr. Sodergren was available for the first meeting and agreed that the Oversight Board could continue to use the services of Mr. Sodergren until a conflict did arise. Vice Chair Ives agreed. Board Member Khan stated other agencies discussed having a joint counsel for all of the Oversight Boards. Chair Sensibaugh suggested Mr. Sodergren contact the City of Stockton and return with an agenda item for the Board's consideration.

Mr. Sodergren discussed the Brown Act and the Political Reform Act (Conflict of Interest). Board Member Khan asked for clarification regarding Form 700. Mr. Sodergren indicated the form needed to include an original signature (wet copy). Chair Sensibaugh asked if he should file one with the Board of Supervisors. Mr. Sodergren indicated he should file one there and one here.

7. ADOPT A RESOLUTION ADOPTING THE BY-LAWS FOR THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY.

Andrew Malik provided an outline of the by-laws. Board Member Khan asked if they needed to have alternates noted in the by-laws. Mr. Sodergren stated it was not a requirement or the law, but could be added if the Board wanted to. Board Member Yatooma suggested adopting the bylaws as written, receive input and then amend them if necessary. Chair Sensibaugh stated there was something in the bylaws that indicated they can be amended from time to time.

Chair Sensibaugh asked what rules of order was the Board going by. Mr. Sodergren indicated either Roberts Rules of Order or Rosenburgh Rules. Mr. Sensibaugh recommended the Board Members be supplied with each set of rules. It was moved by Board Member Yatooma and seconded by Board Member Khan that the Oversight Board convene on the First Tuesday of each month at 3:30 p.m. and adopt the bylaws as written. Vice Chair Ives suggested the Rosenburgh rules come back before they are adopted. The Chair agreed.

8. DESIGNATE THE DEVELOPMENT AND ENGINEERING SERVICES DIRECTOR OF THE SUCCESSOR AGENCY AS THE CONTACT PERSON FOR THE DEPARTMENT OF FINANCE INQUIRIES REGARDING OVERSIGHT BOARD OF ACTIONS.

Andrew Malik stated the Health and Safety Code requires that the Oversight Board provide a contact for the Department of Finance inquiries. Mr. Malik stated staff had discussed the item and proposes that Mr. Malik be that designee. Board Member Yatooma asked that e-mails from the Department of Finance be shared with all Board Members. Chair Sensibaugh suggested you do not "reply to all". Mr. Borwick asked if there might be a conflict between the Board and the City with the director being the person of contact for the Department of Finance. Chair Sensibaugh indicated the Oversight Board was to make sure that the process is vetted through City staff. Mr. Sodergren indicated staff of the successor agency is also the staff for the Oversight Board. Chair Sensibaugh indicated his concern was if one of the Board Members worked under Mr. Malik and served on the Board, then he would be more concerned. Mr. Sodergren indicated he did not believe it represented a conflict. It was moved by Vice Chair Ives and second by Board Member Yatooma to approve Mr. Malik as the

contact person for the Department of Finance regarding Oversight Board actions. Voice vote found all in favor; passed and so ordered.

9. ADOPT A RESOLUTION APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY.

Zane Johnston stated the State requires that we identify all of the enforceable obligations of the former Redevelopment Agency of the City of Tracy. Mr. Johnston indicated an outline was provided to the Oversight Board in its packet. Mr. Johnston stated there was nothing out of the ordinary and that it was very basic. Mr. Johnston provided the Oversight Board with a final version which he believed had been reviewed by the State Department of Finance. Mr. Johnston noted that the only change was that the list only reflected those items that were to be paid between January and June 2012.

Chair Sensibaugh asked for a description of the 2% allocation or pass through payments. Mr. Johnston explained that when the Agency was formed, the base line was frozen and as values grow, that represented the increment to the Agency. Mr. Johnston stated the only unknown listed is whether or not line 23 (loan from the Housing Fund) will be paid. Mr. Johnston further stated legislation had been introduced whereby the State may allow agencies to spend money it has on hand in its Housing Set Aside Fund on housing activities that would have to be completed within four years.

Chair Sensibaugh stated he would like to see if staff has taken a look at the law to see if the Oversight Board is still obligated for the items handed over. Mr. Johnston indicated the ROPS handed out could be taken back to the Successor Agency. Mr. Johnston recommended that the Oversight Board approve the ROPS provided for obligations from January through June 2012.

Board Member Thomas stated he believed the ROPS was subject to an audit by the County Auditor/Controller and once completed the Oversight Board would have an opportunity to respond accordingly. Board Member Khan stated he believed that was correct. Mr. Malik stated he believed that this would happen later this month.

Mr. Johnston stated there were two pots of money; this one was the increment that went to the Agency. In addition, there are assets of the former Agency that could subsequently be distributed to the Agency. Mr. Johnston stated this is the increment that will occur yearly. Board Member Khan asked if the Oversight Board could have a balance sheet of the Successor Agency. Mr. Johnston indicated he did not know and was not sure what type of annual financial reports would be required. Mr. Johnston added that the Successor Agency is winding down the Redevelopment Agency which no longer exists. Board Member Khan stated the Successor Agency has some assets. Mr. Johnston stated no. Board Member Yatooma asked if the Redevelopment Agency had assets. Mr. Johnston stated yes. Mr. Johnston stated the Redevelopment Agency has a housing account which will be distributed at some point, possibly after the audit, but that it did not belong to the Successor Agency. Board Member Khan stated he would like to see what the obligations represented. Mr. Malik added that there was money in the housing fund but there weren't any other property assets. Board Member Khan asked if any properties were transferred. Mr. Johnston stated there will be housing money and change that is left over from third party contracts. Mr. Johnston clarified that the obligation payment is only about the tax increment. Mr. Johnston added that there is another set of assets that will be determined as a result of the audit which may take years before it is determined.

Board Member Khan stated that if there was any property left to be developed, that is an asset. Mr. Sodergren indicated that the Agency does not own any property. Board Member Thomas asked if financial statements were prepared when the RDA existed. Mr. Johnston stated yes. Board Member Thomas asked if the Oversight Board could receive a copy of the last set of financial statements. Mr. Malik indicated staff could supply that information.

Chair Member Yatooma asked for clarification regarding the June ROPS payment and if the Successor Agency will pay back the housing set aside fund. Mr. Johnston stated it would be switching from one fund to another.

Board Member Thomas asked if sufficient cash existed to pay this obligation. Mr. Johnston indicated they were not our funds but were the auditors. Mr. Johnston stated the tax increment that was received by the Agency was able to pay the obligations.

Board Member Thomas asked if the pass throughs show up on this ROPS because the City/Successor Agency is going to write the checks for this payment. Mr. Johnston indicated he did not know; historically, the gross amount was sent to the agency and the agency in turn paid its obligations. Board Member Thomas stated other agencies have assured the Board that the County Auditor/Controller would take these pass through monies off the top before it paid money to the Successor Agency. Mr. Borwick stated in the past the County has withheld its money and the City writes out approximately eleven checks.

Chair Sensibaugh asked that staff provide additional information before the ROPS is approved. Mr. Johnston stated the County was handling all the increment income from this point forward. Chair Sensibaugh asked for a schedule of the deadlines. Chair Sensibaugh added that the resolution needed to be changed to reflect that it becomes effective 3 business days after approval.

Chair Sensibaugh asked if the \$250,000 was for staffing and if it represented a fiscal year. Mr. Johnston stated starting July 1 it is \$250,000 per fiscal year. Chair Sensibaugh asked when the Board would see another one of these. Mr. Johnston stated at the next meeting. Chair Sensibaugh asked if it doesn't get spent can it be carried over. Mr. Johnston stated his understanding was that they were entitled to \$250,000 per year.

Board Member Khan asked if there were any bond payments to be paid between now and June. Mr. Johnston indicated there were no more obligations due until September. Board Member Khan asked then if the only item that may or not be paid is item #23. Mr. Johnston stated yes. Chair Sensibaugh asked if it was worth the risk to hold approval over until the next meeting. Mr. Malik read from a section that stated ". . . if the first ROPS prepared by the Successor Agency is not approved and certified by May, it is recommended that the Successor Agency confer with legal counsel regarding the risks of paying or not paying enforceable obligations particularly in the case of enforceable obligations that may be controversial or problematic under competing interpretations of AB26".

It was moved by Board Member Thomas and seconded by Board Member Yatooma to adopt the ROPS as amended with respect to the effective date of three business days. Mr. Borwick indicated he did work with Mr. Johnston on earlier versions of the ROPS,

but did not work on the version submitted. Voice vote found all in favor; passed and so ordered.

10. Items from the Audience – None.

11. Board Member Items

Board Member Yatooma asked that once comments were received from the Department of Finance to please share them with the Oversight Board. Board Member Yatooma indicated he would like to see past assets of the Redevelopment Agency. Board Member Yatooma further indicated he would like to review the ROPS in June and take action in July.

Chair Sensibaugh thanked staff for getting the information out ahead of time.

12. Adjournment

Chair Sensibaugh adjourned the meeting at 5:07 p.m.

Time: 5:09 p.m.

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Chair

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City Clerk

June 5, 2012

AGENDA ITEM 5

REQUEST

**ADOPT A RESOLUTION APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY**

DISCUSSION

The State of California through the passage of ABX1 26 dissolved redevelopment agencies effective February 1, 2012 and replaced them with successor agencies. The City of Tracy previously elected to serve as the successor agency of its former redevelopment agency. Previously the Oversight Board approved approved a Recognized Obligations Payment Schedule (ROPS) for the period of January 1, 2012 through June 30, 2012. A ROPS for the period of July 1, 2012 to December 31,2012 must also be approved. Attached is the ROPS for this period.

The ROPS lists all outstanding enforceable obligations of the former Tracy Community Development Agency. The largest obligation is the outstanding bonds issued by the Agency. The City is statutorily entitled to \$250,000 per year in administrative expenses and as such, the administrative budget has been set at this amount. The amounts due for the period of July 1, 2012 to December 31, 2012 have been noted. It is imperative this ROPS be approved as the County needs an approved ROPS to release funds – funds that are needed to pay upcoming debt service payments.

Although the approval of this ROPS was scheduled for the June 5, 2012 meeting of the Oversight Board, the State requested a copy in advance. The State reviewed this ROPS and approved it. This is noteworthy because the State has rejected many of the ROPS that have been submitted. The State's approval indicates that Tracy's ROPS is acceptable and conforms with State law in this regard.

RECOMMENDATION

It is recommended that the Board of Directors of the Oversight Board of the Successor Agency to the Tracy Community Development Agency approve the attached resolution approving the Recognized Obligations Payment Schedule (ROPS) and approving the \$250,000 administrative budget.

Prepared by: Zane Johnston, Finance & Administrative Services Director

Attachment



RESOLUTION \_\_\_\_\_

APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND THE ADMINISTRATIVE BUDGET OF THE SUCCESSOR AGENCY OF THE TRACY COMMUNITY DEVELOPMENT AGENCY

WHEREAS, The California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, In January 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Tracy (the "City Council") declared that the City of Tracy, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Community Development Agency of the City of Tracy (the "Former CDA") effective February 1, 2012; and

WHEREAS, On February 1, 2012, the Former CDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, The Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, On August 1, 2011, the Former CDA adopted its latest enforceable obligation payment schedule (the "RDA EOPS") as required pursuant to Health and Safety Code Section 34169(g); and

WHEREAS, Health and Safety Code Section 34177(l)(2)(A) requires the Successor Agency to prepare a draft recognized obligation payment schedule (the "ROPS") and make associated notifications and distributions; and

WHEREAS, The ROPS and Successor Agency Administrative Budget must be approved by the Oversight Board pursuant to Health and Safety Code Sections 34177(l)(2)(B) and 34177(j), respectively.

NOW, THEREFORE, BE IT RESOLVED, That the Oversight Board of the Successor Agency to the Tracy Community Development Agency does hereby approve the attached Required Obligations Payment Schedule (ROPS) for the period of 7/1/12 to 12/31/12 and approves a \$250,000 administrative budget for the Successor Agency (City of Tracy) for administration activities for FY 12-13.

BE IT FURTHER RESOLVED, That this Resolution shall take effect three business days after adoption.

ADOPTED: June 5, 2012:

AYES: BOARD MEMBERS

NOES: BOARD MEMBERS

ABSTAIN: BOARD MEMBERS

ABSENT: BOARD MEMBERS

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Secretary

**DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE**  
**Per AB 26 - Section 34177 (\*)**

	Project Name / Debt Obligation	Contract/Agreement Execution Date	Payee	Description	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2012-2013 2011-2012**	*** Funding Source	Payable from the Redevelopment Property Tax Trust Fund (RPTTF)							
									Payments by month							
									July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	Dec 2012	Total	
1)	2003 Tax Allocation Bonds A	Dec-03	BNY/Mellon	Debt principle thru 2034	1.00	29,400,000.00	820,000.00	RPTTF								\$ -
2)	2003 Tax Allocation Bonds A	Dec-03	BNY/Mellon	Debt Interest thru 2034	1.00	18,177,453.00	688,923.00	RPTTF		688,923.00						\$ 688,923.00
3)	2003 Tax Allocation Bonds B	Dec-03	BNY/Mellon	Debt principle thru 2034	1.00	18,120,000.00	425,000.00	RPTTF								\$ -
4)	2003 Tax Allocation Bonds B	Dec-03	BNY/Mellon	Debt Interest thru 2034	1.00	14,628,633.00	544,844.00	RPTTF		544,844.00						\$ 544,844.00
5)	2003 Tax Allocation Bonds A/B	Dec-03	BNY/Mellon	Trustee expenses and fees	1.00		12,000.00	RPTTF								\$ -
6)	2003 Tax Allocation Bonds A/B	Dec-03	Willdan Financial	Disclosure Fee	1.00		1,200.00	RPTTF								\$ -
7)	2008 Lease Revenue Bonds	Dec-08	City of Tracy	Agency share of City debt thru 2038	1.00	10,800,000.00	400,000.00	RPTTF		400,000.00						\$ 400,000.00
8)	Property Tax Administration	unknown	County of San Joaquin	Property tax Administration	1.00		195,000.00	RPTTF								\$ -
9)	Successor Agency Admin Costs	N/A	City of Tracy	Statutory administrative expese of Successor Agency	1.00		250,000.00	RPTTF							125,000.00	\$ 125,000.00
10)	Agency Audit	N/A	Moss, Levy & Hartzheim	Required for bond trustee (not City Administrative Expense)	1.00		7,320.00	RPTTF							7,320.00	\$ 7,320.00
11)																\$ -
12)																\$ -
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30)																\$ -
31)																\$ -
32)																\$ -
Totals - This Page (RPTTF Funding)						\$ 91,126,086.00	\$ 3,344,287.00	N/A	\$ -	\$ 1,633,767.00	\$ -	\$ -	\$ -	\$ -	\$ 132,320.00	\$ 1,766,087.00
Totals - Page 2 (Other Funding)						\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Page 3 (Administrative Cost Allowance)						\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Page 4 (Pass Thru Payments)						\$ -	\$ -	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand total - All Pages						\$ 91,126,086.00	\$ 3,344,287.00		\$ -	\$ 1,633,767.00	\$ -	\$ -	\$ -	\$ -	\$ 132,320.00	\$ 1,766,087.00

\* The Preliminary Draft Recognized Obligation Payment Schedule (ROPS) is to be completed by 3/1/2012 by the successor agency, and subsequently be approved by the oversight board before the final ROPS is submitted to the State Controller and State Department of Finance by April 15, 2012. It is not a requirement that the Agreed Upon Procedures Audit be completed before submitting the final Oversight Approved ROPS to the State Controller and State Department of Finance.

\*\* All totals due during fiscal year and payment amounts are projected.

\*\*\* Funding sources from the successor agency: (For fiscal 2011-12 only, references to RPTTF could also mean tax increment allocated to the Agency prior to February 1, 2012.)

RPTTF - Redevelopment Property Tax Trust Fund      Bonds - Bond proceeds      Other - reserves, rents, interest earnings, etc  
 LMIHF - Low and Moderate Income Housing Fund      Admin - Successor Agency Administrative Allowance

AGENDA ITEM 6

REQUEST

**SUPPLEMENTAL INFORMATION REGARDING ASSETS OF THE FORMER TRACY COMMUNITY DEVELOPMENT AGENCY (CDA)**

DISCUSSION

At our last meeting there was a request to provide additional financial information to better understand the fiscal health of the former Community Development Agency (CDA) of the City of Tracy. Staff e-mailed certain financial information directly to the board members after the last meeting. This agenda item deals primarily with reviewing assets of the former Tracy CDA. At the present time, the former Tracy CDA does not own any physical assets. The issue of asset transfers from redevelopment agencies to cities has been a key focus of the State. The City of Tracy has received assets from the former Tracy CDA. Attached to this staff report are two agenda items that detail these asset transfers that were completed after January 1, 2011 (Attachment A). Also attached (Attachment B) are maps of the properties referred to in the agenda item dated March 8, 2011.

FISCAL IMPACT

There is no fiscal impact as a result of this staff report.

RECOMMENDATION

Staff recommends that the Oversight Board accept the Supplemental Information.

Prepared by: Andrew Malik, Development Services Director

Attachments: Agenda Items dated January 11, 2011 and March 8, 2011  
Maps of areas referenced in agenda items

January 17, 2011

CC AGENDA ITEM 4  
CDA AGENDA ITEM 5

REQUEST

**APPROVAL OF A PUBLIC IMPROVEMENTS GRANT AND COOPERATION  
AGREEMENT AND MAKING CERTAIN FINDINGS RELATED THERETO**

EXECUTIVE SUMMARY

The Community Development Agency of the City of Tracy (the "Agency") and the City of Tracy (the "City") desire to enter into a Public Improvements Grant and Cooperation Agreement (the "Agreement") for the purpose of installing certain public improvements within the Tracy Community Development Project Area (the "Project Area") for the purposes of implementing the Tracy Community Development Plan (the "Redevelopment Plan").

DISCUSSION

**Background**

The Agency has adopted the Community Redevelopment Plan (the "Redevelopment Plan"). To assist in implementing the Redevelopment Plan, the Agency has adopted a five (5)-year implementation plan (the "Implementation Plan") pursuant to Section 33490 of the Redevelopment Law. The Redevelopment Plan and Implementation Plan call for the Agency to fund certain public improvements to encourage private sector investment in the Project Area to eliminate blight. The City is much better equipped to cause the installation of such public improvements; therefore, the Agency and the City desire that the Agency will fund and the City will acquire any necessary land for, and design and construct various elements of public improvements and facilities owned or to be owned by the City, as more fully set forth in Exhibit A to the Agreement. Exhibit A in its entirety is referred to in the Agreement as the "Improvement Plan," and the improvements listed in the Improvement Plan are referred to individually as a "Public Improvement Project" and collectively as the "Public Improvement Projects." The Improvement Plan set forth in Exhibit A includes the currently estimated costs of implementing the Public Improvement Projects.

Subject to the terms and conditions of the Agreement, the Agency will grant to the City, a grant (the "Grant") in an amount not to exceed the total amount shown for all Public Improvement Projects in the Improvement Plan attached to the Agreement as Exhibit A at the time of execution of the Agreement (the "Maximum Grant Amount"), for use by the City to complete the Public Improvement Projects. The sources of the Grant from the Agency to the City shall consist of:

All funds currently held by the Agency (other than in the Agency's Low and Moderate Income Housing Fund) and not previously budgeted or appropriated for other activities, projects, or programs (the "Available Funds"); and

All future tax increment revenue allocated to the Agency pursuant to the Redevelopment Plan and the Redevelopment Law and available to the Agency after the Agency: (1) makes all necessary annual payments with respect to then existing debt obligations of the Agency, including, without limitation, bonded indebtedness, pass-through payments owed to affected taxing entities under agreement or Sections 33607.5 or 33607.7 of the Redevelopment Law, written agreements with other persons or entities, deposits to the Agency's Low and Moderate Income Housing Fund pursuant to the Redevelopment Law, and any other statutorily required payment obligations of the Agency; and (2) sets aside a reasonable amount for Agency administration as mutually determined by the City and the Agency (collectively, the "Pledged Funds").

In no event shall the sum of the Available Funds and the Pledged Funds exceed the Maximum Grant Amount.

**Improvement Plan**

The Improvement Plan consists of the acquisition and improvement of land for, design, construction, and related activities to complete the following Public Improvement Projects:

**DOWNTOWN INFRASTRUCTURE:** In and around Downtown are several "opportunity sites" for private sector investment. Each of these vacant sites share a common obstacle to development in that adequate sewer and water conveyance, and storm drainage infrastructure is required. Many of the infrastructure systems currently in place have deteriorated or were put in place decades ago and do not contain capacities to accommodate new development. No individual site is large enough to finance the required infrastructure; many sites are under separate ownership, are geographically spread out and would develop under varying time-frames. As a result, development of Downtown has stymied, which has limited the Agency's and City's ability to channel growth to infill sites.

Following is the cost summary of needed infrastructure to accommodate new development in and around Tracy's downtown:

- Wastewater conveyance system improvements  
Up to the treatment plant for additional capacity \$ 5.5 Million
- Water line improvements for additional capacity \$ 2.9 Million
- Storm Drainage Improvements for additional  
Capacity and detention ponds \$ 5.8 Million
- Contingency for additional public infrastructure  
needed to facilitate, promote or attract  
downtown development \$ 2.8 Million

Total Estimated Cost \$ 17 Million

**DOWNTOWN PLAZA:** The reason Downtown needs revitalization is because it has, over time, lost its position as a location that draws in people and investment. The Agency/ City must use their limited resources to set the stage for the next round of residential development. Revitalization efforts should be primarily focused on enhancing the conditions that make downtown more attractive than other locations by providing an environment that adds value to and distinguishes the district. The key to this effort is urban amenity. Downtown is in need of significant injections of amenity. Today, place-making has become more valuable, not just as a way of increasing livability but as a way of growing the local economy. In the absence of demand for residential units (as in the current economic downturn) concentrating first on place-making, dramatically enhances the core pedestrian environment.

The Downtown Plaza is currently under design as a large scale urban plaza to be located on the east side of Central Avenue between Central Avenue and D Street along 6<sup>th</sup> Street in front of the new Transit Station. It will contain interactive water features, hardscape, landscape, street furniture a pavilion structure, and the reconfiguration of 6<sup>th</sup> street to include a couplet and roundabout at the intersection of 6<sup>th</sup> Street and Central Avenue.

Total Estimated Cost \$6 Million

**ACQUISITION OF REAL PROPERTY AND ASSISTANCE FOR PUBLIC IMPROVEMENTS AND RELATED PUBLIC-PRIVATE IMPROVEMENTS TO ELIMINATE BLIGHT AND REVITALIZE DOWNTOWN:** While simultaneously focusing efforts to ultimately increase the population of captive customers within walking distance of Downtown shops, strategic actions should also be focused on enhancing the appeal of the Downtown Core to people outside Downtown's immediate neighborhood. This requires that resources be focused on the retention and addition of the special, one-of-a-kind shops and eateries that distinguish Downtown from the malls and strip

centers. To do so it is critical to identify and assemble the spaces in the Core that are available or that could be made available and to do what is needed to get those spaces ready for new investment. Because the majority of public improvements and infrastructure and nearby private use areas in downtown are old, it is more costly for a business to open a store in downtown as it is to a similar sized location in a newer commercial center. Acquiring spaces for public improvements and related public private ventures , assisting in site preparation and the creation of the ultimate improvements, and then marketing them aggressively is fundamental to revitalization.

• Property Acquisition/ Remediation	\$ 6 Million
• Parking Improvements	\$ 5 Million
• Off-Site Improvements	<u>\$ 3 Million</u>
Total Estimated Cost	\$ 14 Million

**DOWNTOWN WAY FINDING SIGN PROGRAM:** The reason Downtown needs revitalization is because it has, over time, lost its position as a location that draws in people and investment. The railroad crossroads and the city's first arterial were once the area's primary transportation arteries, making Downtown the most desirable place (initially the only place) to live or to locate a business in Tracy. As the City grew (and automobiles replaced trains as the primary mode of transportation), newer and bigger arterials were located increasingly far away from the original core settlement to serve new housing development, drawing retail investment to the newer, busier intersections that were also closer to the new residential development. Eventually the major regional highways and highway interchanges were constructed even farther away from Downtown, drawing much of the investment and real estate value far away from the historic core. Disinvestment ensued. A Downtown Way Finding Signage Program will help direct potential customers to Downtown.

Estimated Cost: \$250,000

#### **Legal Compliance**

Section 33445 of the California Health and Safety Code requires that the City Council make the following findings in order for the Agency to fund the Public Improvement Project as identified in the Improvement Plan:

1. The Public Improvement Projects are of benefit to the Project Area as they will eliminate one or more blighting conditions in the following manner:
  - a. Downtown Infrastructure – these improvements will benefit the Project Area by replacing aged, inadequate and deteriorated infrastructure, including water and sewer, which will encourage private sector investment and eliminate economic and physical blight and which are cost prohibitive for the private sector to install without public assistance;



- b. Downtown Plaza – this improvement will benefit the Project Area by making downtown more attractive than other locations by providing an environment that adds value to and distinguishes the district from other investment opportunities thereby stimulating private sector investment and eliminating economic and physical blight, by among other methods, reducing and eliminating empty, unsafe, or unhealthy buildings and alleviating stagnant property values;
  - c. Participation/ Acquisition of Real Property for Public Improvements and related Public-Private Improvements – these improvements will benefit the Project Area by identifying public improvements and related public-private partnerships that will result in new investment and eliminate economic and physical blight;
  - d. Downtown Way Finding Sign Program – this improvement will benefit the Project Area by guiding potential customers to Downtown which is located away from the major regional highways and highway interchanges where recent commercial investment has occurred. As Downtown retailers are able to increase their sales per square foot it will encourage new private investment which will eliminate economic and physical blight.
2. There are no other reasonable means of financing the cost of the Improvements available to the community as the General Fund has a significant operating budget deficit nor has the money available in its capital budget to pay for the cost of the Public Improvement Projects.

The Public Improvement Projects are provided for in the Redevelopment Plan, and are consistent with the Implementation Plan. Implementation of the Public Improvement Projects will benefit the Project Area and will assist in the elimination of blight in the Project Area and the provision of affordable housing in the community. The Agency's use of funds as provided in the Agreement is authorized by the Redevelopment Law, and the Agency and City Council have made all findings required under the Redevelopment Law for such use.

Pursuant to State CEQA Guidelines Section 15378(b)(4), approval of the Agreement is not a project subject to the California Environmental Quality Act ("CEQA"), because this Agreement consists of the creation of a governmental funding mechanism for various public improvements, but does not commit funds to any specific public improvement, in that environmental review required by CEQA shall be completed prior to the commencement of any Public Improvement Project listed in the Improvement Plan.

#### FISCAL IMPACT

This action will essentially appropriate all existing and future available financial resources of the Agency and results in the need to amend both the Agency and City FY 10-11 budget to the extent necessary to make such appropriation.

#### RECOMMENDATION

Staff recommends that the Agency take the following actions:

1. Make the required findings in compliance with Section 33445 of the Health and Safety Code;
2. Approve the Agreement;
3. Authorize and direct the Executive Director to sign the Agreement on behalf of the Agency; and
4. Amend the Agency FY 10-11 Budget to the extent necessary to appropriate all existing and future available financial resources of the Agency.

Staff recommends that the City take the following actions:

1. Make the required findings in compliance with Section 33445 of the Health and Safety Code;
2. Approve the Agreement;
3. Authorize and direct the City Manager to sign the Agreement on behalf of the City; and
4. Amend the City FY 10-11 Budget to the extent necessary to accept all existing and future available financial resources of the Agency.

Prepared by: Ursula Luna-Reynosa, Economic Development Director

Approved by: Leon Churchill, Jr., City Manager

Attachments Resolutions (2)  
Agreement

March 8, 2011

CC AGENDA ITEM 4  
CDA AGENDA ITEM 4

REQUEST

**APPROVAL OF A PROPERTY CONVEYANCE AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY FOR THE CONVEYANCE OF CERTAIN REAL PROPERTY LOCATED WITHIN THE REDEVELOPMENT PROJECT AREA**

EXECUTIVE SUMMARY

The Community Development Agency of the City of Tracy (the "Agency") and the City of Tracy (the "City") desire to enter into a property conveyance agreement (the "Agreement") for the purpose of conveying certain real property located within the Tracy Community Development Project Area (the "Project Area") for the purposes of implementing the Tracy Community Development Plan (the "Redevelopment Plan").

DISCUSSION

The Agency is the owner of the following real property located within the Project Area:

APN	SITUS ADDRESS	DESCRIPTION
235-056-15	15 W 9 <sup>th</sup> St	Improved Parking in Downtown
235-056-16	31 W 9 <sup>th</sup> St	Improved Parking in Downtown
235-056-17	41 W. 9 <sup>th</sup> St	Improved Parking in Downtown
235-056-19	50 W Gillette Ally	Improved Parking in Downtown
235-056-21	71 W 9 <sup>th</sup> St	Improved Parking in Downtown
235-056-22	918 B St	Improved Parking in Downtown
212-260-09	3055 N Corral Hollow Rd	Remnant Parcel
212-290-41	None Listed	Vacant Land Adjacent to Texas Roadhouse
212-290-44	None Listed	Remnant Parcel

The City desires to enter into the Agreement with the Agency under which the Agency would convey to the City, and the City would accept from the Agency, the above properties (collectively, the "Property").

FISCAL IMPACT

This action will not result in a fiscal impact to either the City or Agency.

RECOMMENDATION

Staff recommends that the Agency take the following actions:

1. Approve the Agreement and all ancillary documents, including but not limited to, grant deeds (the "Grant Deeds"); and

2. Authorize and direct the Executive Director to sign the Agreement and all ancillary documents on behalf of the Agency; and

Staff recommends that the City take the following actions:

1. Approve the Agreement and all ancillary documents, including but not limited to, Grant Deeds; and
2. Authorize and direct the City Manager to sign the Agreement and all ancillary documents on behalf of the City; and

Prepared by: Ursula Luna-Reynosa, Economic Development Director

Approved by: Leon Churchill, Jr., City Manager

Attachment: Property Conveyance Agreement

## Attachment B

235-056-15  
15 W. 9th Street  
Tracy, CA 95376



235-056-16  
31 W. 9th Street  
Tracy, CA 95376



235-056-17  
41 W. 9th Street  
Tracy, CA 95376

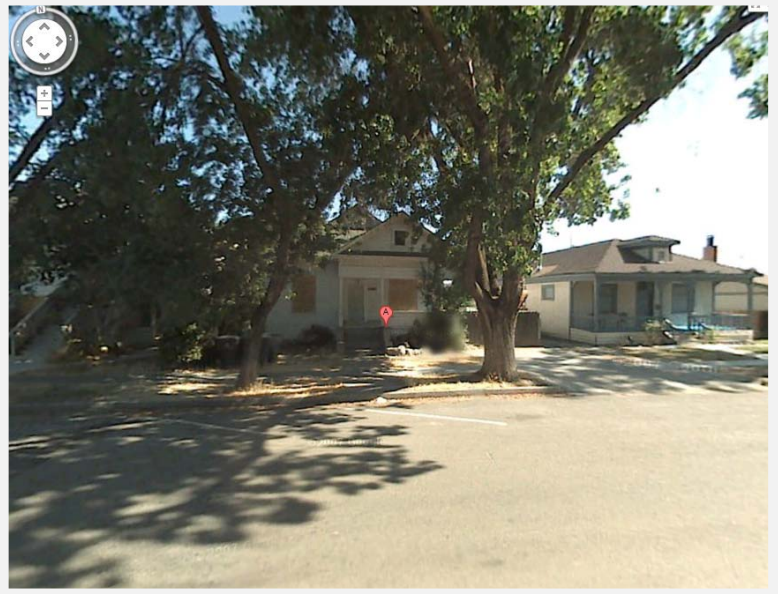


## Attachment A

235-056-19  
50 W. Gillette Alley  
Tracy, CA 95376



235-056-21  
71 W. 9th Street  
Tracy, CA 95376



235-056-22  
918 B Street  
Tracy, CA 95376





## Attachment A

212-260-09

3055 N. Corral Hollow Rd.

Tracy, CA 95376



212-290-48

No Address Listed



212-290-44

No Address Listed



June 5, 2012

AGENDA ITEM 7

REQUEST

**ADOPT A RESOLUTION AMENDING THE BY-LAWS FOR THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY TO SPECIFY THE RULES OF PROCEDURE AT MEETINGS AND THE APPOINTMENT OF ALTERNATES**

EXECUTIVE SUMMARY

Staff recommends that the Oversight Board of the Successor Agency to the Tracy Community Development Agency ("Oversight Board") adopt amendments to its By-laws to specify the rules of procedure at meetings and the appointment of alternates.

DISCUSSION

At the May 1, 2012 Oversight Board meeting, the Board expressed interest in clarifying the rules of procedure at meetings and the appointment of alternates.

I. Rules of Procedure

At the May 1, 2012 Oversight Board meeting, it was suggested that the meetings be governed by the procedures contained in Rosenberg's Rules of Order. Rosenberg's Rules of Order are a simplified version of the rules of parliamentary procedure. A copy of Rosenberg's Rules of Order is attached.

Alternatively, the Oversight Board could choose to adopt Robert's Rules of Order, which are more complex.

Staff is recommending that the Oversight Board adopt Rosenberg's Rules of Order.

II. Appointment of Alternates

AB x1 26 is silent as to the appointment of Alternate Board Members. Under ABx1 26, each oversight board member shall serve at the pleasure of the entity that appointed such member. Therefore, the decision to appoint an Alternate Board Member or Members is within the discretion of each entity that makes an appointment.

Staff is recommending that this be clarified in the By-laws.

FISCAL IMPACT

There is no fiscal impact.



RECOMMENDATION

Adopt a resolution amending the Oversight Board By-laws to specify the rules of procedure at meetings and the appointment of alternates.

Prepared by: Andrew Malik, Development Services Director

Attachments: Rosenberg's Rules of Order  
Resolution  
By-laws



# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

## About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes *Western City* magazine.

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## ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



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## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.


### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



*First*, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

*Second*, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

*Third*, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

*Fourth*, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

*Fifth*, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

*Sixth*, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

*Seventh*, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

*Eighth*, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

*Ninth*, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

*Tenth*, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . .”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. Inviting the members of the body to make a motion, for example, “A motion at this time would be in order.”
2. Suggesting a motion to the members of the body, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. Making the motion. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be

as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate


The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.



**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

### Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

### Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.


If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in





California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would NOT count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you DO count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

*How does this work in practice?  
Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body DOES have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

## The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is "no." There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, "point of privilege." The chair would then ask the interrupter to "state your point." Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

**Order.** The proper interruption would be, "point of order." Again, the chair would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, "return to the agenda." If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair's determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.

RESOLUTION\_\_\_\_\_

AMENDING THE BY-LAWS FOR THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY TO SPECIFY THE RULES OF PROCEDURE AT MEETINGS AND THE APPOINTMENT OF ALTERNATES

WHEREAS, On May 1, 2012, the Oversight Board of the Successor Agency to the Tracy Community Development Agency ("Oversight Board") adopted By-laws (Resolution OB2012-0001) ("By-laws"): and

WHEREAS, The Oversight Board desires to amend the By-laws to specify the rules of procedure at meetings and the appointment of alternates.

NOW THEREFORE, BE IT RESOLVED, that the By-laws are amended as follows:

1. Section 2.1 of the By-laws is amended to read as follows:

Composition. The Oversight Board shall have seven members, selected according to the guidelines set forth in Health and Safety Code section 34179. Each entity that makes an appointment may also appoint one or more alternate members.

2. A new section 3.5 is added to the By-laws to read as follows:

Rules of Procedure. Meetings shall be governed by the procedures contained in Rosenberg's Rules of Order.

The foregoing Resolution OB2012-\_\_\_\_\_ was passed and adopted by the Oversight Board of the Successor Agency to the Tracy Community Development Agency on the 5th day of June, 2012, by the following vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

**PROPOSED AMENDMENTS**

**JUNE 5, 2012**

**Oversight Board of the Successor Agency  
to the City of Tracy Community Development Agency**

**By-Laws**

**Adopted May 1, 2012**

**Resolution No. OB2012-0001**

**Amended June 5, 2012**

**Resolution No.**

**Oversight Board of the Successor Agency  
to the City of Tracy Community Development Agency  
By-Laws**

**ARTICLE 1 THE OVERSIGHT BOARD**

Section 1.1 Name. The official name shall be the “Oversight Board of the Successor Agency to the City of Tracy Development Agency.”

Section 1.3 Powers. The Oversight Board is vested with the rights, powers, duties, privileges and immunities established by the California Health and Safety Code sections 34179 - 34181.

**ARTICLE 2 MEMBERSHIP AND OFFICERS**

Section 2.1 Composition. The Oversight Board shall have seven members, selected according to the guidelines set forth in Health and Safety Code section 34179. Each entity that makes an appointment may also appoint one or more alternate members.

Section 2.2 Quorum; Majority for action. A majority of the seven members constitutes a quorum, and a majority vote of the total membership is required for action.

Board actions are not effective for three business days, pending a request for review by the Department of Finance. If the Department of Finance requests a review, it has ten days to approve the action or return it to the Board for reconsideration.

Section 2.3 Immunity. Board members have immunity from suit for their actions taken within the scope of their responsibilities.

Section 2.4 Officers. The members shall annually select one of its members as the chairperson and another as the vice-chairperson.

Section 2.5 Chairperson. The chairperson of the Oversight Board shall preside at the meeting of the Board. The Chair may call a special meeting as needed.

Section 2.6 Vice chairperson. The vice chairperson shall perform the duties of the chairperson in the absence or incapacity of the chairperson.

Section 2.7 Vacancies. When a seat of the Oversight Board becomes vacant, the position will be filled by a member appointed by the agency who originally appointed the former member. The appointment must take place within 60 days of the vacancy. The Governor may appoint an individual to fill a member position that remains vacant for more than 60 days.

Section 2.8 Compensation. Oversight Board members shall serve without compensation or reimbursement for expenses.

## ARTICLE 3 MEETINGS

Section 3.1 Place of meeting. The office and regular meeting place of the Oversight Board shall be at the Tracy City Hall, 333 Civic Center Plaza, Tracy, California, 95376. The Oversight Board may hold its meetings at other locations as the Oversight Board may from time to time designate by resolution, in the order or adjournment, or notice of call of any special meeting.

Section 3.2 Time of regular meetings. The regular meetings of the Oversight Board shall be held on the first Tuesday of the month, at 3:30 p.m. If a meeting day falls on a legal holiday, the meeting shall be held on the next business day unless otherwise determined by the Oversight Board.

Section 3.3 Special Meetings. The Chairperson of the Oversight Board may, when he or she deems it necessary, and shall, upon the written request of four members of the Oversight Board, call a special meeting of the Oversight Board for the purpose of transacting the business designated in the call. The means and method for calling such special meeting shall be as set forth in the Ralph M. Brown Act, California Government Code Section 54950 *et seq.*, as it now exists or may hereafter be amended (the "Brown Act").

Section 3.4 Adjourned Meetings. The Board members may adjourn any meeting to a time and place specified in the order of adjournment. When an order of adjournment of any meeting fails to state an hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Section 3.5 Rules of Procedure. Meetings shall be governed by the procedures contained in Rosenberg's Rules of Order.

AGENDA ITEM 8

REQUEST

**DISCUSS AND PROVIDE DIRECTION ON THE SELECTION OF OVERSIGHT BOARD LEGAL COUNSEL**

EXECUTIVE SUMMARY

Staff recommends that the Oversight Board of the Successor Agency to the Tracy Community Development Agency ("Oversight Board") discuss and provide direction on the selection of Oversight Board Legal Counsel.

DISCUSSION

The City Attorney's Office currently serves as legal counsel to the Successor Agency to the former City of Tracy Community Development Agency. As was pointed out at the May 1, 2012 Oversight Board meeting, there may be times when the interests of the Oversight Board and the Successor Agency will differ. When such a conflict arises, the Oversight Board should be represented by separate legal counsel.

Staff is exploring the possibility of having one attorney who would be available to serve as legal counsel for all oversight boards in the County. Although each successor agency would contract separately with the attorney, this arrangement would provide uniformity of advice. This arrangement would also allow for some types of legal advice and training to be consolidated and, therefore, may result in some cost savings.

Staff will be available at the meeting to give the Oversight Board an update.

RECOMMENDATION

Discuss and provide direction on the selection of Oversight Board Legal Counsel.

Prepared by: Daniel G. Sodergren, City Attorney

AGENDA ITEM 9

REQUEST

**DISCUSS AND PROVIDE DIRECTION ON THE CANCELLATION OF THE  
REGULAR JULY 3, 2012 OVERSIGHT BOARD MEETING**

EXECUTIVE SUMMARY

Staff recommends that the Oversight Board of the Successor Agency to the Tracy Community Development Agency ("Oversight Board") discuss and provide direction on the cancellation of the July 3, 2012 regular Oversight Board meeting.

DISCUSSION

The next regular meeting of the Oversight Board is scheduled for July 3, 2012. Given the July 4<sup>th</sup> holiday, the Oversight Board may wish to consider cancelling this meeting.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

Discuss and provide direction on the cancellation of the July 3, 2012 regular Oversight Board meeting.

Prepared by: Andrew Malik, Development Services Director