

NOTICE OF SPECIAL MEETING

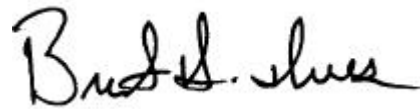
Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Community Development Agency** is hereby called for:

Date/Time: **Tuesday, August 2, 2011, 6:45 p.m.**
(or as soon thereafter as possible)

Location: **City Hall, Civic Center**
333 Civic Center Plaza, Tracy

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Community Development Agency 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 - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request an Agency Member to sponsor the item for discussion at a future meeting*
4. Approval of Minutes
5. ADOPTION OF AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE OF THE COMMUNITY DEVELOPMENT AGENCY
6. Adjournment



Chairperson

July 28, 2011

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting."

April 19, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. CALL TO ORDER - The Mayor called the meeting to order at 6:48 p.m.
2. ROLL CALL – Roll call found Agency Members Abercrombie, Rickman, Maciel and Chairman Ives present; Agency Member Elliott absent.
3. ITEMS FROM AUDIENCE – None.
4. APPROVAL OF MINUTES – It was moved by Agency Member Abercrombie and seconded by Agency Member Rickman to approve the minutes of November 3, 2010. Voice vote found all in favor; passed and so ordered.
5. AUTHORIZE THE EXECUTIVE DIRECTOR TO SIGN SUBORDINATION AGREEMENTS ON BEHALF OF THE COMMUNITY DEVELOPMENT AGENCY FOR THE CITY OF TRACY FOR LOANS GENERATED UNDER THE DOWNTOWN REHABILITATION HOME LOAN PROGRAM - Ursula Luna-Reynosa, Director of Economic Development presented the staff report. On December 7, 2004, the Agency Board approved establishing the Downtown Rehabilitation Home Loan Program (the "Program") and authorized staff to implement the Program. The Program offers loans up to \$50,000 at 3% interest to downtown residential property owners. Funds can be used for health and safety repairs and improvements, including new roofs or roof repair, new or repaired plumbing and/or electrical systems, structural repairs, etc. Strictly cosmetic improvements are not allowed unless necessitated by accompanying health or safety work. Room additions are not allowed unless necessitated by overcrowded family conditions.

Most applicants who apply for the Program have existing mortgages in place; therefore, the Downtown Rehabilitation Loan (the "Loan") gets recorded after any existing loans on title. Staff has received two requests for the Agency to subordinate the Loan as property owners participating in the Program desire to refinance their existing mortgages. In both cases, the property owners are not requesting to take out additional money; rather to refinance the principal amount currently owed which will result in lower mortgage payments. While refinancing an existing mortgage to a new longer term loan increases the over all financial commitment over the term of the loan, if the property owner receives a lower interest rate the monthly obligation is lowered which increases the property owner's cash flow and helps the property owner meet other obligations including Loan payments.

Staff requested the Agency Board authorize the Executive Director to sign subordination agreements on behalf of the Agency under the following conditions:

1. Loan is generated pursuant to the Program;

2. Amount being refinanced is equal to or less than the outstanding balance on the loan being refinanced;
3. The monthly payment under the new loan is less than it is under the existing loan;
4. Property taxes are current;
5. If Agency loan payments are not current, then the borrower will need to demonstrate that their monthly housing costs (including all debt service, insurance, taxes and utilities) must be less than 31% of their gross household income;
6. The Agency's lien position isn't lessened; and
7. The term of the new loan doesn't exceed 30 years.

Agency funds for staffing the Program and providing the loan proceeds have been included in the approved Agency Budget for Fiscal Year 2010-2011.

Staff recommended the Council authorize the Executive Director to sign subordination agreements on behalf of the Agency for loans generated under the Downtown Rehabilitation Loan Program.

Chairperson Ives invited members of the audience to address the Agency on the item. There was no one wishing to address the Agency.

It was moved by Agency Member Abercrombie and seconded by Agency Member Maciel to adopt Resolution 251 authorizing the Executive Director to sign subordination agreements on behalf of the Community Development Agency for the City of Tracy for loans generated under the Downtown Rehabilitation Home Loan Program. Voice vote found Agency Members Abercrombie, Maciel, Rickman and Ives in favor; Agency Member Elliott absent. Motion carried 4:0:1.

6. PUBLIC HEARING TO APPROVE A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY APPROVING A SETTLEMENT AGREEMENT WITH ARMADILLO REALTY, LLC REGARDING DEVELOPMENT IMPACT FEES AND THE FIRST AMENDMENT TO THE DDA BETWEEN AGENCY AND ARMADILLO REALTY, LLC - Andrew Malik, Director of Development and Engineering Services, presented the staff report. The Community Development Agency and Armadillo entered into a Disposition and Development Agreement on April 19, 2005 ("DDA"). Armadillo own sand operates the Texas Roadhouse restaurant, located on the Property at the corner of Naglee Road and Grant Line Road. The Armadillo Property, also referred to as Parcel A, is approximately 1.23 acres.

The City owns a parcel adjacent to and north of the Armadillo Property, formerly owned by the Agency, but transferred to the City on March 8, 2011. This City Property is approximately 1.01 acres, and is referred to as Parcel B.

The City and the Agency are involved in a dispute with Armadillo regarding the payment of certain development impact fees, which the City and Agency believe are due under the DDA dated April 19, 2005. The disputed amount is \$211,386.

Armadillo constructed certain improvements on Parcel B (excavation, utilities, parking and building pad) with the understanding that the City or Agency would reimburse

Armadillo for these improvements upon the sale or lease of Parcel B. The cost of reimbursable improvements to Parcel B is \$416,942. Parcel B is currently for sale.

The City and Agency have considered filing a lawsuit to recover the unpaid Impact Fees. The Parties have attempted to resolve this dispute resulting in the proposed Settlement Agreement. Pursuant to the proposed Settlement Agreement, Armadillo will pay the City \$125,000 in settlement of the unpaid Impact Fees. In addition, the proposed Settlement Agreement addresses the following:

- (a) Armadillo constructed certain improvements just over the property line between Parcels A and B (trash enclosure and walkway). As part of this settlement, City will agree to complete a lot line adjustment and convey a small portion of Parcel B property (.072 acres) to Armadillo and Armadillo will pay the City \$20,000; and
- (b) The City has agreed to record a Declaration restricting the use of Parcel B to uses which are not steakhouses ("Declaration of Restrictions"); and
- (c) The Parties wish to have a reciprocal easement and maintenance agreement for the operation and maintenance of the parking lots on both parcels ("Mutual Easement and Maintenance Agreement").

Staff also recommended that the Agency approve a First Amendment to the DDA to reflect the terms of the Settlement Agreement. Under the terms of the settlement, the City will receive a portion of the disputed development impact fees. The remaining uncollected fees will be paid by the buyer of Parcel B.

Staff recommended that the Community Development Agency authorize the Chairperson to sign the Settlement Agreement and First Amendment to the DDA.

Chairperson Ives invited members of the audience to address the Agency on the item. There was no one wishing to address the Agency.

It was moved by Agency Member Abercrombie and seconded by Agency Member Maciel to adopt Resolution 252 approving a Settlement Agreement with Armadillo Realty, LLC regarding development impact fees and the first amendment to the DDA between Agency and Armadillo Realty, LLC. Voice vote found Agency Members Abercrombie, Maciel, Rickman and Mayor Ives in favor; Agency Member Elliott absent. Motion carried 4:0:1.

7. ADJOURNMENT – It was moved by Agency Member Abercrombie and seconded by Agency Member Maciel to adjourn. Time: 6:55 p.m.

The above agenda was posted at the Tracy City Hall on April 14, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Chair

ATTEST

Secretary

CDA AGENDA ITEM 5

REQUEST

**ADOPTION OF AN ENFORCEABLE OBLIGATION PAYMENT SCHEDULE OF THE
COMMUNITY DEVELOPMENT AGENCY**

EXECUTIVE SUMMARY

Recently adopted Assembly Bills (“AB”) 26 and 27 require that the Community Development Agency adopt an Enforceable Obligation Payment Schedule. The Enforceable Obligation Payment Schedule includes a list of existing enforceable obligations of the Agency should these need to continue in the event the Agency is dissolved.

DISCUSSION

The State Legislature approved and the Governor signed AB 26 and 27 as part of State budget related to redevelopment. Pursuant to these two bills, a redevelopment agency can make an optional payment to the State and in return be permitted to continue or not make the payment and be dissolved. Some have characterized this as “extortion” and the League of California Cities, the California Redevelopment Association, and others, have filed a lawsuit claiming the action is unconstitutional. These plaintiffs have also asked the State Supreme Court to issue a stay preventing the State from taking this action until the case challenging the constitutionality of the State’s action is heard. The plaintiffs have requested an issue of the stay by August 15, 2011.

In September, staff will present a report to the City Council fully outlining the process to “opt in” or “opt out” of the payment along with a recommendation in this regard. At that time, it should also be known whether a stay has been issued by the Supreme Court. If ultimately, the State’s action is upheld or the stay is not granted, it is important that agencies have met various deadlines in the interim. One such deadline is August 28, 2011 for agencies to have adopted an Enforceable Obligation Payment Schedule identifying existing obligations. Such obligations will be transferred to a successor agency if an existing city redevelopment agency opts out of the payment and therefore is dissolved. It is important to note that just because a redevelopment agency is dissolved, its existing obligations are not. For example, bonds issued by the agency will still need to be paid even if that agency closes up shop. The successor agency will assume these obligations and pay them before any remaining monies find their way to the State of California.

Since August 2, 2011, could be the last City Council/Agency meeting before the deadline, it is recommended that the Agency adopt an Enforceable Obligation Payment Schedule at this time. It is hopeful that this matter becomes moot with an ultimate decision of the State Supreme Court siding with the League of California Cities and the California Redevelopment Association that the State action is unconstitutional. Voters approved Proposition 22 in November 2010 to prevent this vary kind of State taking of local government funds.

The Enforceable Obligation Payment Schedule will be handed out at the August 2, 2011 Agency meeting.

FISCAL IMPACT

It is important that any obligations of the Agency be identified should the Agency be forced by State action to dissolve

RECOMMENDATION

It is recommended the Agency, by resolution, adopt the Enforceable Obligation Payment Schedule. The resolution and schedule will be provided at the Agency meeting.

Prepared by: Zane H. Johnston, Finance & Administrative Services Director
Reviewed by: R. Leon Churchill Jr., Executive Director
Approved by: R. Leon Churchill Jr., Executive Director