September 20, 2017

To: All Appointing Agencies within County of Riverside

From: Pam Elias, Chief Accountant Property Tax Division

Subject: APPOINTMENTS OF OVERSIGHT BOARD MEMBERS FOR RIVERSIDE COUNTY REDEVELOPMENT OVERSIGHT BOARD CONSOLIDATION

The Auditor-Controller’s Office is requesting that appointing agencies formally appoint members and two alternates to the consolidated redevelopment Oversight Board by December 31, 2017.

In September 2015, the State of California approved Senate Bill No. 107 (SB107) which guides the final technical steps in the dissolution of local redevelopment agencies. SB107 makes several changes related to Oversight Boards. The legislation calls for counties with more than one Oversight Board (i.e., County of Riverside) to be consolidated into only one Oversight Board. In the County of Riverside, the existing twenty-five Oversight Boards shall be consolidated into one and staffed by the County Executive Office in conjunction with the County Clerk of the Board, with oversight by our office.

The County Oversight Board will have the authority to oversee and direct the Successor Agencies to wind down activities and expeditiously liquidate the assets of the former redevelopment agencies.

Pursuant to Health and Safety Code Section 34179 (j), as amended by SB107, the consolidated Oversight Board will be appointed as follows:

1. One member may be appointed by the County Board of Supervisors.
2. One member may be appointed by the City Selection Committee established pursuant to Section 50270 of the Government Code.
3. One member may be appointed by the Independent Special District Selection Committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.
4. One member may be appointed by the County Superintendent of Education to represent schools if the superintendent is elected. If the County Superintendent of Education is appointed, then the appointment made pursuant to this paragraph shall be made by the County Board of Education.
(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the County Board of Supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of Successor Agency employees in the county.

The Governor may appoint individuals to fill any Oversight Board member position that has not been filled by July 15, 2018, or any member position that remains vacant for more than 60 days. Each member of the Oversight Board shall serve at the pleasure of the entity that appointed such member. In addition, Oversight Board members shall serve without compensation or reimbursement for expenses.

To ensure the Oversight Board maintains a quorum for each meeting, we recommend each appointing authority appoint alternate representatives to serve on the Oversight Board in the event the appointing authority's primary representative is unavailable. Alternates appointed by the authorized appointing entity have the same voting and participation rights as the primary appointee. Therefore, we are asking appointing agencies to nominate two alternates to serve on the consolidated Oversight Boards.

The following may assist in identifying potential appointees/alternates.

1. Appointees should recognize and understand that Oversight Boards have a fiduciary responsibility to the holders of legally enforceable debt of the former Redevelopment Agencies (RDAs) and to the taxing entities that will benefit from the winding down of the agencies.

2. Duties of the Oversight Boards will include a detailed review of the Recognized Obligation Payment Schedule, and directing the Successor Agencies to dispose of unencumbered assets.

3. Time commitments will vary based on the size and complexity of the affairs of each Successor Agency. We believe most Successor Agencies will require periodic meetings, potentially on a monthly or bi-monthly basis. Over time, as Successor Agencies continue to wind down their activities and dispose of assets, the frequency of meetings may decrease.

4. The Oversight Board meetings will be public meetings as defined in the Brown Act, and as public meetings some might be scheduled in the evening hours or on weekends. In addition to the Oversight Board meetings, there will be training sessions, and some time will be necessary for the appointees to prepare for the meetings.

5. Desirable qualifications for appointees include:

   a) Detail-oriented. Previous experience or familiarity with the dissolution process would be useful. Previous Oversight Board appointees or alternates may make good candidates.

   b) Available to attend meetings. All actions of the Oversight Boards require a quorum, so attendance will be necessary in order for the Oversight Boards to carry out their responsibilities.

   c) Independent. It is possible that disputes will arise regarding the approval of enforceable obligations, expenditures, or the disposition of assets. Oversight Board members will
need to uphold their fiduciary responsibilities according to the law.

6. Oversight Board members do not receive compensation or reimbursement of expenses, and serve at the pleasure of the jurisdiction that appoints them.

7. Oversight Board members need not be residents of the County of Riverside. Members appointed to represent a board-governed special district do not need to be employees of or affiliated with, the special district.

8. Members shall have personal immunity from their actions related to the Oversight Boards.

Please be mindful of potential conflicts of interest that may exist for potential nominees and certain former RDAs (e.g., possible financial interests of family members with former redevelopment agencies). You may wish to consult legal counsel to address any potential conflicts.

Please share this information with all appropriate management and staff. In addition, please consider nominating individuals that have previously and effectively served on Oversight Boards, should they possess the desired qualifications. We need to process the Oversight Board appointments as soon as possible, so we would like to have a list of potential candidates by December 31, 2017.

As potential Oversight Board appointees are identified, please forward the names and contact information to me at pelias@rivco.org and Khanh Truong at ktruong@rivco.org of this office. We will assume that any potential Oversight Board appointees submitted will be approved to serve on an Oversight Board should they be selected. Health and Safety Code Section 34179 is attached to this letter in its entirety.

If you have any questions, please contact me at (951) 955-0320 or Khanh Truong at (951) 955-1375.

cc: Paul Angulo, Auditor-Controller
    Frankie Ezzat, Assistant Auditor-Controller
§ 34179. Composition of oversight board; appointment of members; review of oversight board action; fiduciary responsibilities; number of oversight boards in each county

Effective: September 22, 2015

(a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3)(A) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(B) On or after the effective date of this subparagraph, the county auditor-controller may determine which is the largest special district for purposes of this section.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by
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the successor agency at that time. In the case where city or county employees performed administrative duties of the former redevelopment agency, the appointment shall be made from the recognized employee organization representing those employees. If a recognized employee organization does not exist for either the employees of the former redevelopment agency or the city or county employees performing administrative duties of the former redevelopment agency, the appointment shall be made from among the employees of the successor agency. In voting to approve a contract as an enforceable obligation, a member appointed pursuant to this paragraph shall not be deemed to be interested in the contract by virtue of being an employee of the successor agency or community for purposes of Section 1090 of the Government Code.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) If a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, if that appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city if that appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(11) Each appointing authority identified in this subdivision may, but is not required to, appoint alternate representatives to serve on the oversight board as may be necessary to attend any meeting of the oversight board in the event that the appointing authority’s primary representative is unable to attend any meeting for any reason. If an alternate representative attends any meeting in place of the primary representative, the alternate representative shall have the same participatory and voting rights as all other attending members of the oversight board.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's and the successor agency's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such
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costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. All actions taken by the oversight board shall be adopted by resolution.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h)(1) The department may review an oversight board action taken pursuant to this part. Written notice and information about all actions taken by an oversight board shall be provided to the department as an approved resolution by electronic means and in a manner of the department's choosing. Without abrogating the department's authority to review all matters related to the Recognized Obligation Payment Schedule pursuant to Section 34177, oversight boards are not required to submit the following oversight board actions for department approval:

(A) Meeting minutes and agendas.

(B) Administrative budgets.

(C) Changes in oversight board members, or the selection of an oversight board chair or vice chair.

(D) Transfers of governmental property pursuant to an approved long-range property management plan.

(E) Transfers of property to be retained by the sponsoring entity for future development pursuant to an approved long-range property management plan.

(2) An oversight board action submitted in a manner specified by the department shall become effective five business days after submission, unless the department requests a review of the action. Each
oversight board shall designate an official to whom the department may make those requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. Except as otherwise provided in this part, in the event that the department requests a review of a given oversight board action, it shall have 40 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and the oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. If the department reviews a Recognized Obligation Payment Schedule, the department may eliminate or modify any item on that schedule prior to its approval. The county auditor-controller shall reflect the actions of the department in determining the amount of property tax revenues to allocate to the successor agency. The department shall provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. To the extent that an oversight board continues to dispute a determination with the department, one or more future Recognized Obligation Payment Schedules may reflect any resolution of that dispute. The department may also agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item; however, this shall not affect a past allocation of property tax or create a liability for any affected taxing entity.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Except as specified in subdivision (q), commencing on and after July 1, 2018, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board, which shall be staffed by the county auditor-controller, by another county entity selected by the county auditor-controller, or by a city within the county that the county auditor-controller may select after consulting with the department. Pursuant to Section 34183, the county auditor-controller may recover directly from the Redevelopment Property Tax Trust Fund, and distribute to the appropriate city or county entity, reimbursement for all costs incurred by it or by the city or county pursuant to this subdivision, which shall include any associated startup costs. However, if only one successor agency exists within the county, the county auditor-controller may designate the successor agency to staff the oversight board. The oversight board is appointed as follows:

1. One member may be appointed by the county board of supervisors.

2. One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

3. One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.
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(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2018, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2018, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (j).

(m) Any oversight board for a given successor agency, with the exception of countywide oversight boards, shall cease to exist when the successor agency has been formally dissolved pursuant to Section 34187. A county oversight board shall cease to exist when all successor agencies subject to its oversight have been formally dissolved pursuant to Section 34187.

(n) An oversight board may direct a successor agency to provide additional legal or financial advice than what was given by agency staff.

(o) An oversight board is authorized to contract with the county or other public or private agencies for administrative support.

(p) On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.

(q)(1) Commencing on and after July 1, 2018, in each county where more than 40 oversight boards were created by operation of the act adding this part, there shall be five oversight boards, which shall each be staffed in the same manner as specified in subdivision (j). The membership of each oversight board shall be as specified in paragraphs (1) through (7), inclusive, of subdivision (j).
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(2) The oversight boards shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Except as specified in paragraph (3), each oversight board shall have jurisdiction over each successor agency located within its borders.

(3) If a successor agency has territory located within more than one county board of supervisors' district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date.

(4) The successor agency to the former redevelopment agency created by a county where more than 40 oversight boards were created by operation of the act adding this part, shall be under the jurisdiction of the oversight board with the fewest successor agencies under its jurisdiction.

Credits


Footnotes

1

See Government Code § 54950 et seq.

2

See Government Code § 6250 et seq.

3

See Government Code § 81000 et seq.

Current with urgency legislation through Ch. 26, also including Chs. 51 and 55 of 2017 Reg.Sess