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>> Mayor Reed: Good morning, I'd like to call the meeting to order. This is the oversight board to the Successor Agency for the San José Redevelopment Agency October 11th. Any changes to our agenda order? Okay. Then we have no closed session report. We have some minutes from August 23rd, 2012 meeting but before we do that, I want to remind myself and everybody else that today we have sort of a hard stop at 10:00, because there will be an evacuation drill, fire alarm, we don't have to leave but it is going to be noisy. We'll have to get done by 10:00. If not, we'll have to recess while they give instructions to people who are going to evacuate a couple of floors. The August 26th meeting. Comments questions?

>> Hi, good morning, I'm Rebecca Haggerty, I'm an alternate to this board. I was in the chambers at the last meeting, and I wanted to propose -- I had a question and a change on the minutes. The change that I had is under 6.2. We have a deputy county counsel James Williams noted but his title is actually special assistant for the county executive. I thought that would be clarifying for the minutes.

>> Mayor Reed: That would be good to note.

>> There are a couple of resolutions mentioned on the minutes but on my copy at least, they weren't attached and I found it clarifying in other situations to have the actual resolution. Is it possible, or how does it work here? They may be somewhere else.

>> Rick Doyle: That's nothing we can do. I don't think normally they're attached to the minutes but certainly the board members should get copies of the resolutions. Let us get that. If you haven't received that, we'll make sure you get it. We'll make sure the board gets it.

>> Thank you. That was all I had.

>> Mayor Reed: Okay, do we want to delay approval of the minutes until you get those resolutions circulated or are you prepared to go ahead and approve these with the changes?

>> I personally prefer to delay because I find it clarifying to read the actual wording of the resolution.

>> Mayor Reed: Any problems if we defer this to -- we'll have some more meetings. I think we are going to have some more meetings so we can stay care of those at a later date. Unless there are objections or motions to the contrary, we can delay and make the changes in the text as photoed so we will have it whenever we take it up. Then the consent calendar we have nothing on that calendar. We have items scheduled for action and discussion, the first one is approval and selection of oversight board, conflict counsel. Recommendation for Nossaman especially in closed session matters and things like that. I'll have our counsel explain the selection process and how we got here.

>> Rick Doyle: I'll introduce it and then let my staff go further in terms of the process. But as the board has adopted in the rules of order, if four members of the board want to consult with outside counsel or there's an actual conflict then we need to have independent counsel. We went through a process, competitive process and this was the determination or the recommendation to the board. The panel included members of the county counsel, a member of the county counsel's office, my office and the Santa Clara Valley Water District counsel's office. Tom Murtha, Patty Deignan are better versed in any specific details, but the recommendation is for the Nossaman law firm to serve as counsel, and we are here to answer any questions.

>> Mayor Reed: Anything else to add to that from --

>> Rick Doyle: I will add that Mr. Gale Connor is in the audience, he's from the Nossaman office. So if anybody wants to ask questions, he is also available.

>> Mayor Reed: Rebecca.

>> Yeah, I had wanted to recommend a clarification to the resolution. Is this the right point in the process to do that?

>> Mayor Reed: Sure, which resolution?

>> This is the resolution for the approval of outside counsel.

>> Mayor Reed: Yes, it would be, before we do that.

>> Okay. I notice that there was a second paragraph whereas clause that talked about the conflicts that were involved, and I thought it might be clarifying to add an additional whereas clause. And it would state whereas this resolution does not constitute a waiver of any other restrictions under the California rules of professional conduct. And specifically, does not include a waiver of rule 3-310 (c). And I think that would be helpful to us and clarifying to us, to add that to the resolution.

>> Rick Doyle: Patty, I don't know if you have any. You've been working with county counsel. I assume you had these discussions.

>> Patricia Deignan: We did work with county counsel. I have to admit I don't have 3-310 (c) in front of me.

>> So I do actually have that rule in front of me, and it just basically has more instances where conflict is involved and it would include all of those instances if we added that clause.

>> Rick Doyle: Clearly the intent here is to cover any situation that there's a conflict. We do have separate professional ethics standards that we have to follow, and if there's a conflict, that's the reason or one of the reasons in addition to when the board wants to use the counsel. So I don't have a problem with that. I would, subject to make sure it's the proper subsection.

>> Right. So I appreciate that. I think it's going to be really great to have the outside counsel and just was a clarification.

>> Rick Doyle: We'll work with that. The reference in the resolution was 3.310 which encompasses all subsections that we can be specific to.

>> That would be my suggestion.

>> Mayor Reed: Board member Gage.

>> Donald Gage: How are we going to work this now? Will our outside counsel be present? So that if we have a conflict during the meeting we can discuss it or are they going to be on call, so that at the next meeting we would ask them and postpone whatever decision we're making?

>> Rick Doyle: I think for the most part, we will be able to anticipate where there maybe a conflict. I think typically it's issues where the city and the county or Successor Agency around the county don't agree. Perhaps Mr. Conner I'll let you introduce that.

>> I'd like to introduce myself. My name is Gale Conner, I'm a partner in the Nossaman firm in the San Francisco office. I'd like to say I'm very excited about this new role. We are all to a certain extent forging new territory here and kind of feeling our way through this process and it's an interesting and exciting process and I'm very pleased to be in this position. I would anticipate that when the agenda and the board package is prepared that items that clearly indicate that there may be a conflict would be identified in advance. I'm certainly planning to make myself available to be here and to be on call as needed, and to be at the meeting if there is a potential for conflict arising on a particular issue.

>> Donald Gage: Okay, thank you. And the other question that I had concerns after, if this is approved then Rick you'll be working on the contract with them?

>> Rick Doyle: Yes.

>> Donald Gage: And are we doing like a six-month with extensions or how is that contract going to be set up?

>> Rick Doyle: Let me ask Tom and Patty. That was part of the RFP.

>> Patricia Deignan: Yes we have a one-year contract. And the -- but the entire amount of the contract is -- has been already approved as part of the administrative budget. So we don't anticipate having to come back again unless we run out of money and will have to amend the contract.

>> Donald Gage: Okay, thank you. I'm prepared to make a motion to approve.

>> Mayor Reed: I think I heard a second. Okay. Additional comments on it? David, did you have something?

>> Just briefly. I appreciate if we can incorporate the changes into the resolution. And to that point I believe it was board member Harrison at the last meeting that asked if we receive resolutions and such in a timely manner and to my attention, as far as I can tell, it came to me yesterday. And there's kind of a lot going on as you can all imagine. And I'd appreciate if we could try to -- if we're going to act on something, need to discuss it, need to think about it, a little more than 12 hours would be helpful. I'm prepared to vote to adopt provided that we can incorporate the change to the resolution.

>> Rick Doyle: Okay, good point.

>> Mayor Reed: Assuming the motion includes the change. Yes, it does. Okay, Rebecca did you have further?

>> No, that was it, yeah.

>> Mayor Reed: We have a motion to approve the resolution with the change we discussed, noting that the sooner we get the stuff the better. Although it's not always possible, sometimes it is and sooner is better. On the

motion, all in favor? Anyone opposed? None opposed, motion is approved. Thank you. Know taking the job. We look forward to never having to work with you.

>> That would be the perfect world.

>> Mayor Reed: Thank you. Now we have reports. We got a verbal update on Wells Fargo owned housing bonds I think.

>> Arn Andrews: Correct. Arn Andrews, acting assistant director of finance. In the past when we've discussed the nature of the debt portfolio of the successor agency we've mentioned that there are two variable rate components, one on the 80% side with J.P. Morgan, and one on the 20% side with Wells Fargo bank. These are the 2010 C bonds. And they are a direct placement with Wells Fargo Bank. Back in June of this year, during the transition of all the Successor Agencies, Moody's took a global downgrade bringing all the redevelopment debt in the state below BBB1. That triggered a special event of default with Wells Fargo bank under the agreement of the 2010 (c) bonds. Staff has since been working with Wells Fargo bank to try to come to an agreeable conclusion and Wells Fargo bank has partnered with the city and provided us with a forbearance agreement that will take us through November 15th. This is a good outcome because under the special event of default they could have accelerated payment or charged the outstanding balance at a penalty rate upwards of 13%. And so this is a good outcome that we wanted to apprise you of. We do currently have a forbearance agreement through the 15th of November and we continue to work with them on a refuel process that will get our bond documents in a state that more accurately reflect the current environment Successor Agencies.

>> Mayor Reed: Questions on that? Thank you very much. We have a report on audits and reporting requirements.

>> Richard Keit: Thank you. Richard Keit. Managing director of the Successor Agency. As you can see there are 11 items we are reporting on. And this is a good portion of our work load on the administrative side but these are just the outstanding audits and reporting requirements as listed. And I don't intend to go in detail on all of them but

I'll highlight a few and answer any questions and staff's available for any questions that you may have. The first one is, the going back to ROPS 1, DOF, the state Department of Finance's review of the overpayment and that's - - we've mentioned this several times before. It's a huge dollar amount, over \$39 million that's not in question. We, the City of San José, Successor Agency along with 19 other cities throughout the state are in the same predicament with the county auditor-controller and county staff has been completely on board with us, saying that in fact there was no overpayment, it had to do with the distinction between ROPS, the ROPS 1 and 2. And the Department of Finance is still although they put together a very important letter saying they wouldn't intercept property tax funds, they are working on a mix whereby we can officially say that we don't have to make that payment to the taxing entities. The critical point there being, is that if we don't get that from the state, down the road when we need the finding of completion that would allow us to do many things but includes sell our properties. We need that finding of completion. So we're anticipating that coming in any time. We've been working with the state but we have not heard directly from them yet on that point. The next item is we've actually approved ROPS three and the administrative budget on the oversight board. It's two down on 8-23, and the -- we are taking actually this item to the city council Successor Agency board on October 16th. The item fur down, county auditor controller review of assets and liabilities, also known as the Aup, on the list it shows the draft to the county on 8-19. We actually received a final report on Tuesday, just this Tuesday, it went out electronically this Friday before the three-day weekend and we have copies and I think it's attached. So we distributed that just yesterday, I believe electronically to all the board members. We do have a couple of hard copies if you'd like. But we are reviewing that report, and obviously, it will take some time for staff. We've had several meetings with the county auditor-controller on items, some of which we agreed with and some we disagreed with. And after we the Successor Agency staff, digests this report we'll probably come out with an update in response to the report. The next important item is the state controller's report that we've called probably three times a week now for the last three weeks. It was supposed to come in on September 15th. Obviously, we're approaching October 15th. They said it's with upper management, and although we've seen a very preliminary list, I mean that one's critical because it indicates what assets are acceptable for transfer to private property owners, the city and even the county, and which ones they suggest may be called back. And once we get it, we have a 15-day review period to discuss it with the state controller's office. We are now on the next one down. The due diligence report. Or DDR, we're going to be calling these. Is a two-part report. We have hired the firm BPM which is the same firm that did

the county auditor-controller's report at their suggestion, to do this review. The first part is the housing review. That is well underway. Technically it was due on September 1st to the state and to be -- I'm sorry October 1st to the state and reviewed by the oversight board. The compressed time period was impossible. They didn't even start the work until really the end of September but we do intend to bring it to the oversight board as soon as it's prepared and then send it on to DOF. , then the second part of that report is the nonhousing Successor Agency report and that is again a critical report. We should be on time for that, it is not due until December 15th to the State Department of Finance. So we'll keep you up to date as that report goes along, as well as the county staff and auditor-controller. The last one I'm going to mention right now is the annual audit that is our typical audit that we do every year, we've done for the last 20 years as a Redevelopment Agency. We're underway with that report and it's actually going to be combined in part with the City's entire financial statements. That one is going to be broken up into two reports. One has to do with when we were still the Redevelopment Agency, from the beginning of the fiscal year, last fiscal year, to dissolution. So that was January 31st. And then one for the entire fiscal year. That includes both, when we were redevelopment and Successor Agency. So those are well underway and take a great deal of staff time because like any good auditors they are asking constantly for information as is BPM on the due diligence report. So with that I'm going to end this outstanding report and be glad to answer any questions. I know it's a lot of information, a very short time.

>> Mayor Reed: All right, I think we'll have some questions. Rebecca do you have something? I'm sorry. I've got lights and things here, all the lights don't match up, I'm not sure who is requesting the chance to speak but the old fashioned hand-wave works. Dave.

>> Just a quick question so I know, on the annual audit fourth up from the bottom, is this redundant? Is this a requirement? I was trying to go through my understanding of Successor Agency, and I'm just trying to put my mind around, so we are doing audits on audits?

>> Richard Keit: Pretty much. I don't know if it's a state requirement under the new state law of dissolution, but it clearly has always been a requirement for cities and redevelopment agencies, every city in the state and I assume the county, too, does a financial audit at the end of the year.

>> Well, yeah, so I'm trying to understand how this is blending in to the responsibility of the understanding of Successor Agency. Is this calling out as a matter of course this is something impacting the Successor Agency or is the Successor Agency going to act and document the findings of this audit?

>> Arn Andrews: Just to clarify. This is a traditional accounting audit. When we issue financial statements, and it's a best practice to try and have audited and reviewed financial statements. This is a traditional practice to try and have audited and reviewed financial statements. So this isn't meant to infer that this is related to any of the other audits outstanding, this is more just showing you an additional work item in the pipeline.

>> Okay.

>> Arn Andrews: And usually what will probably occur, I'm assuming if the financial statements, when the CAFR is completed, would be brought before the oversight board just to apprise you of the finances of the successor agency, and during that presentation it will be reflected what the audit findings were based on the financial statements.

>> City Manager Figone: Excuse me mayor if I could jump in. In other words Arn this is really part of the City's CAFR process correct?

>> Arn Andrews: Traditionally the Redevelopment Agency has published their own CAFR, in addition to the way it used to roll into the City's financial statements. So for this period we thought it was prudent, considering investor concerns, to still have a stand-alone CAFR for this period to reflect the transition from the old Redevelopment Agency to the Successor Agency. And so they still will have a stand-alone. It will be presented in the City statements, but it is going to be presented in a trust format as opposed to the way it used to roll into our financials.

>> Richard Keit: Just for you to note, CAFR is consolidated annual financial report.

>> Mayor Reed: Any questions? We are not taking action, it's just a report. I have no request for anyone to speak on this, so we'll move on to the report on accounts receivables.

>> Richard Keit: Thank you. On your screen as well as in your handout we wanted to keep you up to date on receivables. I know we had a good discussion I think it was in June on this item and board member Gage asked that -- showed interest in of course that we keep up on this and with an eye on many of these are small businesses and how we treat them. So there's two separate sheets, attachment A that you see before you right now, just shows you all the loan agreements that are in compliance, that we have received, where they're current as of October 4th, there's 14 of them that are paying us on a monthly basis. And we bring in approximately anywhere, it varies, but 50 to 80,000 a month, usually 60,000. And I'd be glad to answer any questions on attachment A. Attachment B are outstanding delinquent reports except for the first two. They are on both reports. Only because the first two, the blue mango and Sostra LLC, which is Peggie Sue's downtown, I just wanted to show that in the past they were in arrears. These two, the Blue Mango is totally paid up to date and Peggie sue's is paying -- adding to each of their monthly payments to catch up from their just two months in arrears. Then moving down the chart, the accounts and arrears for small business loan program. The first four we turned over to, and we mentioned it last time, the finance -- our city finance department has a collection department. As you can imagine, a large city has that capacity. And the first four, they've all been contacted. The first objective obviously is to work out a payment plan. And that's what they're going through right now. If not they can take them to small claims court depending on the amount available. So those four are being -- they're still in arrears. There's no payments. But the finance department is working on that. The Zanatto's loan, we have received one month payment and they have agreed to a workout plan. We'll mont that and see if they can catch up in due course. The total loan was only \$15,000. They are in arrears a little over \$10,000. We have received the last month payment with a delinquent amount. The next the next four are a bit more problematic and in some cases they range from \$1500 very little money to 78 -- almost \$78,000. Those four we've been working with our city attorney's office on and we're in discussion with them. They're all going to be sent, either have been or will be sent a 30-day notice to cure to pay in full or we will take legal action. We would bring that up to -- back to the board but it would be up to the attorneys to discuss whether we do that in closed session, with the board, or in

open session, depending on the consequence. Hopefully, we can just cure all four of these and then get them caught up to date. But to be perfectly honest it's been quite some time since they've paid. The camera has dropped down, they're paying \$3500 a month now. We still have some issues with them that we will go into detail but we are still trying to get them to cure the entire \$40,000 in short order. That's all I have. The total on this, I didn't total it open the sheet but it's about \$200,000 in total arrears. I'd be glad to answer any questions on either A or B.

>> Mayor Reed: All right, board member Gage.

>> Donald Gage: Yes, I appreciate the report here, it's kind of revealing. Some of these they haven't paid in more than a year. Other than legal action, I guess that's the ultimate, is there any other -- can you shut them down? I mean they're obviously still operating and not paying. I mean it takes 90 days to get someone out of a house or an apartment that isn't paying. Some of these things are over a year old. I don't know what the process is because I've never shut down a business before but --

>> They're all a little interest. One we actually have a security interest in. The others are loans. And we -- I don't believe have on one of them for example we don't have a lease or anything. So we are, each one of them will have to look at, one is a lease which we could terminate the lease and kick them out. The loan the large cameras loan is probably a little more problematic in that we probably -- we're looking at what we can do. I mean if we kick them out then we're not -- there's probably not the ability to collect a lot of that. So I mean there's going to be an issue of do we want to kick them out, do we want to restructure it to something they can pay so we can try to collect the balance of it? So we are still looking at a lot of those issues.

>> Donald Gage: If you are getting paid something it's better than nothing but once they stop paying altogether, I don't know what happens to the water sewer garbage issue, if they're not paying that, is the city responsible for that? Because it's in their name they're responsible, somebody else goes after them for that?

>> Again they are all slightly different on the rent one we might be.

>> Donald Gage: Good luck. Thank you for the info.

>> Mayor Reed: Rebecca.

>> Just since it's my first meeting I just wanted to express my excitement at the fact that you were making these collection efforts. I think it's really important given the you know large liabilities that we're going to be dealing with to collect all the money we can towards those liabilities so I appreciate the effort and encourage it. Thank you.

>> Mayor Reed: Anything else from anybody on that report? This will be a recurring report because these things are going to be a topic of the conversation for a long time. Future agenda items that the board wants to consider bringing back at some point. Nothing at this time. Are there any requests to speak on open forum? I see no cards. I had a question about the meeting schedule. I see the next meeting will be November 8th. And since all these audits and things are kind of rolling out in front of us it's hard to predict when we'll have to deal with something so that's why we cancelled a lot of meetings that were waiting for work to be done, waiting for something new. November 8th is the next meeting. The next meeting scheduled after that would be when?

>> Richard Keit: Well, Mr. Chair the reason that we're proposing the 8th and the 15th and that could change is the housing due diligence report, we have to have a public hearing on that once it's complete for the public hearing that the oversight board oversees. So as soon as that comes out if it's not -- we anticipate at the time be done by the 8th. If it's not, we'll cancel that meeting and go to the 15th. That's the goal. We have to have a subsequent meeting, I think we need a second -- do we need a second meeting too and an action by the board on the housing due diligence report.

>> Correct, the first meeting is a public meeting on due diligence rube, no action taken. At least five days later you would have to then approve that report. And the oversight board does have some discretion with what the find is from that report. So we'll be describing that in our staff report.

>> Mayor Reed: So if it doesn't get done until let's say until November 7th, my guess is this board would prefer not to take it up on November 8th.

>> Richard Keit: That's correct, we would wait till the 15th, give you adequate time to review it.

>> Mayor Reed: So we might have to cancel that date if we don't get it, because I know the board would like the chance to read it before we have to consider it, even though it's just a hearing and not action. So it all depends on when that gets done. Supervisor Gage.

>> Donald Gage: I just have a quick question. The way my process works is usually these requests go to our scheduler at the Water District. The 8th and the 15th I do not have on my calendar so I do not know whether it was missed or not. But I don't want to -- my calendar starts to fill up pretty quickly. So I -- if it would go to Max overland there or you can send it to me directly, if that -- because I print off everything and I put it on my calendar. I just don't want to get filled up here and all of a sudden there is a meeting at 9:00 in the morning that I can't attend.

>> Mayor Reed: We have a forecast meeting scheduled every two weeks or so or something like that.

>> Richard Keit: It's the second and third -- I mean second and fourth Thursday is the scheduled one. But yeah, we try send it out both to all directly and to all your administrators and schedulers, as soon as we know of the date.

>> Mayor Reed: What I'd like is for you to communicate with everybody including our alternates. Because we have new alternates since we began scheduling thing. Because everybody knows we are trying to schedule, second and fourth Thursday of each month so you can at least block it on the calendar and have as much advance warning as we can so that everybody has got that even though we're not certain about it. That might be helpful, Rebecca.

>> Just one point from some of the boards I've been involved in. My understanding is the gap between the public hearing and the oversight board meeting five business days, and because many governments have holidays, I think Veterans Day is in that time frame, something to look out for, to make sure you include the holiday in your calculation of five business days. Just a tip.

>> Donald Gage: Do you think it's possible to get a list of all of these, the normal ones, for the rest of the business year? I don't know if anybody else is having that problem but I don't want to miss a meeting. If you would e-mail them to me.

>> Richard Keit: We'll do it through the end of the calendar year.

>> Donald Gage: I'd appreciate that. I could put it in there and if it gets cancelled, he would it go to the.

>> Richard Keit: As soon as I know it's cancelled.

>> Donald Gage: Perfect, thank you very much.

>> Mayor Reed: Anything else on the next meeting date which we hope will be on November 8th. If we have something to do. I've tried to keep the staff from holding a meeting if there's nothing to do. I know they don't want to have a meeting if there's nothing to do so we do cancel them waiting for others to finish their work. Anything else? I think we're adjourned, we're done, thank you.