

September 27, 2011

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

J. Matthew Carroll
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Subject: Adopt an Ordinance Declaring the County of Ventura Will Comply with and Participate in the Alternative Voluntary Redevelopment Program Contained in Part 1.9 of Division 24 of the California Health and Safety Code (“Alternative Voluntary Redevelopment Program”)

Recommendation:

On September 27, 2011, adopt an Ordinance declaring the County of Ventura will comply with and participate in the Alternative Voluntary Redevelopment Program.

Fiscal/Mandates Impacts:

This action will have no net fiscal impact on the County’s general fund, as the Ventura County Redevelopment Agency will reimburse the County to cover the required remittance payment, currently estimated by the Department of Finance to be \$264,088 for Fiscal Year 2011-12.

Executive Summary:

As part of the State of California’s Fiscal Year 2011-12 Budget, two pieces of legislation were approved which affect redevelopment agencies. One piece of legislation eliminates redevelopment agencies in California and the second piece of legislation allows a redevelopment agency to continue activities if certain payments are made as required. Staff is recommending, due to the vital role of the Ventura County Redevelopment Agency (Agency) within the community of Piru, your Board take actions to continue the Agency.

Discussion:

On June 28, 2011, the Governor signed two pieces of legislation that affect redevelopment agencies in the State. ABX1 26 and ABX1 27, which are trailer bills to the State of California's 2011-12 Budget, added Parts 1.8, 1.85, and 1.9 of Division 24 of the Health and Safety Code and became effective immediately. ABX1 26 provides for the dissolution of all redevelopment agencies in California as of October 1, 2011. ABX1 26 provides that all activities of the redevelopment agency between the time period of June 28 and October 1, 2011 are restricted to the payment of enforceable obligations and the closing down of agency activities and affairs. ABX1 26 further provides that thereafter, a successor agency shall be created to administer the enforceable obligations of the redevelopment agency and otherwise close down all agency activities and affairs, subject to review and approval by an oversight board.

ABX1 27 provides a mechanism to save redevelopment agencies, but at a cost. A redevelopment agency may continue in operation if a county/city that has a redevelopment agency adopts an ordinance prior to November 1, 2011, agreeing to comply with and participate in the Alternative Voluntary Redevelopment Program (Program). As a condition of the redevelopment agency's continued existence and as part of the Program, the county/city is required to make certain annual remittance payments to the county Auditor-Controller beginning in Fiscal Year 2011-12 for deposit in a special district augmentation fund and an education revenue augmentation fund. These remittance payments may be made from any available funds, including funds made available to the county/city, by the redevelopment agency. For Fiscal Year 2011-12, the County of Ventura's required remittance payment is approximately \$264,088, as estimated by the Department of Finance. This does not equal the total tax increment share payable to the Agency. The Agency will still receive approximately \$289,912 in revenue in FY 2011-2012, even after the \$264,088 is paid. All future remittance amounts will be based upon a formula provided by the Department of Finance in the near future – currently estimated at approximately \$44,000/year. Once the appropriate Opt-In ordinance has been enacted, the agency will no longer be subject to the provisions of Parts 1.8 and 1.85 and may immediately resume normal agency activities.

ABX1 27 also provides that if a County intends to enact an ordinance after October 1, 2011, it shall pass a nonbinding resolution of intent to do so. Your Board passed such a resolution on September 20, 2011.

On July 18, 2011, the California Redevelopment Association, the League of California Cities, and the Cities of San Jose and Union City filed a lawsuit with the California Supreme Court challenging the constitutionality of ABX1 26 and 27. As part of the lawsuit, it was requested that the Court stay the implementation of the legislation. On August 11, 2011, the Court stayed portions of the legislation and on August 17, 2011 the Court modified the stay. The stay as originally issued and modified has the following effects upon redevelopment agencies:

- The Court blocked the elimination of redevelopment agencies through ABX1 26.
- The Court allowed the “freeze” provisions of ABX1 26 to remain in effect. These provisions prohibit redevelopment agencies from taking on new obligations, making new agreements, incurring new debt, transferring assets, acquiring or disposing of real property, or entering into new contracts or modifying existing contracts.
- The Court stayed the effectiveness of ABX1 27 that would allow redevelopment agencies to continue business as usual if the host county/city passed an ordinance agreeing to participate in the Program.
- The Court limited redevelopment agencies’ actions to those that are classified as “enforceable obligations”. An Enforceable Obligation Payments Schedule (EOPS) is being submitted under Redevelopment Agency Letterhead for Agency Board of Directors approval.

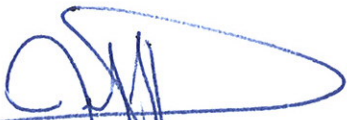
In short, the Court allowed redevelopment agencies to exist, but prevented them from taking any actions or making any payments unless those payments cover binding contracts that must be honored. The Court is providing an expedited briefing schedule and has indicated that it is the Court’s intent to decide on the merits of the case prior to January 15, 2012, which is the date the first Program payment is due.

Therefore, a present, the County need not enact an ordinance before November 1, 2011, to continue operation of the Agency. However, because we cannot predict how the Supreme Court stay will be resolved, we believe it is prudent to enact an ordinance before November 1, 2011.

Conclusion:

Based upon analysis of the legislation passed June 28, 2011, and considering the State Supreme Court's stay of this legislation, staff is recommending that your Board elect to opt-In to the Alternative Voluntary Redevelopment Program and adopt the attached ordinance, which commits the County to participating in the Program. Today's recommended action would ensure the continuation of the Agency should the Supreme Court decide to allow ABX1 27 to remain in force. This letter has been reviewed by the Auditor-Controller's Office and County Counsel. If you have any questions regarding this Board Letter, please contact Jeff Burgh at 477-1994.

Sincerely,



Jeff Burgh
Deputy Executive Officer



Michael Powers
County Executive Officer

Attachments – Ordinance Electing to Participate in Program