

Lake County Redevelopment Successor Agencies Oversight Board

AGENDA

Monday, March 7, 2022

4:00 PM

Join Zoom Meeting

<https://lakecounty.zoom.us/j/97164529116?pwd=NzNwS1BVdDZETIM4RkdGQXZ4WTNRQT09>

Meeting ID: 971 6452 9116

Passcode: 628417

Call in: 1 (669) 900-6833

Any member of the public may submit written comments to the Oversight Board through the Lake County Auditor's Office, 255 N. Forbes St., Lakeport, CA, or by email to the Oversight Board at auditor@lakecountyca.gov. Please submit written comments no later than 8:00 AM on March 7, 2022.

1. Call to order.
2. (Continued and revised from the January 26, 2022, February 7, 2022, February 14, 2022 and February 28, 2022 meetings) Discussion, Consideration and Adoption of Resolution OB-2022-XX of the Oversight Board to the Lake County Redevelopment Agency reconfirming its prior determination to allow the Collier Avenue Affordable Housing Project to go forward, consideration of amendments to the renegotiated agreement with the Rural Communities Housing Development Corporation, and consideration of ratification of said agreement.
3. Public input relative to items not on today's agenda.
4. Adjourn.

Oversight Board members:

Moke Simon, Lake County Board of Supervisors

Alan Flora, City Selection Committee representative

Christine Flora, Independent Special Districts representative

Brock Falkenberg, County Superintendent of Schools

Dr. Cirilo Cortez, Community Colleges representative

John Carlisi, Public Member appointed by County Board of Supervisors

Vanessa Mayer, Employee Organization representative

Supporting documents for this meeting are available for public inspection in the Office of the Lake County Auditor-Controller, Courthouse, Second Floor, 255 N. Forbes St., Lakeport, CA.

A request for a disability-related modification or accommodation necessary to participate in the Oversight Board meeting should be made in writing to the County Auditor-Controller at least 48 hours in advance of the meeting.

Oversight Board to Lake County Successor Agencies

STAFF REPORT	
RE: 6853 Collier Avenue Affordable Housing Project	MEETING DATE: 3/7/2022
SUBMITTED BY: Susan Parker, Assistant County Administrative Officer	
PURPOSE OF REPORT: <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Item	

WHAT IS BEING ASKED OF THE BOARD: Continued and revised from the January 26, 2022, February 7, 2022, February 14, 2022 and February 28, 2022 meetings (a) Discussion, Consideration and Adoption of Resolution OB-2022-__ of the Oversight Board to the Lake County Redevelopment Agency reconfirming its prior determination to allow the Collier Avenue Affordable Housing Project to go forward, consideration of amendments to the renegotiated agreement with the Rural Communities Housing Development Corporation, and consideration of ratification of said agreement.

DISCUSSION: On February 28, 2022, your Board requested information from the Lake County Legal Counsel related to amendments to the renegotiated Agreement associated with the Collier Avenue Affordable Housing Project.

County Counsel has provided proposed language on how to strengthen the default provision and add a covenant restrictions in order to proceed in the effort to construct the Collier Avenue Affordable Housing Project. (Attachment A)

In March of 2012, this Board decided to provide an opportunity for this project to move forward and provided a five-year time period within which at least substantial progress toward completion of the project was to be made.

Unfortunately, that five-year period lapsed. Despite the lapse of the five-year deadline, the project has been revitalized and presents a significant opportunity for the development of a viable housing asset.

We are all well aware that affordable housing continues to be a matter of critical need and that the Collier Avenue Affordable Housing Project is now poised to move forward and it is the intention of the Lake County Housing Commission that it do so.

We are presenting this item to request that your Board adopt this Resolution so that the Collier Avenue Affordable Housing Project can move forward. (Attachment B)

Please review and consider the attached document(s).

FISCAL IMPACT: None Budgeted Item? Yes No Unknown

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase:

Affected fund(s): General Fund Water OM Fund Sewer OM Fund Other: Redevelopment Private Purpose Trust Fund (Successor Agency) Unknown

SUGGESTED MOTIONS:

Move to Adopt Resolution OB-2022-XX of the Oversight Board to the Lake County Redevelopment Agency reconfirming its prior determination to allow the Collier Avenue Affordable Housing Project to go forward and ratifying and/or directing amendments to the New Agreement with the Rural Communities Housing Development Corporation or take other action.

Attachments:

ATTACHMENT A: MEMORANDUM FROM LAKE COUNTY COUNSEL TO OVERSIGHT BOARD OF
SUCESSOR AGENCIES TO THE LAKE COUNTY REDEVELOPMENT AGENCY –
MARCH 4, 2022

ATTACHMENT B: RESOLUTION OB-2022 _____



COUNTY OF LAKE

COUNTY COUNSEL

TO: OVERSIGHT BOARD OF SUCCESSOR AGENCY TO
 LAKE COUNTY REDEVELOPMENT AGENCY

FROM ANITA L. GRANT
 COUNTY COUNSEL

SUBJECT: OVERSIGHT BOARD AUTHORITY TO FORGIVE A LOAN

DATE: MARCH 4, 2022

The Oversight Board has asked me to make suggestions to strengthen the default provisions of the Agreement entered into by and between the Rural Communities Housing Development Corporation (“RCHDC”) and the Lake County Housing Authority (the “Agreement”). Further, there was discussion about including a provision comparable to the provision in an earlier agreement for this same affordable housing project which allowed for the forgiveness of monies loaned by Lake County Redevelopment Agency to RCHDC after a term of fifty-five (55) years.

Affordable housing was given considerable importance under the Community Redevelopment Law:

The Community Redevelopment Law (Health and Safety Code Division 24, §§ 33000 - 37964; “CRL”) was for decades the primary vehicle for tax increment financing in California. The CRL depended upon authority in California Constitution Article XVI, Section 16. . . . Redevelopment proved to be very popular with California cities and counties, in large part because the tax increment allocated to redevelopment agencies included the tax increment generated by other taxing agencies’ AB 8 portion. Because 20% of the tax increment was committed to affordable housing, redevelopment was also a major source of affordable housing in the State. (League of California Cities, Redevelopment 2.0: Existing Laws, Pending Legislation and Legal Theory (2019)

The importance of affordable housing continued to be recognized and protected when redevelopment agencies were dissolved. As you are aware, there are statutory requirements to effectuate the transfer of housing functions and assets to a successor housing entity.

The Lake County Housing Authority became the successor agency of the former RDA’s

housing obligations, assets, loan receivables, and all other assets meeting the definition in Health and Safety Code section 34176(e) when the Board of Supervisors approved that transfer in January of 2012.

While employing methods to protect the taxing entities is important, at issue here are housing assets which were duly transferred to the Lake County Housing Authority. For purposes of the agreement with RCHDC, that shifts the focus to now protecting the housing assets - and achieving the goal of developing affordable housing. If the loan forgiveness provisions are reinstated, that goal cannot be reached. However, there are alternatives to the reinstatement of those provisions which will strengthen the protection of these assets.

I suggest that the following provisions be modified and/or added to the Agreement to Develop Affordable Housing.

PROPOSED LANGUAGE:

1. The addition of Section 2.1.8.[to be added to Section 2.1 Housing Authority Responsibilities]:

“2.1.8. In the event the HOUSING AUTHORITY should obtain ownership of the Property due to default pursuant to Section 4 herein, the HOUSING AUTHORITY hereby covenants and agrees that it shall use the Property solely for residential occupancy by low income and very low income households which shall include persons suffering from mental disorders or substance abuse disorders who are at risk of becoming homeless in compliance with the requirements set forth in this Agreement. If for any reason the HOUSING AUTHORITY should sell the Property, any monies it realizes from that sale shall be returned to the Successor Agency for the Lake County Redevelopment Agency for distribution by the Lake County Successor Agencies Oversight Board to the taxing entities.”

2. The modification of Section 2.2.7 [Section 2.2 RCHDC Responsibilities]:

“2.2.7 In the event of default by RCHDC and a demand by the HOUSING AUTHORITY as described in Section 4.2(a) herein, RCHDC agrees to convey the Property to the HOUSING AUTHORITY for one dollar (\$1.00) In such event, RCHDC shall execute a quitclaim deed in favor of the HOUSING AUTHORITY (the "Quitclaim Deed"), and the HOUSING AUTHORITY shall accept the Property in its "as is" condition without any representation or warranty from RCHDC pursuant to the Quitclaim Deed.”

3. The addition of Section 2.2.9. [to be added to Section 2.2 RCHDC Responsibilities]:

“2.2.9. Use and Affordability Restrictions. RCHDC hereby covenants and agrees that throughout the Term of this Agreement, (as defined in Section 3 herein) the Property shall be used solely for residential occupancy by low income and very low income households

which shall include persons suffering from mental disorders or substance abuse disorders who are at risk of becoming homeless in compliance with the requirements set forth in this Agreement. RCHDC represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement and covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of the HOUSING AUTHORITY.”

4. The modification and strengthening of Section 4:

“4. DEFAULT.

4.1. Event of Default. Each of the following shall constitute a “Default” by RCHDC under this Agreement:

a) Breach of Covenants. Failure of RCHDC to duly perform, comply with, or observe any of the conditions, terms, or covenants of the Agreement and/or any Addenda thereto, and such failure having continued uncured for ninety (90) days after receipt of written notice thereof from the HOUSING AUTHORITY TO RCHDC.

(b) Insolvency. A court having jurisdiction shall have made or entered any decree or order: (i) adjudging RCHDC to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of RCHDC or seeking any arrangement for RCHDC under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (iii) appointing a receiver, trustee, liquidator, or assignee of RCHDC in bankruptcy or insolvency or for any of their properties; (iv) directing the winding up or liquidation of RCHDC, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days; or (v) RCHDC shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive.

(c) Assignment or Attachment. RCHDC shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution.

(d) Suspension; Dissolution. RCHDC shall have voluntarily suspended its business or the dissolution of RCHDC.

(e) Liens on Property and the Development. There shall be filed any claim of

lien (other than liens approved in writing by the HOUSING AUTHORITY) against the Development, or any part thereof, or any interest or right made appurtenant thereto, for a period of twenty (20) days without discharge or satisfaction thereof or provision therefore (including, without limitation, the posting of bonds) satisfactory to the HOUSING AUTHORITY.

(f) Failure of RCHDC to meet its obligations pursuant to Section 2.2.8 and/or 2.2.9 of the Agreement.

4.2. Remedies. The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the HOUSING AUTHORITY or automatically where so specified, shall give the HOUSING AUTHORITY the right to proceed with any and all remedies set forth in this Agreement and any Addenda thereto. The occurrence of any of the events of Default in Section 4.1 shall act to accelerate automatically, without the need for any action by the HOUSING AUTHORITY.

(a) Surrender of the Property. RCHDC acknowledges and agrees that should it for any reason default as defined herein, the affordable housing project described in this Agreement will be imperiled, requiring immediate action to be taken by the HOUSING AUTHORITY to secure this housing asset. RCHDC acknowledges and agrees that the HOUSING AUTHORITY has undertaken significant responsibilities, including divesting itself of certain rights and entitlements, pursuant to Section 2.1 of this Agreement as consideration in effectuating the goals of the Agreement and the fruition of this affordable housing project. In light of the foregoing, RCHDC agrees that following its default, it shall convey the Property to the HOUSING AUTHORITY in the manner more particularly described in Section 2.2.7 herein for the sum of one dollar \$1.00 and shall do so within ten (10) days of its receipt of written notice from the HOUSING AUTHORITY demanding such conveyance.

(b) Specific Performance. The HOUSING AUTHORITY shall have the right to mandamus or other suit, action or proceeding at law or in equity to require RCHDC to perform its obligations and covenants under the Agreement and any Addenda thereto or to enjoin acts or things which may be unlawful or in violation of the provisions of the Agreement and any Addenda thereto.

4.3. Right to Contest. RCHDC shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the HOUSING AUTHORITY or the rights of the HOUSING AUTHORITY hereunder.

4.4. Remedies Cumulative. No right, power, or remedy given to the HOUSING AUTHORITY by the terms of this Agreement and any Addenda thereto is intended to be

exclusive of any other right, power, or remedy; each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the HOUSING AUTHORITY by the terms of this Agreement and any Addenda thereto, or by any statute or otherwise against RCHDC and any other person. Neither the failure nor any delay on the part of the HOUSING AUTHORITY to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the HOUSING AUTHORITY of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.”

Thank you.

RESOLUTION OF THE OVERSIGHT BOARD TO THE LAKE COUNTY REDEVELOPMENT AGENCY

Resolution OB-2022_____

RECONFIRMING ITS PRIOR DETERMINATION TO ALLOW THE COLLIER AVENUE AFFORDABLE HOUSING PROJECT TO GO FORWARD AND RATIFYING THE NEW AGREEMENT WITH THE RURAL COMMUNITIES HOUSING DEVELOPMENT

WHEREAS, in accordance with Assembly Bill X 1 26, as amended by Assembly Bill Number 1484 (the "Dissolution Act"), the Lake County Redevelopment (the "RDA") as well as all other redevelopment agencies in the State of California, were dissolved as of February 1, 2012 and the Successor Agency to the RDA was formed and succeeded to all of the authority, rights, powers, duties, and obligations previously vested in the RDA; and

WHEREAS, the Oversight Board of Successor Agencies to the RDA ("Oversight Board") has fiduciary responsibilities to the holders of enforceable obligations and to the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of the Dissolution Law; and

WHEREAS, on February 13, 2012, the Oversight Board gave County Administrative staff direction to terminate an Owner Participation Agreement with Rural Communities Housing Development Corporation to provide funding for the Collier Avenue Affordable Housing Project (the "Agreement") and disburse the remaining funds to the taxing entities; and

WHEREAS, on March 5, 2012, County Administrative staff presented the Oversight Board with a proposal to amend the Agreement, rather than terminate it and the Oversight Board directed staff to amend the agreement to include the following provisions: The County Housing Authority, as successor agency to the RDA's housing assets and obligations, would not disburse any more money; repayment of money already disbursed would not be required at that time; the Rural Communities Housing Development Corporation would retain ownership of completed engineering drawings, architectural plans, etc.; the County Housing Authority would retain its second and third deeds of trust on the property; and the balance owing would be due and payable in five years unless the project is completed or substantial progress was made; and

WHEREAS, on March 26, 2012, County Administrative staff issued a memorandum to the County Auditor-Controller wherein staff stated that, as the successor agency to the former Lake County Redevelopment Agency and pursuant to law, they were remitting to the Auditor-Controller via an attached IDC/IDS form, the unencumbered balance in the Low and Moderate Income Housing Funds to be distributed to the taxing entities in the total amount of \$1,512,449.84; and

WHEREAS, in May of 2012, the Lake County Board of Supervisors, sitting as the Lake County Housing Commission, took action to cancel further disbursements for the Collier Avenue Affordable Housing Project and the Rural Communities Housing Development Corporation was duly noticed that no further funds would be disbursed; and

WHEREAS, both the distribution to the taxing entities and cancelation of further disbursements to the Rural Communities Housing Development Corporation achieved the fiscal accountability required

by the Oversight Board; however, no further action was taken to complete this project within the five-year time frame; and

WHEREAS, in 2020, the Collier Avenue Affordable Housing Project was able to be revitalized through additional funding opportunities for affordable housing and discussions with the Rural Communities Housing Development Corporation were renewed; and

WHEREAS, in September of 2021, the Board of Supervisors sitting as the Lake County Board of Housing Commissioners considered and approved an agreement with the Rural Communities Housing Development Corporation which replaced the above-described Agreement with that same entity and included the legal instruments required to grant and convey deeds of trust and formally cancelled and "forgave" the Lake County Rural Development Agency loans; and

WHEREAS, in December of 2021, Cal Matters, a non-profit, non-partisan news organization, reported that high housing costs are the major reason California has the nation's highest rate of functional poverty and the second lowest rate of home ownership; and

WHEREAS, affordable housing continues to be a critical need in the County of Lake and the Collier Avenue Affordable Housing Project, although not completed within the time frame given by the Oversight Board in March of 2012, is presently ready and able to move forward to fruition and respond to that critical need.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF SUCCESSOR AGENCY TO LAKE COUNTY REDEVELOPMENT AGENCY AS FOLLOWS:

1. Recitals. The Recitals set forth above are true and correct.
2. This Board hereby reconfirms its determination of March 5, 2012, allowing the Collier Avenue Affordable Housing Project to go forward and ratifies the new agreement with Rural Communities Housing Development Corporation approved by the County of Lake on September 28, 2021 to effectuate that purpose.

PASSED AND ADOPTED this 28th day of February, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair, Oversight Board to the Lake County Redevelopment Agency

ATTEST:

Secretary to the Oversight Board