

**RDA SUCCESSOR AGENCY  
OVERSIGHT BOARD MEETING MINUTES  
February 21, 2013**

**I. PUBLIC COMMUNICATION – CLOSED SESSION ITEMS**

There was no Public Communication received.

**II. CLOSED SESSION**

1. Pursuant to Government Code Section 54956.9(a) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – Ambac Insurance Corporation vs The City of Hercules and Redevelopment Agency of the City of Hercules (Contra Costa Superior Court Case No. N12-0182)
2. Pursuant to Government Code Section 54956.9(b), CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION – Parcel C – APN 404-020-076-0
3. Pursuant to Government Code Section 54956.9(a) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION – The City of Hercules vs American Stores Properties Inc. (Contra Costa Superior Court Case No. MSC11-02361)
4. Pursuant to Government Code Section 54956.8 CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Property Subject To Negotiation Is Generally Described As Parcel C, Assessor’s Parcel Number 404-020-076-0. Negotiators are Steven Duran, City Manager, Patrick Tang, City Attorney and David Sanson, Civic Property Group.
5. Pursuant to Government Code Section 54956.8 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – The Property Subject To Negotiation Is Generally Described As Sycamore Crossing, Assessor’s Parcel Numbers 404-020-057-0 and 404-020-058-8. Negotiators are Steven Duran, City Manager, Patrick Tang, City Attorney and David Zylstra, Property Development Centers LLC.

**III. ROLL CALL – CALL TO ORDER**

**Members Present:** Richard Mitchell, Hercules Planning Commissioner  
Robert Reber, Hercules Staff  
Dan Romero, Hercules Mayor and Council Member  
Larry Tong, Alternate, East Bay Regional Parks District (Alternate)  
William Wilkins, Hercules Council Member

**Members Absent:** Ted Radke, East Bay Regional Parks District  
Sheri Gamba, West Contra Costa Unified School District

**Staff:** Steve Duran, City Manager  
Nickie Mastay, Finance Director  
Doreen Mathews, City Clerk

Chair Romero called the meeting to order at approximately 7:35 p.m.

**IV. PLEDGE OF ALLEGIANCE**

Board Members, staff and the audience pledged allegiance to the flag.

**V. REPORT ON ACTION TAKEN IN CLOSED SESSION**

Mr. Duran stated that no reportable action was taken in closed session.

**VI. INTRODUCTIONS/PRESENTATIONS**

There were no Introductions or Presentations.

**VII. AGENDA ADDITIONS/DELETIONS**

There were no Agenda Additions or Deletions.

**VIII. PUBLIC COMMUNICATIONS**

There was no Public Communication.

**IX. CONSENT CALENDAR**

1. Approve Meeting Minutes Of January 16, 2013.

Board Member Reber requested the deletion of “(excused)”, under Section III. Members Absent.

MOTION: Reber/Mitchell to adopt the minutes with amendment as stated. The motion was adopted by the following vote:

AYES: Mitchell, Reber, Romero, Wilkins  
NOES: None  
ABSENT: Gamba  
ABSTAIN: Tong

**X. DISCUSSION AND ADMINISTRATIVE ITEMS**

There were no discussions or administrative items.

## **XI. REPORTS AND RESOLUTIONS**

### **1. Adopt A Resolution Approving The Draft Recognized Obligation Payment Schedule For The Period July 1, 2013 Through December 31, 2013**

Nickie Mastay, Finance Director, reported that the Department of Finance had removed all Owner Participation Agreements from the ROPS even though they are senior obligations to the Bonds.

Board Member Wilkins expressed concern with the \$4+ million not allowed, questioning if property taxes were allowed. He also questioned if the OPA participants had any recourse.

Ms. Mastay stated that all property taxes were deemed not allowable and that all cells on the ROPS were locked by the DOF and as such staff was unable to enter any figures. She added that a meet and confer would be required in order to unlock cells to enter those amounts. With respect to OPA participants, she stated that that she would advise them to file litigation against the Department of Finance directly, at which time the DOF may allow the obligation to be put back on the ROPS. She emphasized that the City would continue to do what it could to get the obligations back on the ROPS.

Mr. Duran reported that Catellus immediately sued and the item was placed back on the ROPS, as the Attorney General stated that he would not defend the litigation. He noted that litigation was successful for the City of El Cerrito as well.

Board Member Wilkins expressed surprise at the DOF determining Item 16, the \$10.8 million Cooperative Agreement as an unenforceable obligation, even though the letter from the State Controller's office stated it would allow \$42 million.

Ms. Mastay stated that the Department of Finance would not recognize the findings of the State Controller, making their own determination.

**MOTION:** Mitchell/Reber to adopt the resolution as presented. The motion adopted by unanimous voice vote.

## **XII. FUTURE AGENDA ITEM REFERRALS**

Mr. Duran stated that there were no pending agenda items; however, he advised that as staff proceeds with property sales, approvals will go to the successor agency then to the Oversight Board. He anticipated that the sale of Parcel C to come forward in April, but had nothing at present with a definite date.

## **XIII. OVERSIGHT BOARD AND STAFF ANNOUNCEMENTS**

There were no Oversight Board or staff announcements.

**XIV. ADJOURNMENT**

Chair Romero adjourned the meeting at approximately 7:47 p.m.

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Dan Romero, Chair

ATTEST:

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Doreen Mathews, City Clerk