

**MINUTES
OVERSIGHT BOARD TO THE CITY OF MONTEREY PARK
SUCCESSOR AGENCY ACTING ON BEHALF OF THE
FORMER REDEVELOPMENT AGENCY
REGULAR MEETING
JULY 6, 2012**

The Oversight Board held a Regular Meeting of the Board in Room 266, Second Floor of City Hall, located at 320 West Newmark Avenue in the City of Monterey Park, Friday, July 6, 2012 at 9:00 a.m.

CALL TO ORDER:

Chair Talbot called the meeting to order at 9:04 a.m.

FLAG SALUTE:

Chair Talbot led the flag salute.

ROLL CALL:

Secretary Barron called the roll:

Board Members Present: Jim Basham, Robert Lee Gin, Michael D. Hamner, Joseph C. Reichenberger, Clara M. Solis, Paul L. Talbot, Cheryl Plotkin arrived at 9:10 a.m.

Board Members Absent: None.

Also Present: Robert Smith, Successor Agency's legal counsel; Chet Yoshizaki, Donna Ramirez, Annie Yaung

CONSENT CALENDAR CONSISTS OF ITEM NO. 1

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

Action Taken: The Board approved Item No. 1.

Motion: Moved by Board Member Gin and seconded by Board Member Hamner, motion carried by the following vote:

Ayes: Board Members: Basham, Hamner, Solis, Gin, Talbot

Noes: Board Members: None

Absent: Board Members: Plotkin

Abstain: Board Members: Reichenberger

1. OVERSIGHT BOARD MINUTES

Approval of Minutes from the June 15, 2012 Monterey Park Oversight Board Meetings.

Action Taken: The Board approved the minutes from the Monterey Park Oversight Board Special Meeting of June 15, 2012.

2. ORAL AND WRITTEN COMMUNICATIONS

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

3. MEDIATION OF ATLANTIC TIMES SQUARE LITIGATION AND PLACING FUNDS INTO AN ESCROW ACCOUNT: Robert Smith

On June 20, 2012, the City Council (acting on behalf of the Successor Agency to the Monterey Park Redevelopment Agency) authorized the City Manager, or designee, to transfer \$9.9 million into an escrow account held in trust by an escrow agent to allow the Successor Agency and Atlantic Times Square ("ATS") project developer to resolve several different disputes including (1) the contractual dispute between the Successor Agency and the ATS developer; (2) the pending enforcement action prosecuted by the Division of Labor Standards and Enforcement ("DLSE"); and (3) the lawsuit filed by the former Redevelopment Agency and ATS developer against DLSE. The Oversight Board will consider whether to approve the Successor Agency's request to undertake these actions, including the transfer of \$9.9 million previously approved on the 2012 ROPS into an escrow account.

RECOMMENDATION

It is recommended that the Oversight Board adopt a resolution authorizing the following actions:

- (1) Allow the Successor Agency to execute an escrow agreement that would transfer \$9.9 million into an escrow account pending the outcome of mediation between the Successor Agency and the ATS project developer;
- (2) Authorize the Successor Agency to enter into mediation with the ATS project developer as to the disposition and development agreement governing the ATS project and payment of any settlement amounts with the DLSE;
- (3) Direct the Successor Agency to continue negotiations with the DLSE as to its pending enforcement action;
- (4) Instruct the Successor Agency to continue prosecuting a lawsuit filed against the DLSE (*Atlantic Times Square, LLC v. California Department of Industrial Relations*);
- (5) Direct the Successor Agency to return to the Oversight Board with any settlement agreement with the ATS project developer and/or the DLSE; and
- (6) Take such additional, related, action that may be desirable (for example, whether or not to retain independent counsel).

This item was tabled and heard after Closed Session.

Action Taken: The Board adopted Resolution No. OBR-4, entitled:

A RESOLUTION APPROVING THE REQUEST OF THE SUCCESSOR AGENCY FOR THE MONTEREY PARK REDEVELOPMENT AGENCY TO TAKE CERTAIN ACTIONS RELATING TO THE ATLANTIC TIMES SQUARE PROJECT INCLUDING, WITHOUT LIMITATION, PLACING \$9.9M INTO AN ESCROW ACCOUNT AND CONDUCTING MEDIATION WITH ATLANTIC TIMES SQUARE II, LLC

Motion: Moved by Board Member Plotkin and seconded by Board Member Gin, to approve staff recommendations and adopt Resolution No. OBR-4. Motion carried by the following vote:

Ayes: Board Members: Reichenberger, Basham, Hamner, Solis, Plotkin, Gin, Talbot
Noes: Board Members: None
Absent: Board Members: None
Abstain: Board Members: None

4. CONSIDERATION OF HIRING OVERSIGHT BOARD LEGAL COUNSEL: Chet Yoshizaki

Pursuant to a conflict of interest, the Successor Agency's legal counsel cannot represent the oversight board. The oversight board will consider whether it requires and should hire independent legal counsel to assist it on any ongoing legal issues.

Action Taken: The Board directed Robert Smith of Jenkins and Hugin to represent the Board for the discussion on Item No. 3 today, waived the potential conflict of interest and directed staff to draft the conflict of interest waiver be executed by the board members

Motion: Moved by Board Member Reichenberger and seconded by Board Member Plotkin to direct Robert Smith of Jenkins and Hugin to represent the Board for the discussion on Item No. 3 today, waived the potential conflict of interest and directed staff to draft the conflict of interest waiver be executed by the board members. Motion carried by the following vote:

Ayes: Board Members: Reichenberger, Basham, Hamner, Solis, Plotkin, Gin, Talbot
Noes: Board Members: None
Absent: Board Members: None
Abstain: Board Members: None

5. DISCUSSION OF NEXT MEETING AGENDA

In accordance with ABX1 26, Oversight Boards serve to review matters approved by the City of Monterey Park acting on behalf of the Successor Agency to the Monterey Park Redevelopment Agency and are required to adopt a "Conflict of Interest" code.

This item was heard after Item No. 3

Action Taken: By consensus of the Board, the next regular meeting will be set for August 3.

6. CLOSED SESSION - the Board Members adjourned to Closed Session at 9:42 a.m., after Item No. 4.

PENDING LITIGATION – GOVERNMENT CODE § 54956.9

Number of cases: 1 (*Atlantic Times Square, LLC v. California Department of Industrial Relations*, LASC Case No. BC134212)

The Board reconvened at 10:15 a.m. with all Board Members present.

Deputy Agency Counsel Smith reported out of Closed Session that the Board approved a conflict waiver for Jenkins and Hogin to represent the Board on the limited issue of the Atlantic Times Square enforcement actions and related litigation and directed Successor Agency staff to prepare a waiver to be executed by members of the Oversight Board.

7. ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 10:19 a.m.

David M. Barron, CMC
Secretary