

RESOLUTION NO. 2012-02

A RESOLUTION OF THE OVERSIGHT BOARD FOR SUCCESSOR AGENCY OF THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY, RESCINDING CERTAIN ACTION RELATING TO TERMINATION OF STADIUM AGREEMENTS BETWEEN THE SUCCESSOR AGENCY AND SANTA CLARA STADIUM AUTHORITY TAKEN AT THE JUNE 22, 2012 MEETING OF THE OVERSIGHT BOARD PURSUANT TO GOVERNMENT CODE SECTION 54960.1 (c)(1)

WHEREAS, the Oversight Board for the Successor Agency of the City of Santa Clara Redevelopment Agency (“Oversight Board”) was established to direct the Successor Agency to the City of Santa Clara Redevelopment Agency (“Successor Agency”) to take certain actions to wind down the affairs of the Redevelopment Agency in accordance with the California Health and Safety Code;

WHEREAS, Health and Safety Code Section 34179(e) provides that meetings of the Oversight Board are subject to the Brown Act;

WHEREAS, the Agenda for the June 22, 2012, meeting of the Oversight Board included the following item:

5. NEW BUSINESS:

....

B. Overview of Stadium Agreements.

Action: Staff recommendation to amend the ROPS to add the Stadium commitments to the ROPs;

WHEREAS, at the June 22, 2012, meeting of the Oversight Board, the Oversight Board considered Agenda Item 5.B. and centered on (i) an agreement, titled “COOPERATION AGREEMENT TO ASSIST PUBLICLY-OWNED STADIUM” (“Cooperation Agreement”), between Santa Clara Stadium Authority and the Redevelopment Agency of the City of Santa Clara, and (ii) an agreement, titled “PREDEVELOPMENT FUNDING AGREEMENT” between

the Stadium Authority, the Successor Agency and Forty Niners Stadium, LLC (“Stadco”) hereafter referenced in this resolution as the “Stadium Agreements” or “Stadium Commitments” or “Stadium-Related Obligations” interchangeably;

WHEREAS, at the June 22, 2012, meeting, the Oversight Board listened to comments from members of the public; listened to Successor Agency staff; listened to comments and argument from legal counsel for Stadco, the County Auditor, and the Successor Agency; and deliberated on Agenda Item 5.B;

WHEREAS, after the close of public comment and after deliberation on Agenda Item 5.B., the Oversight Board took action by passing the following Two-Part Motion:

(1) To terminate: (a) the Cooperation Agreement between the former redevelopment agency and the Stadium Authority; (b) the portions of the Funding Agreement that are related to the former redevelopment agency’s obligations in the Cooperation Agreement pursuant to Health and Safety Code section 34181(d), because it is in the best interests of the affected taxing entities.

(2) To not place any stadium-related obligations on the Recognized Obligation Payment Schedule;

WHEREAS, on June 27, 2012, the Oversight Board received a letter from Harry O’Brien of Coblentz, Patch, Duffy & Bass, LLP, Attorneys At Law, on behalf of Stadco, demanding that the Oversight Board cure or correct a violation of the Ralph M. Brown Act (Gov’t Code, §§ 54950 *et seq.*) (“Stadco Demand Letter”);

WHEREAS, the Stadco Demand Letter states in part:

The agenda for the Board’s June 22, 2012 meeting did not give sufficient notice that the Board intended to consider termination of the Stadium Agreements.”

...

The action purportedly taken to terminate the Stadium Agreements is not consistent with the “brief general description” of the business to be transacted of which notice was given, as required by Government Code Section 54954.2;

WHEREAS, on June 25, 2012, the Oversight Board received a letter from Mr. James Rowen demanding the Oversight Board cure or correct a violation of the Ralph M. Brown Act (Gov't Code. §§ 54950 *et seq.*) (“Rowen Demand Letter”);

WHEREAS, the Rowen Demand Letter demands that the Oversight Board cure and correct action in that there was no adequate notice to the public on the posted agenda for the meeting that the matter acted upon would be discussed;

WHEREAS, Government Code § 54960.1(b)(2) provides that “within 30 days of receipt of a demand, the legislative body “shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action”;

WHEREAS, AB 1464, which was signed into law on June 27, 2012, contains a schedule of state mandates that are suspended during the 2012-2013 budget year and certain provisions of the Brown Act are included on the schedule;

WHEREAS, the extent of the suspension applies to Government Code Section 54954.2(a): preparation and posting at least 72 hours before a regular meeting of an agenda that contains a brief general description of each item of business to be transacted or discussed at the meeting;

WHEREAS, notwithstanding the suspension of said Brown Act provisions, the Oversight Board believes it is in the best interest of the public that the Oversight Board comply with the Brown Act and will ensure that its meetings continue to be open and public;

WHEREAS, in keeping with the Brown Act, the Oversight Board desires to cure and correct the part of its June 22, 2012, action described above in the recitals relating to Demands to Cure;

WHEREAS, consistent with Government Code § 54960.1(b)(2), the Oversight Board wishes to rescind the first part of its June 22, 2012, motion which provides as follows:

“(1) To terminate: (a) the Cooperation Agreement between the former redevelopment agency and the Stadium Authority; (b) the portions of the Funding Agreement that are related to the former redevelopment agency’s obligations in the Cooperation Agreement pursuant to Health and Safety Code section 34181(d), because it is in the best interests of the affected taxing entities.”;

WHEREAS, the Oversight Board desires to schedule a Special Meeting to consider the termination of the Stadium Agreements and to have that matter expressly placed on the agenda for such Special Meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY AS FOLLOWS:

SECTION 1. The Oversight Board hereby rescinds the first part of the Two-Part Motion adopted on June 22, 2012, as part of Agenda Item 5.B. as follows:

(1) To terminate: (a) the Cooperation Agreement between the former redevelopment agency and the Stadium Authority; (b) the portions of the Funding Agreement that are related to the former redevelopment agency’s obligations in the Cooperation Agreement pursuant to Health and Safety Code section 34181(d), because it is in the best interests of the affected taxing entities.

SECTION 2. Successor Agency staff is directed to notify and to provide a copy of this resolution to Stadco and Mr. Rowen as soon as is practicable.

SECTION 3. The Oversight Board will consider the termination of the Stadium Agreements at a properly scheduled Special Meeting to be held as directed by the Oversight Board.

SECTION 4. The Special Meeting Notice and Agenda shall comply with Brown Act requirements and include express language regarding termination of Stadium Agreements with language approved by Oversight Board Counsel.

SECTION 5. The second part of the Two-Part Motion adopted by the Oversight Board on June 22, 2012, which provides as follows: “(2) To not place any stadium-related obligations on the Recognized Obligation Payment Schedule.” shall remain in full force and effect.

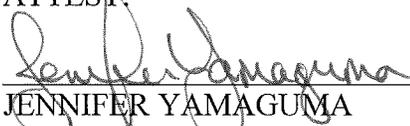
SECTION 6. The Successor Agency is directed to provide this resolution, written notice, and information about this action to the Department of Finance and other entities as required by law and to post this resolution on the Successor Agency’s website as required by law.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution passed and adopted by the Oversight Board for the Successor Agency to the City of Santa Clara Redevelopment Agency at a regular meeting thereof held on the 24th day of July, 2012, by the following vote:

AYES:	BOARD MEMBERS:	Ameling, Jarvis, Maduli, Matthews, Minato, Plough and Chairperson Gage
NOES:	BOARD MEMBERS:	None
ABSENT:	BOARD MEMBERS:	None
ABSTAINED:	BOARD MEMBERS:	None


DONALD F. GAGE
Chairperson

ATTEST:

JENNIFER YAMAGUMA
Successor Agency Clerk

- Attachments incorporated by reference:
1. June 22, 2012 Agenda
 2. Stadco Cure Letter
 3. Rowen Demand Letter



CITY OF SANTA CLARA

www.santaclaraca.gov



AGENDA

OVERSIGHT BOARD FOR SUCCESSOR AGENCY TO THE CITY OF SANTA CLARA REDEVELOPMENT AGENCY

A complete agenda packet will be available for public review in the City Hall Council Chambers and the City Clerk's Office at the same time the public records are distributed to the Oversight Board.

June 22, 2012

REGULAR MEETING

2:00 PM in the City Hall Council Chambers

1. **CALL TO ORDER/ROLL CALL:**
2. **APPROVAL OF MINUTES:**
 - A. June 7, 2012.
3. **CONTINUANCE/EXCEPTIONS:**
4. **UNFINISHED BUSINESS:**
 - A. Discussion of Legal Counsel to the Oversight Board.
Issue: Source of funding.
Staff recommendation: No City General Fund impact; add as separate line item on ROPS.
 - B. Status of State Department of Finance Approval of Second ROPS (no response to Successor Agency received as of agenda posting).
5. **NEW BUSINESS:**
 - A. City of Santa Clara Successor Agency for Redevelopment Agency Affordable Housing projects [Informational Item].
 - B. Overview of Stadium Agreements.
Action: Staff recommendation to amend the ROPS to add the Stadium commitments to the ROPS.

- C. Notice of June 1, 2012 Distribution for Santa Clara Redevelopment Property Tax Trust Fund (RPTTF); Successor Agency response to County [Informational Item].

6. AGENDA ITEMS FOR NEXT MEETING:

7. PUBLIC PRESENTATIONS:

This item is reserved for persons to address the Oversight Board on any matter not on the agenda that is within the subject matter jurisdiction of the City. The law does not permit Oversight Board action on, or extended discussion of, any item not on the agenda except under special circumstances. The Oversight Board, or staff, may briefly respond to statements made or questions posed, and the City Manager may request staff to report back at a subsequent meeting. Although not required, please submit to the City Clerk your name and subject matter on forms available by the door in the Council Chambers.

8. ADJOURNMENT:

- A. To Friday, July 13, 2012 at 2:00 pm in the City Hall Council Chambers.

7.9.12

7.A.

**COBLENTZ,
PATCH, DUFFY
& BASS LLP** ATTORNEYS
AT LAW

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June 27, 2012

BY EMAIL AND FAX

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Re: Demand to Cure or Correction Violation of the Ralph M. Brown Act (Gov. Code, §§
54950 *et seq.*)

To the Oversight Board of the Successor Agency of the City of Santa Clara Redevelopment
Agency:

On behalf of Forty Niner SC Stadium Company, LLC, we submit this letter pursuant to Government Code Section 54960.1 and demand that the Oversight Board cure or correct the action purportedly taken on June 22, 2012 to terminate two agreements, the Cooperation Agreement to Assist Publicly-Owned Stadium dated as of February 28, 2011 and the Predevelopment Funding Agreement dated as of March 21, 2011 (together, the "Stadium Agreements") pursuant to Health and Safety Code Section 34181(d).

The agenda for the Board's June 22, 2012 meeting did not give sufficient notice that the Board intended to consider termination of the Stadium Agreements. The only item related to the

Lizanne Reynolds, Esq.
Richard E. Nosky, Esq.
Karen M. Tiedemann, Esq.
Don Gage
June 27, 2012
Page 2

Stadium Agreements appearing on the Oversight Board's agenda was Item 5.B, described on the agenda as follows:

Overview of Stadium Agreements.

Action: Staff recommendation to amend the ROPS to add the Stadium commitments to the ROPS.

The action purportedly taken to terminate the Stadium Agreements is not consistent with the "brief general description" of the business to be transacted of which notice was given, as required by Government Code Section 54954.2.

As far as I am aware, the Oversight Board is not presently represented by counsel. By providing this notice to all of you, we consider the Oversight Board to have been notified. If you know of any other person who should receive this notice on behalf of the Oversight Board, please forward this notice to that person.

Please cure or correct this violation.

Sincerely,



Harry O'Brien

cc: Jennifer Sparacino
Jonathan Bass, Esq.
Lauren Kowal, Esq.
Charmaine Yu, Esq.

7.9.12

7.A.

From: JC Rowen [mailto:jcrowensanjosestate@yahoo.com]
Sent: Sunday, June 24, 2012 1:18 PM
To: City Attorney
Subject:

Mr. Nosky

some further issues with respect to your role, or the role of the Legal Counsel to the Oversight Committee, if you could forward this.

As a city resident, I am surprised that Mr. George Putris, who may have formerly worked for the City and County of San Francisco, whose legal representation on the Bayview Project included attorneys for Santa Clara Plays Fair, Shute and Milhaly, prepared a motion not in accordance with Agenda Item 5b.

Again as a resident of Santa Clara, I am requesting formal correction based on my view that it is a violation of the Brown Act.

Second, I would like to expand my CPRA request dealing with Board Member Putris to include all emails, memos, letters, transpired between Putris and Board Member V. Sharma prior to the June 22 on this stadium issue.

Also, Mr. Putris talks about "television screens." was this due to his research?

Therefore my CPRA request with respect to Board Member Putris includes as emails and correspondence sent to and from

santa clara plays fair
Hon Christine Kolterman
Debbie Bress

and/OR ANY RESIDENT OF Santa Clara between May and June 2012

Thanks

James Rowen

7/2/2012