

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development

BOARD AGENDA # B-10

Urgent

Routine

AGENDA DATE January 10, 2012

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Adopt a Resolution Declaring that Stanislaus County Does Not Elect to Serve as the Successor Agency for the Stanislaus-Ceres Redevelopment Commission

STAFF RECOMMENDATIONS:

1. Approve a resolution declaring that Stanislaus County elects not to become the Successor Agency for the Stanislaus-Ceres Redevelopment Commission and requests the City of Ceres take on that role.
2. Direct the Clerk of the Board to forward a copy of this Resolution to the Auditor-Controller by January 13, 2012.

FISCAL IMPACT:

It is unknown at this time what the exact costs may be for the additional work mandated and required of the Auditor-Controller, but there should be no direct cost to the County General Fund. All required activities of the Auditor-Controller will be paid through tax increment currently obligated to the Stanislaus-Ceres Redevelopment Commission (SCRC).

BOARD ACTION AS FOLLOWS:

No. 2012-019

On motion of Supervisor De Martini, Seconded by Supervisor Chiesa  
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None


1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

**DISCUSSION:**

On December 29, 2011, the California Supreme Court (Court) issued its decision in the *California Redevelopment Association v. Matosantos* case, finding the "Redevelopment Agency Dissolution Act" (AB1x 26) constitutional and the "Alternative Redevelopment Program Act (AB1x 27) unconstitutional.

The Court's decision means that all Redevelopment Agencies in the State, including the Stanislaus-Ceres Redevelopment Commission (SCRC) will be dissolved under the Dissolution Act as of February 1, 2012, and none will have the opportunity to opt into continued existence under the Alternative Redevelopment Program Act.

The Court also pushed back the deadlines in the originally approved Dissolution Act by four months. For instance, all RDAs will be dissolved and their Successor Agencies will begin to function on February 1, 2012 under the Court's decision (as opposed to the October 1, 2011 deadline specified in the Dissolution Act itself).

Following the Supreme Court's decision, the Dissolution Act:

- Continues the suspension and prohibition of most redevelopment activities in effect since late June, 2011;
- Dissolves RDAs as of February 1, 2012 (the new dissolution date established by the Supreme Court);
- Creates successor agencies and oversight boards to continue to satisfy enforceable obligations of each former RDA, and administer the dissolution and wind down of each dissolved RDA; and
- Establishes roles for the County-Auditor Controller, the Department of Finance and the State Controller's Office in the dissolution process and satisfaction of enforceable obligations of former RDAs.

Because both Stanislaus County and City of Ceres were the original joint sponsors of the SCRC, both entities have the opportunity to consider whether they wish to become "Successor Agencies" under the Dissolution Act.

Staff from the Department of Planning and Community Development have provided a support role to SCRC, but have not been directly involved in day to day project or management activities of SCRC, nor has County staff been assigned any executive or management responsibilities for the Commission. The City of Ceres has, from the beginning, provided all executive, management, and administrative support for the SCRC.

Although not required by the Dissolution Act, on Thursday, January 5, 2012 the SCRC Board considered and approved a resolution to recommend that the City of Ceres become the Successor Agency for the SCRC. The Ceres City Council is expected to consider taking action on January 9, 2012, and it is our understanding that Ceres staff will be recommending that the Council approve becoming the Successor Agency. Staff concurs with this recommendation as there appears to be very limited advantage for the County to become SCRC's Successor Agency.

It is required that the County take action prior to January 13, 2012, if it chooses not to be the Successor Agency.

This action adopts a formal resolution acknowledging that the County does not elect to become the Successor Agency for the SCRC because of the following factors:

- The SCRC was established on or about October 30, 1990, as a cooperative approach between Stanislaus County and the City of Ceres for the purposes of redevelopment and is responsible for the implementation of redevelopment within certain boundaries as described in its Project Area;
- SCRC is not a joint powers authority and is not the subject of a joint powers agreement;
- The SCRC project area includes lands both within and outside of the City of Ceres city limits;
- The City of Ceres and County of Stanislaus both have representatives on the existing SCRC Board of Directors;
- The City Manager of the City of Ceres acts as Executive Director for SCRC;
- City of Ceres staff have provided all executive, management and administrative activities associated with SCRC programs and projects;
- The City of Ceres maintains all SCRC records and accounts;
- The County of Stanislaus staff have only provided a support role to City of Ceres staff and the SCRC Board;
- The County of Stanislaus staff have rarely, if ever, been assigned any executive or management responsibilities for the SCRC;
- The City of Ceres staff is significantly more knowledgeable of SCRC day-to-day activities, programs and projects; and
- The County Board of Supervisors will appoint at least two members of the Oversight Committee that will be responsible for monitoring Successor Agency activities and actions.

***Role of County Auditor-Controller***

Regardless of which agency becomes the Successor Agency to the SCRC, the Dissolution Act, as modified by the Court's decision, requires the County Auditor-Controller to:

- By July 1, 2012, conduct an audit of each former RDA's assets and liabilities, including pass-through payment obligations and the amount and terms of any RDA indebtedness, and provide the State Controller's Office with a copy of such audit by July 15, 2012;
- Annually determine the amount of property tax increment that would have been allocated to a RDA and deposit that amount in a Redevelopment Property Tax Trust Fund (the "Trust Fund");
- Administer the Trust Fund for the benefit of holders of former RDA debt, taxing entities that receive pass-through payments and distributions of property taxes;
- Pay pass-through payments to affected taxing entities in the amounts that would have been owed had the former RDA not been dissolved;
- Enable the Successor Agency to enable the Successor Agency to pay Enforceable Obligations of the former RDA, including bonds;
- Reimburse the Successor Agency for administrative costs under the administrative budget approved by the Oversight Board; and
- Pay any remaining balance in the Trust Fund, to school entities and other local taxing entities as property taxes.

**STAFFING IMPACTS:**

At this time it is the intention of the Auditor-Controller, with the information known at this time, to implement the succession actions as required by the Dissolution Act with existing staff. However, if suitable funds are not available from the Stanislaus RDA tax increment (or the other ten RDA's in the County) to contract with a public accounting firm or Certified Public Accountant to perform the audit requirement, there may be potential staffing impacts in the implementation process. The need for additional staff may be required for compliance purposes with the legislative mandate. Suitable funding for either contract accounting work or Departmental staff will only be available if the individual former Redevelopment Agencies have sufficient tax increment to cover the costs of their dissolution actions. Otherwise, the responsibilities mandated to the Auditor-Controller could result in a direct impact to the General Fund and current staff work load priorities.

**POLICY ISSUES:**

Staff's recommendations are a direct result of Redevelopment Agency Dissolution Act (AB x1 26) and the California Supreme Court decision in the *California Redevelopment Association v. Matosantos* case issued on December 29, 2011. The Stanislaus Ceres Redevelopment Commission historically has supported the Board priorities of striving for A Health Community, Well Planned Infrastructure System and Effective Partnerships. The State's recent actions have eliminated local governments' ability to use redevelopment as a tool in eliminating blight from a designated area, and to achieve desired development, reconstruction and rehabilitation including but not limited to: residential, commercial, industrial and retail.

**CONTACT PERSONS:**

Kirk Ford, Director, Planning and Community Development, Telephone: (209) 525-6330

Lauren Klein, Auditor-Controller, Telephone: (209) 525-6398

**ATTACHMENTS:**

1. Resolution Declaring that Stanislaus County Elects Not to Become the Successor Agency for the Stanislaus-Ceres Redevelopment Commission
2. SCRC Staff Report and Resolution dated January 5, 2012

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

Date: January 10, 2012

2012-019

On motion of Supervisor De Martini Seconded by Supervisor Chiesa  
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # B-10

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**Resolution Electing Not to Serve as the Successor Agency for the Stanislaus-Ceres  
Redevelopment Commission Pursuant to the Redevelopment Agency Dissolution Act of 2011  
(Assem. Bill No. 26, Blumenfield (2011-2012 1st Ex. Sess.) ena**

WHEREAS, Assem. Bill Nos. 26 & 27 (2011-2012 1st Ex. Sess.) enacted as Stats. 2011, 1st Ex. Sess. 2011-2012, chs. 5-6 (hereafter Assembly Bill 1X 26 and Assembly Bill 1X 27) were signed by Governor Brown on June 28, 2011;

WHEREAS, Assembly Bill 1X 26 (a.k.a, the "Redevelopment Agency Dissolution Act") bars redevelopment agencies from engaging in new business and provides for their windup and dissolution, and Assembly Bill 1X 27 (a.k.a., the "Alternative Redevelopment Program Act") allowed for the survival of redevelopment agencies upon certain conditions;

WHEREAS, On December 29, 2011, the California Supreme Court issued its decision in California Redevelopment Association v. Matosantos (S194861), finding Assembly Bill 1X 26 largely constitutional and invalidated Assembly Bill 1X 27 as unconstitutional;

WHEREAS, the Stanislaus-Ceres Redevelopment Commission (the "SCRC"), was established on or about October 30, 1990, as a cooperative approach between Stanislaus County and the City of Ceres for the purposes of redevelopment and is responsible for the implementation of redevelopment within certain boundaries as described in its Project Area;

WHEREAS, the SCRC is not a joint powers authority and is not the subject of a joint powers agreement;

WHEREAS, the SCRC project area includes lands both within and outside of the City of Ceres City Limits;

WHEREAS, the City of Ceres and County of Stanislaus both have representatives on the existing SCRC Board of Directors;

WHEREAS, the City Manager of the City of Ceres acts as Executive Director for SCRC;

WHEREAS, City of Ceres Staff provides all executive, management and administrative activities associated with SCRC programs and projects;

WHEREAS, the City of Ceres maintains all SCRC records and accounts;

WHEREAS, the County of Stanislaus staff have only provided a support role to City of Ceres staff and the SCRC Board;

WHEREAS, the County of Stanislaus staff have never been assigned any executive or management responsibilities for the SCRC;

WHEREAS, the City of Ceres staff is significantly more knowledgeable of SCRC day-to-day activities, programs and projects;

WHEREAS, the County Board of Supervisors will appoint at least two members of the Oversight Committee that will be responsible for monitoring Successor Agency activities and actions;

WHEREAS, the City of Ceres has expressed their desire to become the Successor Agency to the SCRC.

NOW, THEREFORE BE IT RESOLVED that the Stanislaus County Board of Supervisors hereby elects pursuant to Health and Safety Code section 34172, subdivision (d)(1), not to serve as the successor agency for the Stanislaus-Ceres Redevelopment Commission.

BE IT FURTHER RESOLVED that the Stanislaus County Board of Supervisors requests the City of Ceres serve as the successor agency for the Stanislaus-Ceres Redevelopment Commission.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be filed with the Auditor Controller of Stanislaus County no later than January 13, 2012.

ATTEST: **CHRISTINE FERRARO TALLMAN, Clerk**  
**Stanislaus County Board of Supervisors,**  
**State of California**



File No.

# Stanislaus-Ceres Redevelopment Commission



"Partnership for a Better Community"

**MEETING DATE: January 5, 2012**

**TO:** Stanislaus-Ceres Redevelopment Commission

**FROM:** Bryan Briggs, Redevelopment & Economic Development Manager, City of Ceres

**SUBJECT:** Designation of the City of Ceres as the Successor Agency for the Stanislaus-Ceres Redevelopment Agency

## **RECOMMENDATION**

That the Stanislaus-Ceres Redevelopment Commission (SCRC) adopt a resolution recommending that the City of Ceres be designated as the "Successor Agency" as defined in ABx1 26, that the City of Ceres Redevelopment and Economic Development Manager be designated as the person to whom requests for information can be made and to assume the responsibilities and control of assets of the redevelopment commission including its housing functions.

## **BACKGROUND**

On Thursday, June 30, the Governor of the State of California Senate signed into law ABx1 26 and ABx1 27 as part of a larger package of budget bills intended to close California's approximately \$25 billion budget deficit. Assembly Bill 26 (ABx1 26) eliminated all California redevelopment agencies (RDAs) effective October 1, 2011 and Assembly Bill 27 (ABx1 27), if local jurisdictions took certain specific actions, would have revived the Agency under a new set of rules.

On Tuesday, July 12, 2011 the California Redevelopment Association (CRA), in conjunction with the League of California Cities (LCC), and the cities of San Jose and Union City filed a lawsuit with the California Supreme Court challenging the constitutionality of California State Budget Bills ABx1 26 and ABx1 27 and furthermore requesting a temporary stay of the requirements of the budget bills.

On Thursday August 11, 2011, the California Supreme Court agreed to hear the case of California Redevelopment Assn. v. Matosantos and granted an expedited schedule to facilitate oral arguments as soon as possible and a decision before January 15, 2012. The effect of the California Supreme Court's decision is to stay all aspects of each budget bill, except the provisions that preclude agencies from incurring new debt, transferring assets, acquiring real property, entering into new contracts or amending redevelopment plans.

On September 26, 2011, ten Southern California cities and their redevelopment agencies (the "Coalition") filed a complaint for declaratory and injunctive relief and a petition for a writ of mandate with the Superior Court for Sacramento County, in an effort to have State Budget Bills ABx1 26 and 27 struck down.

On December 29, 2011 the California Supreme Court issued its ruling in *California Redevelopment Association et al. v. Ana Matosantos et al.* In its ruling the Court upheld AB 26, the bill that dissolves all redevelopment agencies. However it found that AB 27, which allows redevelopment agencies to avoid elimination by making certain payments to offset state budget expenses, is unconstitutional. As a result, all redevelopment agencies are required to dissolve and transfer their assets and liabilities to "successor agencies" that will wind down the redevelopment agencies' affairs. Because AB 1X 26 established deadlines for certain actions that have already passed, the Court extended the deadlines for performance of those actions required prior to May 1, 2012 by four months. Based on the decision, all redevelopment agencies will be dissolved as of February 1, 2012, absent emergency legislation delaying or reversing this outcome.

### **ABx1 26 "Elimination Bill"**

Most of the provisions of ABx1 26 are taken from Governor Brown's initial proposal to eliminate RDAs, however, unlike the Governor's previous proposal, the bills do not provide for any payment directly to the State. Despite the fact that the State is not paid directly, the intent of ABx1 26 is purely budgetary. Under this bill, redevelopment agencies would cease to exist as corporate governmental entities as of October 1, 2011. Until that date, agencies are prohibited from taking any actions other than payment of existing indebtedness and performance of existing contractual obligations.

Under ABx1 26, the State has established a sunset date for all redevelopment agency activities in California - October 1, 2011. On that date, all agency property and obligations would be transferred to successor agencies, except for the assets of the low and moderate income housing fund, and overseen by an oversight board, the county auditor-controller and the Department of Finance, as proposed under the Governor's previous plan. Assets in the low and moderate income housing fund would be transferred to the auditor-controller for distribution to taxing agencies. Successor agencies would be charged with repaying existing indebtedness, completing performance of existing contractual obligations and otherwise winding down operations and preserving agency assets for the benefit of taxing agencies.

### **Discussion**

The California Supreme Court, on December 30, 2011 issued its ruling in *California Redevelopment Association et al. v. Ana Matosantos et al.* (Lawsuit), the case challenging the constitutionality of Assembly Bill 1X 26 (AB 26) and Assembly Bill 1X 27 (AB 27), the bills that sought to force redevelopment agencies to pay \$1.7 billion to the State of California under threat of elimination.

In its ruling the Court upheld AB 26, the bill that dissolves all redevelopment agencies. However it found that AB 27, which allows redevelopment agencies to avoid elimination by making certain payments to offset state budget expenses, is unconstitutional. As a result, all redevelopment agencies are required to dissolve and transfer their assets and liabilities to "successor agencies" that will wind down the redevelopment agencies' affairs.



Because AB 1X 26 established deadlines for certain actions that have already passed, the Court extended the deadlines for performance of those actions required prior to May 1, 2012 by four months. Based on the decision, all redevelopment agencies will be dissolved as of February 1, 2012, absent emergency legislation delaying or reversing this outcome. While legislation may be introduced to mitigate the impact of this ruling, cities, counties and their redevelopment agencies have several immediate obligations that must be met under AB 26 as modified by the ruling. These steps include the following:

- Cities with redevelopment agencies should conduct an accounting of all agency assets, liabilities and obligations as soon as possible. Many redevelopment agencies took steps to protect assets and ongoing redevelopment projects in the months prior to the adoption of AB 26 and 27. Cities should review the status of all ongoing projects and agreements, and evaluate their options with regard to these commitments. Cities should additionally make sure that they have complete information and documentation for any redevelopment agency activities over the past year in particular, to ensure that they can adequately protect their assets and any ongoing redevelopment activities.
- Cities must determine whether they want to serve as the successor agency in charge of winding down their redevelopment agencies' affairs. If they do not, they must pass and file a resolution declaring that they do not want to act as successor agency no later than January 13, 2012, based on the Court's direction regarding the extension of dates in AB 26.

Before taking on this responsibility, each city should decide whether it wants to assume the obligations and potential liabilities that may come with serving as the successor agency. Cities that do not want to serve as the successor agency should adopt the required resolution as soon as feasibly possible.

- The redevelopment agency is required to prepare a preliminary draft Recognized Obligation Payment Schedule (the ROPS) by January 30, 2012 and if a city does decide to serve as the successor agency, it must prepare a subsequent draft Recognized Obligation Payment Schedule (ROPS) by March 1, 2012.

Cities should ensure that the ROPS includes all information required under AB 26 and includes the funds the city will need to carry out the dissolution process. The draft ROPS will be submitted to the oversight board, and once approved must be completed and delivered to the county auditor-controller, State Controller and State Department of Finance no later than April 15, 2011.

- The city that established the redevelopment agency has the option of retaining the redevelopment agency's affordable housing assets and functions, excluding unencumbered amounts in the low and moderate income housing fund. If the city wants to retain this responsibility, it should adopt a resolution to that effect prior to dissolution and commence the process of transferring those assets.
- The city should begin to consider possible appointments to the oversight board. The mayor or board chair of each city with a dissolved redevelopment agency will appoint one member representing the city, and a second member representing the redevelopment agency employees, from the recognized employee organization representing the largest number of former redevelopment agency employees.

The Legislature may enact legislation that will address some of the issues and unintended consequences that will result from the Court's decision to uphold AB 26 but overturn AB 27. However, until that action is taken the SCRC is left with the decision whether to recommend that the City of Ceres be designated as the successor agency, whom to appoint as the person to whom information requests can be made and finally whether to recommend that the City of Ceres assume the responsibilities and control of assets of the redevelopment agency, including its housing functions.

**Conclusion**

The provisions of ABx1 26 eliminate redevelopment agencies in California effective February 1, 2012. Under ABx1 26, redevelopment agencies are authorized to make scheduled payments on and perform obligations required under its "Enforceable Obligations and to cooperate with its successor agency and auditing entities.

In addition, ABx1 26 requires each redevelopment agency to adopt an Enforceable Obligation Payment Schedule and designate a person to whom information requests can be made by the California State Department of Finance.

Staff recommends that the Stanislaus-Ceres Redevelopment Commission recommend that the City of Ceres be designated as the "successor agency" as defined in ABx1 26, assume the responsibilities and control of assets of the redevelopment agency, including its housing functions and designate the City of Ceres Redevelopment and Economic Development Manager as the person to whom information requests can be made.

RESOLUTION NO. \_\_\_\_ (SCRC)

RESOLUTION OF THE STANISLAUS-CERES REDEVELOPMENT COMMISSION TO EXPRESS ITS INTENT TO DESIGNATE THE CITY OF CERES AS THE SUCCESSOR AGENCY OF THE STANISLAUS-CERES REDEVELOPMENT COMMISSION PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND 34173 AND APPOINT THE CITY OF CERES REDEVELOPMENT AND HOUSING MANAGER AS THE PERSON TO WHOM INFORMATION REQUESTS WILL BE MADE AND TO ELECT TO ASSIGN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE CITY OF CERES ON BEHALF OF THE STANISLAUS-CERES REDEVELOPMENT COMMISSION PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

**WHEREAS**, Assembly Bill ABx1 26 (the “Dissolution Act”) has been enacted, and deemed constitutional by the California Supreme Court, to significantly modify the Community Redevelopment Law (Health & Safety Code Section 33000, *et seq.*; the “Redevelopment Law”); and,

**WEREAS**, the Dissolution Act, through the addition of Part 1.8 to the Redevelopment Law, suspended all new redevelopment activities and incurrance of indebtedness as of its effective date and through the addition of Part 1.85 to the Redevelopment Law (“1.85”), will dissolve redevelopment agencies on February 1, 2012; and,

**WHEREAS**, Section 34171(j) of the Redevelopment Law (as added by Part 1.85) provides that the city that authorized the creation of the redevelopment agency shall be the “successor” to the redevelopment agency dissolved pursuant to Section 34170 of the Redevelopment Law (as added by Part 1.85); and,

**WHEREAS**, Section 34173 of the Redevelopment Law (as added by Part 1.85) provides that the “successor agency” as defined in Section 34171(j) of Part 1.85 is designated as the successor entity to the former redevelopment agency; and,

**WHEREAS**, Section 34176 of the Redevelopment Law (as added by Part 1.85) provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and,

**WHEREAS**, the Stanislaus-Ceres Redevelopment Commission elects to recommend that the City of Ceres serve as the successor agency of the Commission in accordance with Section 34171(j) and Section 34176 of the Redevelopment Law (as added by Part 1.85).

**NOW, THEREFORE, BE IT RESOLVED**, the Commission hereby recommends that the City of Ceres accept the designation to serve as the successor agency for the Commission in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law (as added by Part 1.85); and,

**BE IT FURTHER RESOLVED**, the Commission hereby recommends that the City of Ceres elect to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law (as added by Part 1.85); and,

**BE IT FURTHER RESOLVED**, the Commission hereby recommends that the City of Ceres appoint its Redevelopment and Housing Manager as the person to whom requests for information may be made by the California State Department of Finance; and,

**BE IT FURTHER RESOLVED**, that the Acting City Manager, or his designee, is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to obtain the housing assets of the Commission pursuant to Section 34176 of the Redevelopment Law (as added by Part 1.85).

**PASSED AND ADOPTED** by the Stanislaus/Ceres Redevelopment Commission at a regular meeting thereof held on the 5<sup>th</sup> day of January 2012, by the following vote:

AYES:

NOES:

ABSENT:

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Chris Vierra, Chairperson

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Cindy Heidorn, Secretary