

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ELECTING TO RETAIN THE APPLE VALLEY REDEVELOPMENT AGENCY'S HOUSING ASSETS AND FUNCTIONS, PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE.

SUMMARY STATEMENT

The Redevelopment Agency of the Town of Apple Valley ("Agency") was created by the Town Council for the purposes of implementing redevelopment activities in the Town. The Town Council adopted the Redevelopment Plan for the Apple Valley Redevelopment Project in accordance with the Community Redevelopment Law (Health and Safety Code § 33000 *et seq.*) ("CRL"). The Redevelopment Project Area was found to have a significant number of physical and economic blighting conditions that necessitated adoption of the Redevelopment Plan. The Redevelopment Plan authorizes the Agency to receive tax increment revenue to pay for programs and projects that address these conditions consistent with the CRL.

In January, 2011, the Governor announced his intent to eliminate redevelopment agencies as a way to help balance the State budget. The Legislature then enacted and the Governor signed Assembly Bill 1X 26 ("AB 1X 26") and Assembly Bill 1X 27 ("AB 1X 27"). These bills took effect on June 29, 2011.

BACKGROUND

AB 1X 26 immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011. AB 1X 27 allowed a Town or county that had a redevelopment agency to avoid dissolution by adopting an ordinance agreeing to make specified payments to reduce the State budget deficit.

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Recommendation:

That the Town Council approve Resolution No. 2012-04, A Resolution Of The Town Council Of The Town Of Apple Valley, California, Electing To Retain The Housing Assets And Functions Previously Performed By The Redevelopment Agency Of The Town Of Apple Valley Pursuant To Part 1.85 Of Division 24 Of The California Health And Safety Code

Proposed by: Economic and Community Development Item Number _____
Town Manager Approval: _____ Budgeted Item Yes No N/A
Council Meeting Date: 01/17/12

A Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 26 and AB 27 on behalf of cities, counties and redevelopment agencies and requesting a stay of enforcement. On August 11, 2011, and August 17, 2011, the Supreme Court stayed portions of AB 1X 26, and stayed AB 1X 27 in its entirety during the pendency of the matter.

On December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27, and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012.

AB 1X 26 provides that the Town will be the “successor agency” to the Agency and responsible for the wind down of the Agency’s affairs. The activities of the Town, as successor agency, will be overseen by an oversight board, comprised primarily of representatives of other affected taxing agencies, until such time as the debts of the Agency are paid off, all Agency assets liquidated and all property taxes are redirected to local taxing agencies.

AB 1X 26 provides that the Town, as the entity that created the Agency, may elect to retain the housing assets and obligations of the former redevelopment agency. If the Town elects to retain the responsibility for performing housing functions previously performed by the Agency, all rights, powers, duties, and obligations of the former redevelopment agency shall be transferred to the Town. Further, the Town may retain funds in the Agency’s Low and Moderate-Income Housing Fund, that are encumbered, but any unencumbered funds in the Housing Fund would not be transferred. Unless the costs associated with these housing obligations are set forth in an approved ROPS, the Town will be assuming all of these costs, potentially without any additional funding source, and the costs would be the sole responsibility of the community general fund.

Unlike the election to be the successor agency, the Town must affirmatively elect to retain the housing functions and assets of the former redevelopment agency. If the Town does not elect to retain those housing responsibilities, AB 1X 26 provides that all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the former redevelopment agency will be transferred to the local housing authority, or if there is no local housing authority, to the California Department of Housing and Community Development.

RECOMMENDED ACTION

Staff is recommending that the Town Council adopt the attached resolution electing to retain the housing assets and functions previously performed by the Redevelopment Agency.

RESOLUTION NO. 2012-04

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, ELECTING TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE TOWN OF APPLE VALLEY PURSUANT TO PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE

WHEREAS, the Town Council of the Town of Apple Valley ("Town") approved and adopted the Redevelopment Plan(s) for the Apple Valley Redevelopment Project(s) ("Redevelopment Plan(s)") covering certain properties within the Town (the "Project Area(s)"); and

WHEREAS, the Redevelopment Agency of the Town of Apple Valley ("Agency") has been engaged in activities to execute and implement the Redevelopment Plan(s) pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) ("CRL"); and

WHEREAS, since adoption of the Redevelopment Plan(s), the Agency has undertaken redevelopment projects in the Project Area(s) to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with private industries to create jobs and expand the local economy; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature enacted, and the Governor signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created it enacted an ordinance committing it to make certain payments; and

WHEREAS, a Petition for Writ of Mandate was filed in the Supreme Court of the State of California on July 18, 2011 (*California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861), challenging the constitutionality of AB 1X 26 and AB 1X 27 on behalf of cities, counties and redevelopment agencies; and

WHEREAS, on December 29, 2011, the Supreme Court issued its final decision in the aforesaid litigation, upholding AB 1X 26, invalidating AB 1X 27 and extending all statutory deadlines under AB 1X 26, essentially dissolving all redevelopment agencies throughout the State effective February 1, 2012; and

WHEREAS, Health and Safety Code Section 34176 provides that the Town that authorized the creation of the redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

**THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA,
DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Election to Retain Housing Assets and Functions. In accordance with Health and Safety Code Section 34176, and based on the Recitals set forth above, because the Town Council authorized the creation of the Redevelopment Agency of the Town of Apple Valley, the Town Council hereby elects to retain the housing assets and functions previously performed by the Redevelopment Agency of the Town of Apple Valley. Upon dissolution of the Agency pursuant to Part 1.85 of Division 24 of the California Health and Safety Code, and except as provided under the CRL, all rights, powers, duties and obligations, excluding any unencumbered amounts on deposit in the Redevelopment Agency of the Town of Apple Valley's Low and Moderate Income Housing Fund shall be transferred to the Town of Apple Valley

Section 3. Implementation. The Town Council hereby authorizes and directs the Town Manager to take any action and execute any documents necessary to carry out the purposes of this Resolution, including but not limited to notifying the San Bernardino County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Resolution and the transfer of all housing assets and functions of the former Redevelopment Agency of the Town of Apple Valley to the Town of Apple Valley, all in accordance with AB 1X 26.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Town Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

Section 5. Certification. The Town Clerk shall certify to the adoption of this Resolution.

Section 6. Effective Date. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the Town Council on the 17 day of January 2012.

Barb Stanton, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk