ITEM NO. 13

STAFF REPORT

CITY OF OCEANSIDE

DATE: June 27, 2012

TO: Honorable Mayor and City Council Members

FROM: City Manager's Office: Successor Agency

SUBJECT: **ADOPTION OF A RESOLUTION ALLOWING THE RELOCATION APPEALS BOARD FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA TO EXPIRE ON JULY 1, 2012**

SYNOPSIS

Staff recommends that the City Council adopt a resolution allowing the Relocation Appeals Board to expire on July 1, 2012, as it has fulfilled its purpose for the benefit of the citizens of Oceanside and, due to inactivity of current and future projects in the former Redevelopment Project Area.

BACKGROUND

The Relocation Appeals Board hears complaints brought by residents and businesses related to relocation caused by projects within the downtown Redevelopment Project Area and returns their findings and recommendations to the Redevelopment Agency.

The Relocation Guidelines were adopted by Resolution 90 C-62 on October 16, 1990. In 2000 minor changes were incorporated into the updated Relocation Rules and Regulations. Pursuant to the Redevelopment Plan and Section 33352 of the California Redevelopment Law an overall Relocation Plan for the Downtown Redevelopment Project Area was also prepared, which established relocation procedures specific to the Downtown Redevelopment Project Area.

The Relocation Appeals Board was abolished by the City Council in 1997 due to a long period of inactivity. The Council further directed that if the need should arise to create another appeals board, it would be part of the Housing Commission's purview. However, the Housing Commission was never formally appointed as the Relocation Appeals Board by resolution. Due to the lack of action, the City was not in compliance with California Relocation Law, which requires that each city having a Redevelopment Agency have a Relocation Appeals Board appointed by resolution.

On September 6, 2000, the City Council adopted resolutions approving the updated Relocation Rules and Regulations and Overall Relocation Plan. Relocation law also requires that a Relocation Appeals Board be appointed by the Mayor and City Council to review appeals to relocation assistance. Because there was no appointed Relocation

Appeals Board at that time, staff recommended that the Council appoint a five-member panel including members of the Housing Commission, Redevelopment Advisory Committee, and the Transportation Commission. On September 20, 2000, the five-member Board was established.

ANALYSIS

On December 29, 2011, the California Supreme Court upheld AB 1X 26, which dissolved all redevelopment agencies in California as of January 31, 2012. The City of Oceanside adopted a resolution and elected to become the Successor Agency to the Oceanside Redevelopment Agency effective February 1, 2012. The Redevelopment Agency no longer exists and is currently in a shut-down mode and has no funding to continue development in the project area.

In the twelve years since the Relocation Appeals Board was re-established they have historically met only for the annual elections in January of each year with the exception to approve the by-laws and to receive a status report on the tenant relocation in the area of Pacific Street, Seagaze Drive and Myers Street as a result of the beach resort hotel project.

Due to the Supreme Court's decision regarding redevelopment agencies and the inactivity of current and future projects within the purview of the Relocation Appeals Board, staff is recommending that the Relocation Appeals Board expire on July 1, 2012.

FISCAL IMPACT

There is no fiscal impact with the elimination of the Relocation Appeals Board. The expenses related to this Board were minimal and included staff time preparing the agenda, mailing the agenda and two staff members attending the meeting.

COMMISSION/COMMITTEE REPORT

Does not apply.

CITY ATTORNEY ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution allowing the Relocation Appeals Board to expire on July 1, 2012, as it has fulfilled its purpose for the benefit of the citizens of Oceanside and, due to inactivity of current and future projects in the former Redevelopment Project Area.

PREPARED BY:

Kathy Brann
Downtown Development Manager

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:
Michelle Skaggs-Lawrence, Deputy City Manager

ATTACHMENT:
1. Resolution approving the expiration of the Relocation Appeals Board

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING THE EXPIRATION OF THE RELOCATION APPEALS BOARD FOR THE DOWNTOWN REDEVELOPMENT PROJECT AREA AS OF JULY 1, 2012

WHEREAS, the City Council of Oceanside (the "City Council") by Resolution No. 00-R532-1 adopted the resolution establishing the Relocation Appeals Board for the Downtown Redevelopment Project (the "Procedure") at its September 20, 2000 meeting;

WHEREAS, the Relocation Appeals Board has been in existence since 2000; and

WHEREAS, due to the California Supreme Court's decision to uphold AB 1X 26 dissolving all redevelopment agencies in California as of January 31, 2012; and

WHEREAS, the City Council finds that the Relocation Appeals Board has fulfilled its purpose for the benefit of the citizens of the City of Oceanside pursuant to Health and Safety Code Section 33417.5 (California Redevelopment Law);

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

1. The term of the Relocation Appeals Board for the Redevelopment Project Area for the City of Oceanside will expire on July 1, 2012.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____day of _____, 2012, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF OCEANSIDE RELOCATION APPEALS BOARD BYLAWS

ARTICLE I. THE RELOCATION APPEALS BOARD

SECTION 1.1 Name of the Relocation Appeals Board

The name of the Board shall be "The Community Development Commission of the City of Oceanside Relocation Appeals Board" ("Appeals Board").

SECTION 1.2 Purpose of Appeals Board

The Appeals Board shall consider appeals of the Agency Administrator's determination of relocation grievances brought by persons or businesses residing or doing business within the area of a redevelopment project being carried out by the Agency.

ARTICLE II. MEMBERSHIP AND COMPENSATION

SECTION 2. 1 Membership Composition

The Appeals Board shall consist of five (5) members and shall be appointed by the Mayor of the City of Oceanside (the "City"), subject to the approval of the City Council. The Appeals Board shall consist of two (2) members of the Redevelopment Advisory Committee, two (2) members of the Housing Commission, and one (1) member of the Transportation Commission. The Appeals Board members' terms shall expire concurrently with the terms of their memberships on the Redevelopment Advisory Committee or Housing Commission, and/or Transportation Commission, or as so designated by the Mayor. The members of the Appeals Board may not now be, nor have been a member of: 1) the staff of a City of Oceanside department; 2) the Community Development Commission of the City of Oceanside, California (the "Agency"); or 3) the staff of the Agency.

SECTION 2.2 Compensation of Members

Pursuant to Community Redevelopment Law Section 33147.5, the members of the Appeals Board shall serve without compensation, but each of the members shall be reimbursed for his or her necessary expenses incurred in performance of his or her duties, as determined by the City Council.

SECTION 2.3 Termination of Membership

All members serve at the pleasure of the City Council and may be removed during a term. Membership on the Appeals Board shall automatically terminate upon any of the following occurrences:

a. The expiration date of the Appeals Board member's membership on either the Redevelopment Advisory Committee or the Housing Commission, or the Transportation Commission, or as so designated by the Mayor;
b. Upon removal by a majority of the City Council, with or without cause;
c. The member fails to complete and submit the required financial interest disclosure forms to the City Clerk's office as required.

SECTION 2.4 Resignation

Any Appeals Board member may resign at any time by giving written notice to the Mayor of the City of Oceanside and the Chairperson of the Appeals Board. Any such resignation shall be effective upon receipt or upon any date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

SECTION 2.5 Vacancy

When a vacancy occurs, the Mayor shall appoint an applicant to fill the vacancy, subject to the provisions and appointment procedures outlined in Chapter 2, Article 2.1 of the City Code. Vacancies will be filled as expeditiously as is feasible.

ARTICLE III. OFFICERS

SECTION 3.1 Officers

The officers of the Appeals Board shall consist of a Chairperson and Vice-Chairperson, and Secretary. The Chairperson and Vice-Chairperson must be regular voting members. The Chairperson and Vice-Chairperson shall be elected from among the members of the Appeals Board. The Administrator of the Agency, or his or her designee, shall serve as Secretary of the Appeals Board on a permanent basis.

SECTION 3.2 Chairperson

The Chairperson shall preside at all meetings of the Appeals Board and shall work with the staff who serve the Appeals Board to submit agendas, determinations, and information at such meetings that are reasonable and proper for the conduct of business affairs and policies of the Appeals Board.

SECTION 3.3 Vice-Chairperson

The Vice-Chairperson, in the absence or incapacity of the Chairperson, shall perform the duties of the Chairperson. Should the office of the Chairperson become vacant, the Vice-Chairperson shall perform the duties of the Chairperson until the Appeals Board members elect a new Chairperson.

SECTION 3.4 Additional Duties

At times, officers of the Appeals Board shall perform duties and functions at the request of the Appeals Board or staff, incidental to the offices held by such officers.

SECTION 3.5 Election

The Chairperson and Vice-Chairperson shall be elected each year at the annual meeting of the Appeals Board. The term of offices of Chairperson and Vice-Chairperson are for the calendar year or for the portion thereof remaining after election to office.

SECTION 3.6 Vacancies

Should either of the offices of Chairperson or Vice-Chairperson become vacant, the Appeals Board members, at a special meeting shall elect a successor for the unexpired term.

ARTICLE IV. MEETINGS

SECTION 4.1 Annual Meetings

The annual meeting of the Appeals Board shall be held on the fourth (4th) Monday in January of each year in the principal business offices of the Agency. The members of the Appeals Board may establish another meeting place or postpone the time of the meeting.

SECTION 4.2 Regular Meetings

Regular meetings are not established since the business of the Appeals Board will depend on appeals by persons who file a request for hearing with the Appeals Board.

SECTION 4.3 Special Meetings

a) A special meeting may be called at anytime by the Chairperson or upon the written request of two of the members of the Appeals Board by delivering, personally or by mail, written notice to each member. If a local newspaper of general circulation, radio or television station makes a written request to be notified of Special Meetings of the Appeals Board, the Appeals Board shall provide such notification.

b) A special meeting shall be called by the Secretary of the Appeals Board in the event that a resident or other person displaced or to be displaced by the Agency files a request for hearing with the Appeals Board. Such special meeting shall be called by the Secretary for a time and date within 30 days after receipt of written request for such a hearing by the resident or other person to be displaced.

c) Such Notice must be delivered personally or by mail, return receipt requested, at least 24 hours before the time of such meeting as specified in the notice to the Appeals Board members. Such written notice may be dispensed with, as to any member who at or prior to the time the meeting convenes, files with the Secretary of the Appeals Board a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with, as to any member who is actually present at the time it convenes.

d) A Notice must be delivered personally or by mail, return receipt requested, to the person(s) requesting a hearing before the Appeals Board at least 10 days before such hearing. The Notice shall specify the time and place of the special meeting and the subject of business to be transacted.

SECTION 4.4 Hearing on Complaints

a) The Appeals Board shall consider complaints by any person who believes himself aggrieved by a determination by the Agency as to eligibility for assistance or the amount of payment relating to relocation within a redevelopment project area being administered by the Agency, provided that the Appeals Board has first determined that the person filing the complaint has filed a claim for relocation assistance and payments with the Agency, and that the Agency has reviewed the matter and rendered an initial decision thereon. If such a claim has not been filed with the Agency, the Appeals Board shall not conduct any hearing on the matter until such a claim has been filed with the Agency and the Agency has rendered an initial decision thereon.

b) Any request for formal review and reconsideration under this section shall be filed in writing with the Secretary of the Appeals Board within thirty (30) days following the date that the claimant receives notice of the initial determination of the Agency of the claim. Upon receipt of such a written request for formal review and reconsideration, the Appeals Board shall hear the complaint at a special meeting of the Appeals Board members. Any presentation by the claimant to be considered by the Appeals Board shall be submitted prior to, or at the hearing on the complaint.

c) The Relocation Appeals Board shall determine if the Agency has complied with the provisions of Chapter 4, Article 9, of the California Community Redevelopment Law pertaining to relocation, the California Relocation Assistance Law, the Rules and Regulations for the Implementation of the California Relocation Assistance Law adopted by the Agency and, where applicable, federal laws and regulations.

d) The Relocation Appeals Board, after public hearing, shall transmit its finding and determinations to the Agency Board including any recommended modification(s) of the Agency's initial determination. Such findings and determinations shall be issued as soon as possible, but not later than 10 days from receipt of the last material submitted for consideration by the claimant, or the date of the hearing.

SECTION 4.5 Adjourning Meetings

a) Any meeting of the Appeals Board may be adjourned to another meeting providing the adjournment indicates the date, time, and place of the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of adjournment.

b) Any public hearing being held (or noticed or ordered to be held) may be continued (or ordered or noticed to be continued) to any subsequent meeting in the same manner and to the same extent set forth for the adjournment or meetings; provided that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or notice of continuance was adopted or made.

SECTION 4.6 Meetings to be Open and Public

All meetings of 3 or more Appeals Board members to take action or to deliberate concerning Appeals Board business and its conduct shall be open and public. All persons shall be permitted to attend any such meetings except as otherwise provided by law.

SECTION 4.7 Quorum

Three members of the Appeals Board shall constitute a quorum for the purpose of conducting its business, exercising its powers, and for all other purposes. Any action by the Appeals Board shall require a vote of 3 of its members. A smaller number of Appeals Board members may adjourn a meeting from time to time until a quorum is present.

SECTION 4.8 Attendance at Meetings

All members of the Appeals Board shall be required to attend all Appeals Board meetings unless such member has been excused from participation.

SECTION 4.9 Excused Absences

A member's absence from a meeting shall be excused if, prior to the meeting from which a member will be absent, the member notifies the Chairperson or City staff of his or her intent to be absent. At each meeting, after the meeting has been called to order, the Chairperson shall report to the committee the name of any member who has so notified the Chairperson or staff of his/her intent to be absent.

SECTION 4.10 Order of Business

The following shall be the general order of business at Appeals Board meetings:

1) Roll Call
2) Approval of Minutes
3) Relocation Appeals
4) General
5) Adjournment

At any meeting, the Appeals Board members, by a vote of 3 of the members, may change the order of business.

SECTION 4.11 Rules of Order

All business and matters before the Appeals Board shall be transacted in conformance with Article I of Chapter 2 of the Oceanside City Code to the extent applicable to the business of this Appeals Board.

SECTION 4.12 Off-Agenda Items

No off-agenda items shall be acted upon or discussed by the Appeals Board. Appeals Board members, staff, and/or the public may announce off-agenda matters of concern. Each off-agenda item shall be automatically referred to staff for resolution or to be placed on the next available Appeals Board agenda.

ARTICLE V. RECORDS, REPORTS, ANNUAL WORKPLAN

SECTION 5.1 Meeting Records

The Appeals Board shall keep minutes of all meetings, which shall be open for inspections by any member of the public. Minutes should contain detailed voting records by member, and by specific action. Upon approval of meeting minutes by the Appeals Board, copies of such minutes shall be distributed to the City Council and City Manager.

SECTION 5.2 Reports Submitted to City Council

The Appeals Board shall submit copies of all written reports, decisions, and correspondence sent to public agencies to the City Manager and City Council upon distribution of the original document.

ARTICLE VI. REPRESENTATION BEFORE PUBLIC BODIES

SECTION 6.1 Representation

Any official representation on behalf of the Appeals Board before the Community Development Commission, or any public body, shall be made by the Chairperson, the Vice-Chairperson in the Chairperson's absence, or a member of the Appeals Board specifically designated by the Appeals Board.

SECTION 6.2 Statement of Minority Views

All reports by City staff and all official representation on behalf of the Appeals Board pursuant to Section 5.1 and 5.2 on matters that have been approved or disapproved by the Appeals Board shall, in addition to a statement of majority vote, include a brief statement of any minority opinions on the matter, as incorporated in the Official Minutes of the Appeals Board.

ARTICLE VII. AMENDMENT OF THE BYLAWS

SECTION 7.1 Amendment of Bylaws

The By-laws may be amended only with the approval of at least 3 members of the Appeals Board at an Appeals Board meeting. No amendment shall be adopted unless at least 7 days written notice of the general nature thereof has been delivered, personally or by mail, return receipt requested, to all members of the Appeals Board.

ARTICLE VIII. RELOCATION APPEALS PROCEDURE

SECTION 8.1 Appeals Procedure

The Appeals Board shall follow adopted specific procedures for the consideration of relocation grievances. The Relocation Grievance Procedures are included in the Rules and Regulations for the Implementation of the California Relocation Assistance Law adopted by the Agency, and conform to applicable state and federal laws and regulations.

SECTION 8.2 Procedural Situations Not Addressed

In procedural situations not addressed in the body of the Bylaws or in the Community Redevelopment Law, the determination of the situation shall be subject to the jurisdiction of the City Attorney's office.

ARTICLE IX. COMMITTEES

SECTION 9.1 Establishment

The Appeals Board shall have the authority to and may establish standing or ad-hoc committees as necessary to accomplish the purposes set forth in Section 1.2 herein. Committees may meet to discuss specific issues within the scope of responsibility for the Appeals Board and to make recommendations for action by the Appeals Board. Membership composition and terms shall be determined by the Appeals Board for any committee created; however, no committee shall consist of more than two (2) Appeals Board members, as not to cause a majority of Appeals Board members to serve on one (1) committee.

SECTION 9.2 Appointment of Committee Members

Members on a standing or ad-hoc committee shall be appointed by the Chairperson with the approval of a majority of the Appeals Board members.

SECTION 9.3 Committee Reports

Committee(s) shall from time to time make reports, written or verbal to the Appeals Board.

ARTICLE X. MISCELLANEOUS

SECTION 10.1 City Assistance to Officers and Commission

The City Manager shall appoint staff to assist the Appeals Board officers and members, as necessary in such activities as setting and conducting meetings, preparing meeting agendas and minutes and responding to requests for assistance from Appeals Board members.

SECTION 10.2 Procedural Situations Not Addressed

In procedural situations not addressed in the body of the Appeals Board by-laws or in the Community Redevelopment Law, the determination of the situation shall be subject to the jurisdiction of the City Attorney's office.