

Lompoc City Council Agenda Item

City Council Meeting Date: August 2, 2011



TO: Honorable Mayor and City Council

FROM: Laurel M Barcelona, City Administrator
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SUBJECT: Ordinance No. 1572(11) Determining to Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Lompoc Redevelopment Agency

RECOMMENDATION:

Introduce Ordinance No. 1572(11).

BACKGROUND/DISCUSSION

In an attempt to balance the State's budget, the California Legislature has adopted, and the Governor has signed AB X1 26 (2011) and AB X1 27 (2011). That legislation purports to dissolve the Lompoc Redevelopment Agency (the "Agency") effective as of October 1, 2011, unless the City of Lompoc (the "City") agrees to make certain payments to the State Department of Finance and the County Auditor-Controller. In addition, because the Governor has signed AB X1 26, redevelopment agencies' powers are purportedly suspended and redevelopment agencies purportedly are now prohibited from taking a number of actions, including making loans and entering into or modifying contracts.

Section 34193, subdivision (a), of the California Health & Safety Code, as added by AB X1 27, states a city must adopt an ordinance on or before November 1, 2011, declaring the city will make the payments required by AB X1 27 to avoid the suspension of its redevelopment agency's powers and the dissolution of its redevelopment agency. Section 34193, subdivision (b), of the California Health & Safety Code, as added by AB X1 27, permits a city that intends to adopt an ordinance declaring it will make the required payments to adopt a non-binding resolution stating the city intends to adopt such an ordinance. The City Council adopted the non-binding resolution, Resolution No. 5743(11), on July 19, 2011.

The California Redevelopment Association, the League of California Cities and others are challenging the legality of AB X1 26 and AB X1 27 in the California Supreme Court. Among other grounds, that challenge relies on Proposition 22, recently passed by the voters to protect local government revenues from being absconded with by the State to balance the State's budget. In addition, the challenge relies on California Constitution Article XVI, Section 16, which provides a redevelopment agency is to receive tax increment revenue for use within its local community to accomplish its purposes, and other state constitutional provisions regarding limitations on use of tax revenues.

The proposed Ordinance acknowledges the importance of redevelopment to the City and authorizes the "extortion" payments under protest without conceding the validity of AB X1 26 and 27. In addition, the proposed Ordinance reserves the City's right to alter its determination in the event the California Supreme Court stays the effectiveness of all or part of the legislation or issues a favorable decision finding the legislation invalid.

FISCAL IMPACT

At this time, the exact amounts of payments required by AB X1 27 are unknown, but will be calculated by the State Department of Finance prior to August 1, 2011. The current estimates for the "extortion" payments for Lompoc are around \$1,175,000 for this fiscal year and around \$275,000 for every fiscal year thereafter. Of course, if AB X1 27 is not invalidated by the courts, then the payments for subsequent years could be increased at the Legislature's whim. AB X1 27 allows the Agency to reimburse the City for those payments. The Agency currently has funds to cover those payments; however, a budget amendment for both the Agency and City will be required if those payments must ultimately be made.

The first payment obligation can be made using housing trust fund monies. AB X1 27 does not require the housing fund to be repaid. However, it is anticipated clean up legislation will include such a requirement, the details of which are not known at this time. In addition, if housing trust fund allocations are used to make the fiscal year 2011/2012 AB X1 27 payment, then before that payment is made the Agency is required to make a finding there are insufficient other moneys to meet its debt and other obligations, current priority program needs and obligations under AB X1 27.

CONCLUSION

The City and Agency have been placed in the untenable position of being required to take extreme measures to protect their resources. That is occurring notwithstanding the California voters, time and again, having told the Governor and State Legislature in a clear consistent voice, local revenues must be used for local public purposes and not stolen by the State. The City's decision to pay the extortion payments required by AB X1 27 is one of those measures.

Respectfully Submitted,

Laurel M. Barcelona
City Administrator

Joseph W. Pannone,
City Attorney

Attachment: [Proposed Ordinance No. 1572\(11\)](#)