

TO: James L. App, City Manager
FROM: Jim Throop, Director of Administrative Service
SUBJECT: RDA Update on Lawsuit and Options
DATE: October 18, 2011

NEEDS: Update on lawsuit challenging redevelopment legislation and potential options.

- FACTS:**
1. The City Council created a Redevelopment Agency in November 1987 and adopted a Redevelopment Plan.
 2. Some of the major redevelopment projects implemented or assisted by the Agency have been Woodland Plaza II and the Roush downtown movie theatre, as well as numerous public infrastructure and affordable housing projects.
 3. Over the years, the State has periodically adopted legislation requiring redevelopment agencies to make payments to assist the state in balancing its budget. This year, the Legislature enacted, and the Governor signed, two bills that would eliminate all redevelopment agencies except in those communities that agreed to participate in an Alternate Voluntary Redevelopment Program (AVRP) to make payments totaling \$1.7 billion statewide in 2011-12, with lesser payments in subsequent years.
 4. The California Redevelopment Association and League of California Cities filed a lawsuit in the California Supreme Court challenging the constitutionality of the bills.
 5. The California Supreme Court has indicated it would decide the case by mid-January, 2012.

**ANALYSIS &
CONCLUSION:**

In order to assist the State in its budgetary crisis, the State Legislature approved and the Governor signed legislation that dissolves the Redevelopment Agencies in the State (AB 1X 26). A companion bill, AB 1X 27, would allow cities that agree to participate in a new Alternative Voluntary Redevelopment Program (AVRP) to have their redevelopment agencies continue. The AVRP requires that participants make annual "community remittance" payments. The state Department of Finance has calculated that Paso Robles' share is approximately \$1,700,000 for FY 2012. Another approximately \$500,000 would be due in FY 2013.

The bills set forth separate paths for agencies and communities depending on whether they wish the redevelopment agency to remain in existence. If the agency is to dissolve, the agency must designate a successor agency (usually the city) to

oversee the wind-down of the agency's affairs and make sure any ongoing payment obligations (such as debt service on bonds) are met. An oversight board, comprised on representatives of other taxing entities, must approve the decisions of the successor agency.

If the agency is to remain in existence, the City must adopt an ordinance electing to participate in the AVRP. The City and Agency would then enter into an agreement whereby the agency pledges tax increments to the city so that the city can make the community remittance payment.

The California Redevelopment Association and League of California Cities are challenging the legislation as violating Proposition 22, approved by the voters in November 2010, which prohibits the State from taking monies from redevelopment agencies.

The bills set a number of deadlines for agencies and communities to take certain actions. The lawsuit, which was filed on July 18, asked the Supreme Court to stay the enforcement of the bills until the matter is decided. The Supreme Court issued a partial stay; the portion of the bill that was not stayed required agencies to adopt an Enforceable Obligations Payment Schedule (EOPS), which the Agency has done. The EOPS allows the Agency to make payments on those obligations while the stay is in effect. However, all the other parts of the legislation, including the various deadlines for taking certain actions are stayed until the Court issues its decision. It is likely that the Court, if it determines the legislation is valid, would set new timelines for action.

**FISCAL
IMPACT:**

The financial feasibility of making the ongoing community remittance payments is being analyzed, assuming the Supreme Court finds the legislation is valid. The initial \$1.7 million cannot come entirely from the current RDA funds, but would have to come from some other source. Some of the funds could come from the RDA's 2011-12 20% housing set-aside obligation. The RDA might have to enter into a loan agreement to borrow from a City fund, for example.

Another factor for the council to consider are the ongoing RDA obligations. The RDA sold bonds in 2009, the debt service for which uses essentially all available tax increment for many years. Because of this the Community Remittance payment of \$1.7 million and a continuing annual payment of as much as \$500,000 may not make a viable choice to continue with the RDA. Current estimates are that it will be at least 10 years or more before there may be any available non-housing tax increments to pay for other projects and then it will be at an extremely limited amount. The RDA would still be receiving tax increments to pay for affordable housing projects, since those are not pledge to repay the bonds.

If the Council decides not to continue with the RDA, than all tax increment above the required amounts to pay debt service and other previously approved agreements would be relinquished. Only enough tax increment would be received to make ongoing debt service payments for items such as the 2009 bond issue and to meet any obligations

under existing agreements, such as those for affordable housing projects approved prior to the enactment of the legislation.

Staff will provide additional information regarding the financial feasibility of continuing with the RDA when the consultant has completed his report. No action is requested at this time.

OPTIONS:

A. Receive and file;

B. Amend, modify or reject above option.