



**SUMMARIZED MINUTES OF THE
PUBLIC FINANCING ADVISORY COMMITTEE
Thursday, April 11, 2013 at 1:30 P.M.
Hall of Administration
Planning Commission Room**

Committee Members: Chairman, Thomas Hammond, Vice Chairman, Carl Groner, Committee Member; John J. Moohr, Committee Member Lisa Hughes, Committee Member; Wallace Rodecker, Committee Member, Shari Freidenrich, Treasurer Tax-Collector; Frank Kim, Interim Chief Financial Officer; Jan Grimes, Chief Deputy Auditor-Controller

County Representatives Present: Angie Daftary, County Counsel, CEO/Public Finance: Suzanne Luster, Public Finance Manager; Richard Mendoza, Anil Kukreja, Alex Martinez

1. **Call to Order:** The meeting was called to order at 1:30 P.M by Chairman, Thomas Hammond.
2. **Approval of Minutes of March 28, 2013:** Committee Member Moohr moved to approve the minutes. The minutes were approved unanimously.
3. **Receive and File Report on Bond/Disclosure Counsel and Financial Advisor Principals Assigned to County:** Ms. Luster presented item #3.

Chairman Hammond noted that it appears that Oreck, of course, has done the majority of all the bond counsel deals since 2009.

Chairman Hammond also noted that, it appears the same with KNN. Same people have been there, and of course the others are scattered deals. The point that has been indicated is that there's a real, consistency of staff in our bond counsel as well as our financial advisors for the last four years.

Committee Member Hughes commented it was an excellent assignment. She stated it gives us comfort that we have experience.

Committee Member Hughes moved to approve the item. The motion was seconded by Committee Member Moohr.

4. **Approve in Concept the Issuance of Tax and Revenue Anticipation Notes (TRANS) by the County for the Purpose of Financing General Fund Cash Fund Cash Flow Needs for Fiscal Year 2013-14 and Selection of Note and Disclosure Counsel and Financial Advisor.** Louis McCloure presented item #4.

Chairman Hammond asked for a summary about what this vehicle license fee argument is about, or this litigation?

Mr. Kim reported the County of Orange as well as other Counties in the State, receive a certain percentage of the Vehicle License Fee (VLF) to use for local purposes. Back in 2004, the State did a swap where they exchanged Counties' VLF for property tax money, and that was done on a dollar-for-dollar basis.

Mr. Kim added Orange County was in an unusual position because related to our bankruptcy, we had intercepted a portion of our overall VLF allocation, approximately \$50 million, and that was being intercepted at the State and transferred to the trustee on our bankruptcy bond deal.

Mr Kim stated when that swap occurred in 2004, Orange County swapped approximately 76 percent of its VLF revenue for property tax. The other 24 percent represents that \$50 million that was pledged for our bankruptcy debt.

Mr. Kim stated we were the only County that received a combination of continuing VLF revenue and then that property tax for vehicle license fee swap. Combined, that equaled a dollar-for-dollar exchange, the same exchange that all other Counties received.

Mr. Kim stated that as part of the State's final budget, the State approved kind of a last-minute middle-of-the-night bill, SB89, and what SB89 said was all VLF allocated to Counties, of which there's only one, would be swept by the State and moved into a local revenue fund in order to support the State's obligations under realignment. So that money was swept. Mr. Kim reported that Orange County was the only County that was receiving then an unequal amount of property tax in exchange for the VLF that were lost.

Mr. Kim added that based on meetings between our Auditor-Controller and CEO's office and County Counsel, reviewed what was the proper interpretation of the revenue and taxation codes, in our view, of how to calculate that swap. Also the property taxes are collected locally by our treasurer, and the allocation administration is handled by the Auditor-Controllers. So all the revenues were here; they were not at the State.

Mr. Kim added that since we had the fiduciary duty to manage that allocation, there was an understanding in terms of our legal perspective that the County had the right to administer those, that transaction in accordance with original intent of the law, which was that a dollar-for-dollar exchange would be the end result, and that was the intent of the original law, which I believe was SB1096 in 2004.

Mr. Kim reported our local Auditor-Controller, based on direction from the Board and a review from County Counsel, is continuing to administer that VLF swap in a dollar-for-dollar component which means that we allocate the full dollar-for-dollar amount to the County, and what happens ultimately is that the amount of money that's transferred to the educational revenue augmentation fund, which funds local schools, is shorted by that \$50 million. That's the same methodology that's used by other Counties, so that is the standard method.

Chairman Hammond inquired if the VLF are collected by the State. Mr. Kim stated we have to do a calculation of the amount that was due to all Counties back in 2004. That's considered the base year. And the way that revenue taxation code 97.7 reads is that you use to base your amount, and then we make adjustments to that allocation based on the changes in property tax assessed values from year over year.

Mr. Kim explained that we have to calculate what the estimated impacts would have been had we continued to receive VLF from the State, and then Counties then turn around and give themselves a credit against the money that's collected from property tax and distributed to schools.

Chairman Hammond asked what was the purpose of the logic of this swap for property tax of the VLF.

Mr Kim stated It was done as a benefit to the State. Mr Kim explained that at the time the State was selling their economic recovery bonds, and in the financial marketplace there was not a great deal of confidence in the State's financial condition. They needed to pledge a revenue stream to support their bond deal, and he believed what happened was the State wanted to pledge a secured revenue stream, which really is the VLF, and in order to get that pledge they needed to do an exchange with local Counties in order to make that deal happen.

Chairman Hammond asked what percent of the VLF we get and how that works.

Mr. Kim stated we no longer receive the original portion of the VLF. The County continues to receive approximately a million to a million and a half, and that's related to adjustments or corrections to State allocation from prior years when Counties continued to receive VLF.

Committee Member Freidenrich noted it is a very complex issue because the State has been, again, exchanging these revenues and sales tax and the triple flip you might have heard of. The County is 92 percent funded in the general fund from property taxes, so that is the primary revenue source. She explained there is a small sales tax percentage of 25 percent, 0.25 part of the sales tax, that goes to our public safety, our District Attorney, and our Sheriff, but we're really all property tax now, almost.

Chairman Hammond inquired what happens if the County loses this litigation?

Mr. Kim stated that currently we build this revenue into the County budget, and because the money is uncertain or the funding stream is uncertain, we have been using it to repay certain loans and other one-time obligations and we've also set it aside and used it to support facilities projects. Things that don't have an ongoing cost.

He added that if we lost that money, it would really impair the County's ability to manage its deferred maintenance projects. It would impair our ability to do future investment in information technology and other construction type projects. He

explained that we have not used that money during this period of uncertainty to fund salaries or other ongoing costs.

Committee Member Hughes inquired where we are in the lawsuit?

Mr. Kim updated that recently our court extended the trial date and the new date is July 8. Mr. Kim's understanding from counsel is that the court then has 90 days from July 8 to issue a final ruling. The County is unclear in terms of what span during that time we expect to receive a decision, but that's the best information we have today.

Chairman Hammond inquired about the total dollars involved?

Mr. Kim responded it's approximately \$73.5 million a year, and that number is adjusted based on change in assessed valuation. He added we're two years in now, so it's approximately \$147 million. With next year's budget we'll increase that up to \$210 million approximately.

Chairman Hammond inquired what has to happen before we are out of these covenants and restrictions from the bank, as a result of the bankruptcy?

Mr. McClure stated ever since then it'll be the policy not to issue strictly for the purpose of arbitrage.

Chairman Hammond asked if County Counsel could explain to me so I can understand it number one and number two on page 3.

Mr. McClure explained that what they were making it look as if certain funds were restricted when in actuality they weren't, and they were able to boost. He added you can't just issue TRANs without a shortfall per se. He explained what they were doing was purposely kind of moving money off the table to look like they had this bigger shortfall and then the IRS caught onto it. Because you're borrowing money at tax season rates, and I think they didn't want you to do that.

He added that we were investing for arbitrage again, and part of the agreement is that we will no longer arbitrarily take money off the table in terms of growing our shortfall so that we could issue more TRANs.

Ms. Luster added that the difference between legally restricted funds and then funds that are restricted per a board policy is a difference. In the past, prior to bankruptcy, funds that were restricted for board policy but not legally restricted were included. Those amounts which resulted in a higher shortfall and more capacity to issue debt.

Chairman Hammond inquired if a competitive would mean that you have a full underwriting with multiple underwriters.

Mr. McClure stated what we do is we sell the deal to an underwriter, and then they in turn resell it to the final investors. With a competitive sale, it's actually more like an

auction, and we put the deal out there structured with our financial advisor, and underwriters are free to bid on it, either for their own account, I guess, or also to pass it along.

Mr. Broadsley from K&N stated that under a competitive bid you would seek bids from multiple underwriters. Sometimes underwriters will group into syndicates and submit bids as a syndicate. Sometimes they'll do stand-alone bidding. So, but you would get bids from like anywhere, five to eight different firms bidding for the paper.

Mr. Moohr inquired is there any difference between how this is structured and how we structured the last time we did it?

Mr. McClure stated the only structural change we're thinking of making is that competitive versus negotiated. He explained that in the past, we've always done the negotiated sale where we hire an underwriter up front and they help with the deal. In this case we're thinking of going competitive, so the structure would be a little bit different.

Committee Member Hughes asked if we have not needed to issue the TRANs.

Mr. McClure stated, "Right." He stated this last fiscal year we came to the PFAC and the Board with the approval in concept and the team, but as we analyzed the cash flows towards the end of the year, we realized we were not going to need one. Instead, we would rely on the internal borrowing.

Committee Member Hughes inquired what is, if any other than staff time, nominal dollar cost to setting this up?

Mr. McClure stated just staff time and the professionals work contingent, so if we don't do a deal, they don't get paid, and they're; they understand that.

Committee inquired how our collections are coming.

Committee Member Freidenrich stated we are doing very well at the moment. Last year we did have an increase in our assessed value, so that does mean the tax bills going out are going to be higher this year. She believes we were higher by \$122 million. And at this point we are about three-quarters of a percent up from our collections at the same time last year. This would've been through yesterday. And that relates to about \$152 million more than at the time last time.

She reported that the first installment that was paid in December, last year at this time we were only at 98.31 percent, and we're over – We're at 98.67 percent. So we have \$70 million more in first installment payments.

She reported that on second installment payments, we are over one percent greater. And the second installment, of course, the last payment day was just yesterday. We're \$81 million more.

Committee Member Freidenrich stated there is a couple of factors. One is more people are paying through their mortgage company, so we are seeing more electronic payments coming in from the mortgage companies.

Committee Member Freidenrich stated we just had our tax auction a few weeks ago, and we auctioned off seven properties, which again is still very, very low compared to other Counties. She stated the collections should help us when we look at our Teeter policy. The more we collect in, the less we pay out to those Cities that are Teeter Cities.

Chairman Hammond inquired regarding tracking delinquents.

Committee Member Freidenrich stated the delinquencies is the offset, so right now for the first installment we would have essentially a little less than a little over 1.3 percent that would be delinquent on the first installment. On the second installment we would have just about ten percent.

Committee Member Hughes moved to approve the item. The motion was seconded by Committee Member Rodecker.

- 5. Approve in Concept the Refunding of the Orange County Development Agency (OCDA) Tax Allocation Bonds (TAB's), Santa Ana Heights, Series 2003, by the County and Selection of Financing Team:** Suzanne Luster presented item #5.

Chairman Hammond asked Ms. Luster to describe and give a little history of the Santa Ana Heights project?

Ms. Luster reported that the Santa Ana Heights project, the original bonds in 1993, were predominantly to provide noise abatement and acoustical insulation to the Santa Ana Heights homeowners impacted by the development of John Wayne Airport.

Chairman Hammond asked Mr Kirkpatrick what geographical area this is and what was this redevelopment agency for? Chairman Hammond also wanted to know what Mr. Kirkpatrick accomplished since, since 1993 and what he accomplished in the Santa Ana Heights project.

Mr. Kirkpatrick stated that originally in 1986 the County decided to create a redevelopment agency mainly to facilitate the expansion of John Wayne Airport, and that's really where the Santa Ana Heights project area came about.

He added that Several years later, the County decided to create a second project area that deals, or dealt with County unincorporated areas.

Mr. Kirkpatrick stated it's some businesses and residential area just south of John Wayne Airport. In 2008, the final sliver of the project area was annexed by the city of Newport Beach, so the entire former Santa Ana project area is actually now part of the city of Newport Beach.

He added there have been a variety of projects that have completed. In addition to the acoustical insulation program, there was a major street realignment along Birch and Mesa that sort of pulled this major arterial out of the residential area and kinda kept it towards the commercial.

There's been the creation of a new fire station, a new business park, there's been a passive park that's been put in place, and there have been numerous infrastructure improvements to the water system out there. They weren't meeting the pressure, so put in a brand-new fire suppression system complete with fire hydrants and things like that.

There's been the Kline Drive improvement, which up until about three years ago was the only dirt road left in Orange County in the middle of an incorporated area. It's now paved and complete with gutters and drainage system that does not impact the existing system that was put in several years prior.

Chairman Hammond stated as he understands it, the so-called incremental tax increase or the value created by the development agency is supposed to retire the bonds. He asked if he was correct about that.

Mr. Kirkpatrick, stated, "Yes."

Chairman Hammond asked who is gonna pay back this \$28 or \$38 million?

Mr. Kirkpatrick stated that as Ms. Luster has indicated, the debt service under this new law has priority over all other enforceable obligations. That is the first thing that County staff see once the increment is, is brought in, if you will, is a addressed. He explained that in fact, the successor agency has two debt service funds that receive all the increment first to address the debt. Then as additional funds are available per the enforceable obligations approved by the department of finance, then they take out the projects, if you will.

Chairman Hammond asked if there is enough incremental tax revenues to retire this money?

Ms. Luster added we're doing very well. We're collecting far above what is needed to retire the bonds. I believe the continuing disclosure document we just filed March 31 indicated a debt service coverage that was over 150 percent.

Committee Member Hughes, and Chairman Hammond asked why we don't retire them?

Ms. Luster explained because the new law prohibits acceleration of payment. She added we're gonna refinance it, so we're gonna receive debt service savings via lower interest rate.

Chairman Hammond asked if this redevelopment agency have a stash of cash which Governor Brown was determined to grab from every redevelopment agency in the Country?

Mr. Moohr asked what the magnitude of the fund that currently is there?

Ms. Luster stated the residual balance in Santa Ana Heights is around ten million. There is another neighborhood development and preservation program project area, better known as NDAP, which we are not recommending for refunding at this time because of inadequate debt service savings. But it has a higher residual balance.

Chairman Hammond asked if State have some scheme whereby they could sweep this money out of the redevelopment agencies, and did that happen here?

Ms. Luster stated there has an order, and the County complied, to pay about \$2.5 million at last June or July. The County or the successor agency with the assistance of the County's external auditors, VTD, completed what was known as a due diligence review that identified amounts to be returned to the State.

Chairman Hammond asked Mr. Kim, if he has any information on these numbers?

Mr. Kim gave an update in terms of what it means to the County

In the current year, he reported that the amount related to the total RDA, was approximately \$15 million of unanticipated one-time distribution of property tax. He explained that what happens instead, someone in the treasurer collects all of the RDA, the former RDA money, tax increment. And instead of this money going to the RDA for RDA purposes, now it's being distributed based on the original AB8 formulas.

He stated that as it's being distributed, the County share of unanticipated revenue is approximately \$15 million in the current year. So that's our cut of the approximate six percent of the normal property tax money, and that has to do with the distribution both of the residual balance of fund, also the, those portions of the low-mod and housing funds that, based on state regulation, can be distributed.

And also, based on the normal tax increment, that would've otherwise flown to these RDAs.

Chairman Hammond asked what the State raked off of this?

Mr. Kim stated the real winner in this would be schools because schools get the largest single share of property tax. It's approximately 50 percent, somewhere in that range.

Mr. Kim added if our six percent was about \$15 million, you can - in rough orders of magnitude. And what that does in return is it reduces the State's Prop 98

guarantee for schools, so then the State general fund has a lower obligation to backfill and true up the Prop 98 funding across the State.

Chairman Hammond asked Committee Member Freidenrich, what do she knows about this?

Ms. Freidenrich stated that when these refunding happened, the savings that are generated go back now with the dissolution of the redevelopment to those agencies that would normally have gotten the distribution, so the County will get a portion of this, along with any other agency that was getting a portion of that original property tax.

She added that because redevelopment used to take just the top. There was the base year, and anything above the base year of an increase in property taxes went into the redevelopment agency, and now that is dissolved. So those original base agencies that are getting property tax will benefit.

Committee Member Freidenrich explained that's why refunding are so important, because it does allow those agencies to be able to receive additional property taxes which can be used for their operating general fund expenses. There's 44 percent currently or this last year that goes to the school districts, and because they are funded by the State, they get the lion's share of benefits from this. But it does benefit the other agencies which are here in Orange County.

Mr. Kim added that the way that the RDA dissolution works is that we get the total amount of property tax, and there's three things that are deducted from it first, which are the statutory pass-through, the administrative fee for the Auditor's office, and the approved recognized obligation, enforceable obligations, right?

Committee Member Freidenrich stated "Yes."

Frank Kim: There'll be more net amount of property tax to distribute, thereby benefiting all tax-receiving entities.

Mr. Kirkpatrick stated the airport has expanded a number of times since it was first created, and it's been able to do so without depending on where you live and who you talk to, too much of a negative impact on the residents.

He added that overall the Santa Ana Heights project area was a success under the redevelopment program.

Mr. Moohr said we had three reports that have been filed?

Mr. Kirkpatrick responded that they just recently filed the ROPS, or recognized obligation payment schedule, number four, which the State's currently looking at.

Mr. Moohr inquired what is the statute of limitation on the State denying that? They've approved it, they've, they've taken it. He asked how long would they have to come back and say "Oh, we made a mistake, we don't really approve that?"

Mr. Kirkpatrick stated one of the things the State has the ability to do is say they approve ROPS number four, which will cover the July 1, 2013 through December 31, 2013. And say they have obligation number A for, for \$20 listed there, and for whatever reason that project doesn't move through or, or that, that payment of \$20 reduces to \$eight. When the State reviews the next ROPS for the next six-month period, they can turn around and deny that project.

Mr. Moohr stated he is concerned about the liability. He asked Mr. Kim if there is any way that we can petition the state?

Ms. Luster added that the OCDA, the County successor agency as well as several others across the State, are in litigation with the state over these ROPS issues.

Ms. Luster added when, in this discussion of the ROPS and how in, you know, the, the department of finance might approve an item on the ROPS, and then in the next six-month period not approve it. One option we might have in this refunding process is to – That's defined in the law, is to seek what's known as a final determination in advance from the department of finance. Whereas they cannot come back and question –

Chairman Hammond asked if the County has a liability on these bonds?

Ms. Luster stated, "They do not."

Chairman Hammond asked if it's only the incremental tax money that secures these bonds, and when you refinance it is the same liability?

Ms. Luster stated, "That's correct."

Chairman Hammond inquired if that means there's not any money to pay these bonds?

Ms. Luster stated, "No." These bonds are also secured by our Teeter program as well, so that's another security. Ms. Luster reported the amount of property tax that is being collected is well above the debt service need. One added control that we have is we have got these successor agency program folks, but the redevelopment property tax trust fund, where the approved amounts from the department of finance are deposited by the Auditor-Controller is managed in CEO Public Finance.

Ms. Luster stated our priority is making the debt service payment, so that does, happen first before any additional deposits are spent on salaries, administration, or projects.

Committee Member Freidenrich inquired on the attachment four, which is the financial advisor. She stated they were very close in rating and when she looked through them because I do think it is important for us to make sure that we are

being objective and we're providing a competitive process for all of those people who are all of the companies who are on our list.

She added the item that she saw is that who we selected has one of the highest bids compared to all of the others, and I don't know if there is an opportunity in this type of a proposal for us to go back to see if we could negotiate a slightly lower amount because of – In this case, if it's quite different, you can see that the, the firms are – There's expertise that we need to be able to streamline the process. But in this case there were many that were very, very close.

Committee Member Freidenrich asked staff if there is an opportunity to go back and even lower that that bid process, since they were so close, it would be nice to have a little bit lower fee on that. They were the highest at the \$55,000.

Ms. Luster they can look into that. The criteria that really put K&N over the top is that they've got current experience post-redevelopment dissolution that's very hard to come by. There have been very, very few deals in the marketplace, it's very complex. So the evaluation team thought that was very important to note.

Committee Member Freidenrich inquired regarding the underwriter. She stated in this case you're proposing a negotiated deal where you've actually selected it versus the prior one, where you were looking at a competitive sale on that.

She stated her question is on the pricing on page four of the AIF, the last three paragraphs talked about kind of the representative pricing. The 10.41, the 10.35. But when you talk about land-secured financing, is this land-secured financing or is this not? This would be land-secured financing?

Ms. Luster stated that its not land-secured financing, but it's considered comparable in that they both have property tax revenues –

Chairman Hammond asked if this is a September. That you cannot redeem before September?

Ms.Luster stated, "That's correct, so that would be our target date."

Chairman Hammond asked if it would it be the County the same successor agency!

Mr. Kirkpatrick stated the way the law exists today, is in 2016. As we just discussed, each successor agency has its own oversight board. In 2016, the 24, 25 oversight boards will become one: One to govern over everybody. As the law is written today, we still have 24 separate agencies out there, but they'll be beholden to one oversight board.

He explained what the makeup of that oversight board is, what the process for that oversight board, remains to be seen. The law is very vague right now. But, but again, it's as the law written today, and as we've seen in the past, these things change rather quickly.

Chairman Hammond asked how many of these agencies fall under the purview of the county? Don't, don't some of the cities do their own financings and so on?

Ms. Luster stated they do, L.A. County is approaching it, and one of our financial professionals from K&N or de la Rosa, currently working on this might be able to expand further on the pool of the concept and how L.A. County is able to manage or facilitate that process.

Committee Member Hughes indicated that the County has members on every oversight board, so whatever city it is, the County is the one agency that is, on every successor agency board.

Ms. Luster stated, "That's correct."

Mr. Amezcua with De la Rosa and Company stated that L.A. County decided to take a very proactive stance with respect to refunding these bonds. To the benefit of all the participating agencies, the County, the Cities, the School Districts, Community College, and special districts to refinance the debt. Money that otherwise would go to bondholders to pay them five percent will be saved because now you're only gonna pay them 2.5 percent, so those savings will be reallocated to all the participating agencies.

He stated the problem that we have there is so much brain cells that have to be expended to do these deals because we are breaking new territory. It's new laws that we have to deal with, and a lot of successor agencies don't want to do it.

Mr. Amezcua added L.A. County saw this in action by the participating City Agencies and decided that they were gonna use their hammer, and their hammer is basically we will put together a program to facilitate these for you because we want to benefit our 12 percent.

Chairman Hammond asked Ms. Luster if the County anticipate bringing this umbrella into all these 25 agencies in Orange County?

Ms. Luster stated L.A. County has dedicated two full-time staff to this, and we just don't have those resources. So you know, at this time I'd say no, but I don't know what the future will bring.

Mr. Amezcua stated once the template is set, what the county has done is shown other people the step-by-step process to do these deals.

Chairman Hammond stated all of these 25 agencies, other development districts, have the same problem as this deal, and they need to be fixed. And so we can only speculate about how that's all gonna work out, as was described.

Chairman Hammond asked if the supervisors are aware of the magnitude of this issue?

Committee Member Hughes stated we have a limited time with short rates because, at some point rates are gonna go back up, so you, you have a window of opportunity and then the window is really over if rates go up, which we know at some point they have to.

Mr. Moohr stated that on the redevelopment agency, the idea was to liquidate the understanding. He asked if what we're proposing in the spirit of that?

Ms. Luster stated that pursuing debt service savings is in the spirit of reallocating the savings to those entities that would have otherwise received the property tax in the first place.

Mr. Groner stated we can refinance these but we can't pay them off.

Ms. Luster stated, "That's correct."

Mr. Groner stated he understands this refinancing will save us a considerable amount of money?

Ms. Luster stated, "That's correct."

Mr. Groner asked why wouldn't it make sense for us to hire somebody or even retain a consultant to review the other 24?

Ms. Luster stated that perhaps some point, our strategy is to take care of the County's refunding and savings first and see how the process goes. We may get there at some point, but at this point, our staff resources don't allow us. The law allows for a very stringent administrative cap, and that type of consultant, you know, we'd have to get the department of finance approval. And many items so far that have been considered a project cost have come back as a determination from the department of finance as administration.

Mr. Groner asked what's the estimate that this is gonna save us? This particular one!

Ms. Luster stated this particular the most recent estimate was \$2.5 million.

Committee Member Hughes moved to approve the item. The motion was seconded by Committee Member Groner.

6. Adjournment: The meeting was adjourned at 2:47 p.m.