

CITY COUNCIL NEW BUSINESS: (Continued)

At 1:55p.m., Mayor Pro Tem Lovell closed the public comment period.

At this point the vote was taken, and the **MOTION WAS UNANIMOUSLY CARRIED BY ALL PRESENT.** 1068

SOUTH TAHOE REDEVELOPMENT AGENCY NEW BUSINESS:

- (a) **Proposed Response to 2003-2004 El Dorado County Grand Jury Report ("Financial Transactions between the City of South Lake Tahoe and the South Tahoe Redevelopment Agency")**

City Manager Jinkens presented his staff report dated August 9, 2004.

At 1:52 p.m., Mayor Pro Tem Lovell opened the public comment period.

Ed Mosur questioned the duties and responsibilities of the City Treasurer and the duties of the auditors that are hired by the City.

Councilmembers provided responses.

At 2:00 p.m., Mayor Pro Tem closed the public comment period.

City Manager Jinkens explained that the duties and responsibilities are set for by State law.

Councilmember Upton, who served 16 years as the City's Treasurer, also provided information on the Treasurer's duties and responsibilities.

Councilmember Upton suggested a couple of minor amendments to the proposed responses as follows:

Grand Jury finding, F2, page 4, second sentence, delete the "s" for the word questions, to read "question."

Grand Jury finding, F5, page 5, third sentence, delete "and counted for" and replace with "in the accounting process."

IT WAS MOVED BY COUNCILMEMBER UPTON, SECONDED BY COUNCILMEMBER COLE AND UNANIMOUSLY CARRIED BY ALL PRESENT TO APPROVE THE PROPOSED RESPONSES, WITH THE AMENDMENTS SUGGESTED BY COUNCILMEMBER UPTON AS SET FORTH ABOVE, AND TO AUTHORIZE THE CITY MANAGER TO FORWARD TO THE SUPERVISING JUDGE OF THE EL DORADO COUNTY GRAND JURY. 1013/1250



City of South Lake Tahoe

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STAFF REPORT CITY OF SOUTH LAKE TAHOE CITY COUNCIL SOUTH TAHOE REDEVELOPMENT AGENCY Meeting of August 17, 2004

TO: Honorable Mayor and Council Members
Honorable Chair and Board Members

FROM: David M. Jinkens, City Manager/Executive Director

DATE: August 9, 2004

SUBJECT: **Proposed Response to the 2003-2004 El Dorado County Grand Jury Report ("Financial Transactions between the City of South Lake Tahoe and the South Tahoe Redevelopment Agency")**

RECOMMENDATION:

1. Hear staff report
2. Take public comment
3. Approve proposed response (or as modified by the City Council) and authorize the City Manager/Executive Director to forward the response to the Supervising Judge of the El Dorado County Grand Jury

DISCUSSION:

The purpose of this report is to provide the City Council and Redevelopment Agency Board with proposed responses to comments and suggestions made by the El Dorado County Grand Jury regarding the operation of the South Tahoe Redevelopment Agency. This office

CENTRAL RECORDS
FILE No: 10/3/1250

collaborated with City staff and financial advisors to prepare this report and believe the responses listed below to be accurate.

At the November 10, 2003, City Council/Agency Board meeting, staff provided a report to the City Council and the community with an update on the status of Redevelopment Agency expenditures over the last four years. A memo was included from Don Fraser, Agency's financial consultant that clearly outlined the Components of Deficit and provides discussion. Prior to this date, there had been much discussion in the media, at the City Council/Agency Board level and at the staff level regarding the deficit cash balances in the Redevelopment Funds. During the presentation to the City Council on June 17, 2003 of our audited financial statements for our fiscal year ending September 30, 2002 by our outside auditors this issue was raised. At that time we discussed how much the deficit was to the General Fund. The figure was said to be as low as \$5 million or as high as \$10 million dollars. Council directed staff to calculate what the actual deficit is and calculate when it would be paid back. Unfortunately this has been a difficult project for a variety of reasons. The deficit was created over many years, there has been a large turn over of key staff, accounting software was changed, and there have been several bond and financing strategies involved. Our financial consultants tell us that South Lake Tahoe is a small City doing large City projects and we have the most complicated financing plan in the state.

The final report showed that the amount owed by the Redevelopment Agency to the City to be \$7,007,000. In response to this the City Council/Agency Board at its meeting of March 8, 2004 adopted a Loan and Repayment Agreement between the South Tahoe Redevelopment Agency and the City of South Lake Tahoe. In this Agreement the Agency agrees to reimburse the City for all administrative and program costs incurred by the City prior to and after the execution of this Agreement for Fiscal Years 1999-2003.

On June 25, 2004, the Grand Jury issued its report regarding the South Tahoe Redevelopment Agency. The 2003/2004 Grand Jury chose to investigate the South Tahoe Redevelopment Agency, specifically the deficit the South Tahoe Redevelopment Agency owes the City of South Lake Tahoe. The Grand Jury Report on this issue, a copy of which is attached, contains five (5) findings and five (5) recommendations that require

responses from the City Council/Agency Board. Proposed City Council/Agency Board responses are set forth below.

The Grand Jury Findings and Recommendations are reprinted here for ease of reference, with proposed Response immediately following.

Grand Jury Finding

F1. There was poor oversight of the activities and inadequate financial management of the Park Avenue project. This was due to the same people serving on the city council and on the STRDA. Also, there was high turnover of these elected official and their supporting city staff.

Response to Finding

Disagree partially with this finding. The problems with financial management were not caused at the policy level nor did they occur because the same people serve as both the City Council and the Redevelopment Agency Board. The Redevelopment Agency has had for years a very sophisticated and complex financing program that relied heavily on outside consultants with no built in internal redevelopment financial capacity. The City had a weak internal financial accounting and reporting system in place. City Council members were not fully advised of the ongoing cost increases in the project. Accounting of public costs by component parts of a project was not well done. There were no financial policies in place requiring staff to report increases in project costs and draw down of General Fund reserves to pay for cost overruns in RDA projects. The City's outside auditors did not fully and openly report to the City Council on the cost overrun issues and draw down of reserves and highlight the significance of this occurrence to the policy makers.

A strong and centralized finance function was not in place. The City Council fully supported changes in the structure and operation of finance, the re-creation of the position of Director of Finance and its reporting directly to the City Manager, the adoption of policies to prevent draw down of reserves except with their consent, the hiring of new auditors, and the requirement for full reporting by staff to them on financial issues on a regular basis.

Grand Jury Finding

F2. The financial reporting system in use in the City of South Lake Tahoe during the years in questions (1999-2002) was difficult to understand. There was a lack of notification and/or control in certain situations when overspending occurred. The City Council did not receive cogent, on-going spending updates as each year progressed.

Response to Finding

This statement is generally correct. The accounting and reporting system were not clear cut as to the status of problems. For example, part of the deficit occurred in the fund that is used to service bond debt. The fund carries a substantial cash reserve that can only be used if there is insufficient revenue to meet bond debt service. While there was always enough revenue to meet bond payments, the Agency ran short of funding for other costs (primarily administrative costs). The point is that the bond reserves masked the true deficit picture in this fund. Funding for the Park Avenue capital projects came from ten different revenue sources. A number of these sources were grants. The funds from these grants were received on a reimbursement basis and staff assumed incorrectly that some of the deficits that were showing up in the fund were due to grants that had not yet been received. This process added another layer of tracking and in the case of the Transit Center some of the expenditures were not grant eligible. This was not determined until staff and the City's financial consultant, Mr. Fraser prepared the comprehensive review of the financing of the Project.

Grand Jury Finding

F3. The financial documents that the City Council received were difficult to understand and were not presented on regular basis. These non-user friendly financial documents contributed to a lack of financial control over the project by the city council.

Response to Finding

Agree, and the appropriate changes have been made.

Grand Jury Finding

F4. The same auditor was used by the city for several years.

Response to Finding

Agree. The City/Agency changed auditing firms effective Fiscal Year 2003-2004.

Grand Jury Finding

F5. The STRDA audit report dated 9/30/01 clearly identified a large deficit in the fund. Nevertheless, no action was taken by staff or elected officials to memorialize the deficit in a loan agreement as required by the Cooperation Agreement.

Response to Finding

Partially Agree: This in part goes back to the discussion on grant funding as discussed in F2. The timing of the grant money that was spent and reimbursed should have been tracked differently and counted for. City staff and the City's auditors should have highlighted for elected officials the deficit and the implications of the situation.

Grand Jury Recommendation

R1. Future STRDA Boards must be independent of the City Council, with no more than one member of the City Council on the board. However the STRDA board must be accountable and report to the City Council.

Response to Recommendation

Disagree. Elected leadership of the City is directly accountable to the people. An independent Board of non-elected persons has less accountability to the people. In Redevelopment in California, David F Beatty et al. (2004 Edition, Solano Press) addresses this point. *"When redevelopment agencies were established in the 1950s and 1960s to*

implement federal financing programs, it was common for a city council to appoint a separate governing board of the redevelopment agency. In addition, many of the first redevelopment agencies were established in larger cities, where the numerous and complex duties of the city council made establishing a separate governing board an efficient and politically acceptable solution...Since then, however, the vast majority of legislative bodies establishing redevelopment agencies, have appointed themselves as the governing body. In addition, in several cities in which separate governing bodies were previously appointed, the city council has decided to appoint itself the governing body...It is often neither efficient nor politically acceptable for legislative bodies to appoint separate governing boards in small or medium-sized cities. Separate governing bodies can mean more meetings, more staff (or greater burdens on existing staff), a lengthier approval process...legislative bodies are held politically accountable for redevelopment decisions...: (pages17-18).

Grand Jury Recommendation

R2. The STRDA must be vigilant in monitoring actual expenditures against budgeted amounts as the fiscal year progresses. STRDA must take prompt and decisive action when negative variances are identified. STRDA shall continue to provide the monthly budget update information to the City Council.

Response to Recommendation

Agree. The South Tahoe Redevelopment Agency has implemented the financial controls as outlined in the November 16, 2003 staff report. STRA will provide budget update information to the Agency Board/City Council on a needed basis but no less than twice a year.

Grand Jury Recommendation

R3. The City of South Lake Tahoe must strictly adhere to the financial controls implemented by the City Manager and City Council as outlined in the 11/16/03 staff report.

Response to Recommendation

Agree.

Grand Jury Recommendation

R4. The City of South Lake Tahoe and STRDA must change independent outside financial auditors on a regular basis to help ensure unbiased reviews of the City's and STRDA's financial conditions.

Response to Recommendation

Agree. Independent financial auditors have been changed as of 9/30/03. It is important that competent auditors are hired and that persons doing the audit are rotated to ensure a fresh perspective on City and RDA fiscal management issues and financial controls.

Grand Jury Recommendation

R5. When the STRDA identifies deficit conditions, the circumstances need to be promptly documented in a manner consistent with the Cooperation Agreement between the City of South Lake Tahoe and STRDA.

Response to Recommendation

Agree.

David M. Jinkens
City Manager/Executive Director

Attachments