City of Loma Linda Official Report

Floyd Petersen, Mayor
Stan Brauer, Mayor pro tempore
Robert Christman, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: September 13, 2005

TO: City Council

VIA: Dennis R. Halloway, City Manager

FROM: Mark Huebsch, Special Counsel

SUBJECT: Ordinance clarifying certain provisions of Ordinance No. 628 and eliminating penalty provisions

RECOMMENDATION

It is recommended that the City Council introduce Council Bill #O-2005-15 on First Reading and set the Second Reading for September 27 that ratifies the prior enactment of Ordinance No. 628 making certain technical clarifications and which deletes the provision for penalties under Ordinance No. 628.

BACKGROUND

The City Council previously adopted Ordinance No. 628, which extended the time during which the Agency is allowed to receive tax increment revenues by one year. As adopted, Ordinance No. 628 contains a clerical error. Although the meaning of Ordinance No. 628 is clear and unambiguous, it is appropriate to approve the proposed ordinance to correct and amplify the appropriate statutory citation as reflected in Section 1 of the attached, draft ordinance. In addition, the provisions of Ordinance No. 628 (Section 6 thereof) which provided for penalties should be deleted.

ANALYSIS

In addition to correcting a clerical error, which may avoid confusion in the future, the proposed ordinance would delete a penalty clause contained in Ordinance No. 628; the use of the penalty clause in Ordinance No. 628 was inappropriate and unnecessary. The proposed ordinance, which would make the changes described above, would rectify the situation.

ENVIRONMENTAL

Exempt.

FINANCIAL IMPACT

No impact.

Attachment: Council Bill #O-2005-15

AGENDA ITEM 22

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA APPROVING, RATIFYING AND ADOPTING AN AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE LOMA LINDA REDEVELOPMENT PROJECT PURSUANT TO THE PROVISIONS OF THE COMMUNITY REDEVELOPMENT LAW, HEALTH AND SAFETY CODE SECTIONS 33333.2 and 33333.6, ET AL

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") was established pursuant to the California Community Redevelopment Law (the "Redevelopment Law"), codified in Part 1 of Division 24 of the California Health and Safety Code. The Agency was activated on February 27, 1979, by City Ordinance No. 207. The Project Area consists of three component areas resulting from a series of actions by the City Council of the City, and includes those redevelopment projects and project areas formerly known as Loma Linda Redevelopment Project No. 1 ("Project No. 1") and Loma Linda Redevelopment Project No. 2 ("Project No. 2") as follows: (i) that area included as the project area of Project No. 1 as approved by Ordinance No. 226 adopted by the City Council of the City on July 15, 1980 (the "Original Project Area"); (ii) that area added to the project area of the Project No. 1 by that amendment to Project No. 1 as approved by Ordinance No. 508 adopted by the City Council of the City on December 13, 1994 (the "Project No. 1 Amendment Added Area"); and (iii) that area designated as the project area for Project No. 2 as approved by Ordinance No. 374 adopted by the City Council of the City on May 12, 1987 (the "Project No. 2 Area"). Project No. 1 (including the Original Project Area and the Project No. 1 Amendment Added Area) and Project No. 2 were merged and amended under Ordinance No. 591 adopted by the City Council of the City on September 26, 2000 and the amended redevelopment plan (the "Redevelopment Plan") as approved thereby; and

WHEREAS, as amended and in effect as of September 27, 2004 (prior to the adoption of Ordinance No. 628, as described below), the Redevelopment Plan as theretofore amended provided, in part that the Agency shall not repay indebtedness with the proceeds of property taxes received after the following: (i) as to the Original Project Area, July 15, 2030; (ii) as to the Project No. 1 Amendment Added Area, December 13, 2039; and (iii) as to the Project No. 2 Area, May 12, 2037; and

WHEREAS, the Redevelopment Plan authorizes the collection of tax increment as provided for in Health and Safety Code Section 33670; and

WHEREAS, Section 33333.6(c)(2)(C) of the Redevelopment Law, as established as an urgency statute under SB 1045, Chapter 260, Statutes of 2003 ("SB 1045") provides in part, concerning redevelopment project areas adopted and territory added to an existing project area on or before December 31, 1993:

> When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by one year by adoption of an ordinance. In adopting this ordinance, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by Section 33607.7; and

WHEREAS, Section 33333.2(c) of the Redevelopment Law, as established as an urgency statute under SB 1045, Chapter 260, Statutes of 2003 ("SB 1045") provides in part, concerning redevelopment project areas adopted and territory added to an existing project area on or after January 1, 1994:

When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to paragraphs (2) and (3) of subdivision (a) by one year by adoption of an ordinance. In adopting this ordinance, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans; and

WHEREAS, the Agency made a payment pursuant to Section 33681.9 during the 2003-04 fiscal year; and

WHEREAS, the City Council determined to take advantage of SB 1045 and adopt an ordinance which extended by one (1) year the time limits required pursuant to subdivisions (a) and (b) of Section 33333.6 (as to each of the Original Project Area and the Project No. 2 Area) and paragraphs (2) and (3) of subdivision (a) of Section 33333.2 (as to the Project No. 1 Amendment Added Area) of the Redevelopment Law; and

WHEREAS, in connection with the extensions allowable under SB 1045, the City Council approved Ordinance No. 628 ("Ordinance No. 628"); and

WHEREAS, the City Council desires to ratify Ordinance No. 628 and to amend and restate, effective as of the effective date of Ordinance No. 628, that the authorization of the one-year extensions provided under SB 1045 as these relate to each of the Original Project Area and the Project No. 2 Area was made pursuant to the authorization of subdivisions (a) and (b) of Section 33333.6 of the Redevelopment Law; and

WHEREAS, the purpose of this Ordinance is to memorialize the correction of one section reference and deletion of one Section of Ordinance No. 628 and is consistent with the intent of Ordinance No. 628.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1 of Ordinance No. 628 is modified to read as follows: "The respective times established under the Redevelopment Plan as applicable to each of the Original Project Area, the Project No. 2 Area and the Project No. 1 Amendment Added Area for (i) operating and (ii) for receipt of tax increment revenues, as required pursuant to paragraphs (2) and (3) of subdivision (a) of Health and Safety Code Section 33333.2 as to the Project No. 1 Amendment Added Area and subdivisions (a) and (b) of Section 33333.6 of the Health and Safety Code as to each of the Original Project Area and the Project No. 2 Area, as in effect as of the effective date of SB 1045, are each extended by one (1) year."

SECTION 2. Section 6 of Ordinance No. 628 is hereby deleted.

SECTION 3. Except as amended by Section 1 hereof, Ordinance No. 628 is ratified and the Redevelopment Plan shall remain in full force and effect according to its terms.

SECTION 4. All required proceedings and considerations precedent to the adoption of this Ordinance have been regularly taken in accordance with applicable law.

SECTION 5. Prior to the expiration of fifteen (15) days from its passage, the City Clerk shall cause this Ordinance to be posted pursuant to law in three (3) public places designated for such purpose by the City Council.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such holding or holdings shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that ay one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 7. This Ordinance shall be take effect thirty (30) days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner required by law.

This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the _____day of _____ and was adopted on the _____ day of _____ by the following vote to wit:

Ayes: _____

Noes: _____

Abstain: _____

Absent: _____

_____
Floyd Petersen, Mayor

Attest:

_____
Pamela Byrnes-O'Camb, City Clerk