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DATE: August 16, 2016
TO: Board of Supervisors
FROM: Cindy Chavez, Supervisor
Dave Cortese, Supervisor
SUBJECT: Housing Bond Oversight

RECOMMENDED ACTION

Direct Administration and County Counsel to return to the Board of Supervisors with a draft ordinance for adoption specifying the means of oversight for the Housing Bond.
(Cortese/Chavez)

FISCAL IMPACT

No significant impact to General Fund.

REASONS FOR RECOMMENDATION

We, and the community that we represent, expect comprehensive and effective oversight for this Housing Bond. Accordingly, we are recommending an oversight model that is groundbreaking for its independence, expertise, and transparency to the greatest extent allowed by law.

The Citizens Oversight Committee for the Housing Bond will consist of nine members appointed by the Board of Supervisors. All members will be appointed within 60 days of the certification of the election. Each Supervisor will appoint at least one member, with four appointments rotating. Members will serve for terms of three years, and may serve a maximum of two terms. The terms will be staggered, so all of the terms do not expire at the same time. The Committee will meet in public, and is subject to the Brown Act. The appointed members will include:

- At least one attorney;
- At least one auditor/certified public accountant;
- At least one investment professional;

- At least one housing advocate;
- A representative from a civic organization (such as the League of Women Voters);
- A representative from organized labor;
- A representative from a business organization;
- A representative of the Santa Clara County Cities Association, nominated by the Cities Association; and
- The Santa Clara County Assessor.

We have modeled the requirements for professional expertise upon the Assessor's successful practice of seeking to fill each of his Assessment Appeals panels with an attorney, an accountant and an appraiser.

Before the appointments take effect, County Counsel will vet each proposed appointee to the Citizens Oversight Committee and report to the Board whether any prospective appointees have any conflict of interest.

The Citizens Oversight Committee will be staffed by a professional auditor that is independent of and external to the County. The independent and external auditor will report to the Citizens Oversight Committee.

Bond oversight committees are common, and they are usually staffed by the bonding jurisdiction (i.e., the County). However, we are recommending that this oversight be strengthened with a professional auditor. And we are enhancing the independence and capabilities of the Committee by requiring that the auditor directly report to the Committee to the greatest extent allowed by law. We are not aware of any other jurisdiction using this enhanced model of bond oversight.

The Citizens Oversight Committee will advise the Board of Supervisors and the public as to:

- Whether the County is spending the bond monies for the stated purpose and not for any other purpose;
- Whether the County is spending the bond monies efficiently, effectively and in a timely manner;
- Whether the County's issuance of bonds and temporary investment of bond monies is fiscally sound; and
- What changes to the County's implementation of the Housing Bond, if any, are recommended going forward to ensure bond monies are spent for their stated purpose.

The Citizens Oversight Committee and the independent and external auditor will send reports to the Board of Supervisors at least quarterly. In addition to quarterly reports, the Oversight Committee and the auditor may report to the Board of Supervisors at any time. The reports from the Committee and the auditor will be publicly available at least 14 days before public meetings; this way, the public and the media will have adequate time to examine the reports before the public meeting. Each report by the Committee will also be provided to each city in the County.

The Committee will receive the reports on Housing Bond implementation that are provided to the Board of Supervisors, including monthly “dashboards.” The Committee will receive financial reports that display the original budget, current budget, approved commitments to date (across all fiscal years), actual expenditures and budget balance.

The Committee will have the capacity to authorize and receive specific, “spot check” audits in real-time, without waiting for the annual comprehensive audits. The Committee will have direct access to the auditors.

Prior to beginning their work, Committee members will receive a comprehensive orientation and training.

The independent and external auditor will be selected by the Board of Supervisors through a Request for Proposal process. The Committee (or representatives of the Committee) will participate in the RFP process, and may make a recommendation to the Board regarding the selection.

The auditor will produce an annual financial audit and a quarterly report, and will submit the audit and reports to the Committee and to the Board of Supervisors. Each audit and report will also be provided to each city in the County.

Should the Committee make recommendations regarding the County’s implementation of the Housing Bond, the Board of Supervisors will respond to all such recommendations within 60 days of the presentation to the Board. The Committee may comment on the Board’s action on its recommendations.

The Administration will review the California League of Bond Oversight Committees’ (CalBOC) recommended best practices and incorporate applicable recommendations in the proposed ordinance.

BACKGROUND

The Full Text of the Affordable Housing Bond Measure includes the following content:

ACCOUNTABILITY SAFEGUARDS

Statement of Purpose: The specific purposes of the bond are to fund the acquisition or improvement of real property in order to provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services. The proceeds of any bonds issued pursuant to this bond measure will be applied only to these specific purposes.

Special Bond Proceeds Account: The proceeds of the bonds issued pursuant to this measure shall be deposited in a special account created by the County.

Annual Report: The County will ensure that an annual report pursuant to Government Code section 53411 describing the amount of funds collected and expended, and the status of any project required or authorized to be funded, shall be filed with its governing body.

Independent Citizens' Oversight Committee: A Citizens' Oversight Committee will be established and will review the annual report each year to ensure fiscal accountability.

Independent and External Audit: An independent, external auditor will review the County's spending of bond proceeds to ensure accountability.

ATTACHMENTS:

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