
OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: August 17, 2009

IBA Report Number: 09-70

City Council Meeting Date: TBD

Item Number: TBD

Proposed Revisions to the SEDC and CCDC Operating Agreements and Corporation Bylaws

OVERVIEW

Following the release in September 2008 of the performance audit of the Southeastern Economic Development Corporation (SEDC) by Macias Consulting Group, numerous City officials and stakeholders have participated in a deliberative and public process to develop a set of recommendations to effectuate greater oversight and accountability of the non-profit corporation redevelopment entities - Southeastern Economic Development Corporation (SEDC) and Centre City Development Corporation (CCDC).

A performance audit of CCDC released in July 2009, conducted by Sjoberg and Evashenk, further confirmed the need to strengthen oversight of the Corporations. Over the past several months, a significant focus has been on developing recommendations, for updating and strengthening the obsolete Operating Agreements between the Redevelopment Agency and the Corporations, which have not been updated since 1981 in the case of SEDC and 1986 in the case of CCDC. Both performance audits tied a number of their significant findings to deficiencies in the existing Operating Agreements. In the SEDC audit, the first recommendation from Macias and Gini states:

“The City should revamp SEDC’s governance structure. Options to consider include: amend and update SEDC’s operating agreement to include representative of the City on the SEDC Board, limitations to the SEDC President’s authority; specific requirements for holding Board of Director meetings, as well as establishing requirements for SEDC Board of Directors’ training, budgeting practices, communication activities, project management, financial management, performance outcomes and mandating leave utilization...”

Sjoberg and Evashenk noted similar concerns in its audit of CCDC:

“Similarly, this audit revealed deficiencies that require attention; specifically, the operating agreement between the Agency and CCDC:

- *Does not mandate the CCDC employ an internal control structure sufficient to safeguard public assets;*
- *Does not include sufficient specificity and updated provisions regarding allowable expenditures;*
- *Lacks specific performance measures and requirements for reporting progress toward attaining established goals;*
- *Does not clearly delineate the reporting relationship between CCDC and the Executive Director of the Agency.”*

While a great deal of focus has been on strengthening the Operating Agreements as recommended in the audits, the Corporation Bylaws have been examined as well in this process. A number of recommendations from the audits are more appropriately addressed within the Corporation Bylaws, particularly those that relate to providing the City, as the sole member of the Corporation, the authority necessary to expand its oversight role, and those that further clarify the Corporations’ accountability to the City and the taxpayers.

Other audit findings, outside the scope of this report, will be addressed through official responses and action steps developed by SEDC, CCDC and the City through the official audit process, which is managed and monitored by the City Auditor’s Office and periodically reported out to the City’s Audit Committee.

Following significant discussion and input at their meeting of July 15, 2009, the Rules Committee voted 5-0 to forward the proposals to the City Council without recommendation, with direction to the IBA to compile all recommendations from the Mayor’s Office, IBA, CCDC and SEDC Performance Audits, CCDC, SEDC, Rules and Audit Committees into one document. The “Proposed Revisions to the SEDC and CCDC Operating Agreements and Bylaws” presented in Attachment A, is a culmination of the work of the Audit and Rules Committees; the Mayor’s Office; the Independent Budget Analyst; the City Attorney’s Office; SEDC and CCDC on this matter.

Additionally, some of the recommendations reflect the results of additional research, analysis and discussion between the Mayor’s Office, the City Attorney’s Office and the IBA as requested by the Rules Committee in order to explore additional issues raised by Committee members and members of the public at that meeting and to further discuss areas of disagreement. Any significant areas of disagreement that remain between the entities are noted in the item descriptions. The matrix provided in Attachment B also outlines the evolution over the past several months of the proposals by showing original

IBA recommendations, the Audit Committee action, the Rules Committee action, SEDC and CCDC comments and the Mayor's Office responses to the Corporation comments.

RECOMMENDATION

The IBA recommends that the City Council approve the proposed conceptual changes to the Articles of Incorporation, Bylaws and Operating Agreements of the Centre City Development Corporation (CCDC) and Southeastern Economic Development Corporation (SEDC). It is further recommended the IBA work with the Redevelopment Agency staff and the City Attorney's Office to make the proposed changes, as well as any related "cleanup" changes to the Articles of Incorporation, Bylaws and Operating Agreements of CCDC and SEDC and to return to the City Council and the RDA for final approval.

[SIGNED]

Andrea Tevlin
Independent Budget Analyst

Attachment A – Proposed Revisions to SEDC/CCDC Operating Agreements and Bylaws
Attachment B – Matrix of Recommended Changes to SEDC/CCDC Operating Agreements/Bylaws as of June 19, 2009

ATTACHMENT A

PROPOSED REVISIONS TO SEDC AND CCDC OPERATING AGREEMENTS/BYLAWS (8/17/09)

The proposed revisions outlined below are based on the following:

- Results of the September 2008 Performance Audit of the Southeastern Economic Development Corporation (SEDC) conducted by Macias Consulting Group
- Results of the July 2009 Performance Audit of the Centre City Development Corporation (CCDC) conducted by Sjoberg Evashenk
- Mayor's 3/20/09 Proposal as amended by Audit Committee on 3/23/09 and accepted by the Rules Committee on 3/25/09
- Mayor's 7/14/09 Proposal as amended and accepted by the Rules Committee on 7/15/09 (indicated by *underlined italics*)
- Responses provided by the SEDC and CCDC Boards of Directors
- City Attorney's recommendation presented to the Rules Committee on 4/22/09:
 - Item 23- Oversight of Outside Legal Counsel
- Additional revisions suggested by the CCDC Board:
 - Item 24- Bylaws Clarification of Corporation President and Board Chair
 - Item 25- New Lobbying Provision

Notes: References to the Corporate "CEO" in the original recommendations have been changed to "President" in this document pursuant to new Item 25 which clarifies the role of Corporation President and Corporation Board Chair within the Bylaws.

At the end of each item we have indicated if the proposed revision will need to be made to the Bylaws, the Operating Agreements (OA) or both.

ITEM DESCRIPTIONS

1. Appointment and Termination of Corporation Presidents

Mayor Appoints and Terminates Corporation Presidents in his role as chief executive officer of the City; the City being the sole member of the Corporation.

Appointment Process- Create a candidate selection committee comprised of a representative of the Mayor's Office, two from the City Council and two from the Corporation Board. The selection committee shall provide no less than three candidates to the Mayor who shall either appoint the President, subject to confirmation by the City Council which must be supported with two-thirds vote, or reject the selection committee's candidates and begin a new selection process. (Bylaws)

Termination- Provide the Mayor with the authority to suspend and terminate the President, with or without cause, subject to appeal to the Council which must be supported with a two-thirds vote. Provide the Council with the authority to terminate the President for cause in the event Mayor takes no such action. (Bylaws)

Interim President Replacement- Provide the Mayor with the authority to replace the President with an interim officer during the appeal process or upon termination. (Bylaws)

Areas of Disagreement:

This issue is the subject of the most debate. The current proposal closely mirrors the Mayor's proposal outlined in his March 20, 2009 memo to the Audit Committee as well as the COO's memo to the Rules Committee of July 14, 2009. On March 23, 2009 the Audit Committee endorsed the Mayor's Proposal but amended the selection committee to include only one Council member and one Corporation Board member rather than two from each to serve with the Mayor's representative. The COO's July 14 memo to the Rules Committee supported this revision. On July 15 the Rules Committee amended the proposal shown to restore selection committee membership to include two Council members and two Corporate Board members on the selection committee, as recommended by the IBA.

Also, the Mayor's original proposal and the Audit Committee's motion did not contemplate allowing the Council to terminate the President for cause in the event the Mayor fails to act. This amendment was made by the Rules Committee at their July 15 meeting.

*Also at the July 15 Rules meeting, Councilmember Todd Gloria requested staff to further research whether the "RDA Executive Director" should have the authority to hire and terminate the Corporation Presidents rather than the "Mayor". After significant research the answer is "no." According to the City Attorney, with the City being the sole member of the Corporation, only the Mayor, as the chief executive officer of the City, **OR** the City Council, as the City's legislative body can appoint, hire and terminate the Presidents of the Corporations with the appropriate Bylaw changes. The City Attorney also noted that under the current proposal with the Mayor being given this authority,*

additional amendments to Corporation Bylaws will be necessary to effectuate the City Council giving up its authority in this area and delegating it to the Mayor.

2. **Expansion of Corporation Boards-** Expand the Corporation Boards of Directors to include a citizen voting member appointed as a City Council representative to the Board. To ensure an odd number of Board Members, one at-large board member seat will be eliminated once his/her term expires. (Bylaws)

Areas of Disagreement:

This is the second area of significant disagreement. The Mayor's original 3/20/09 proposal recommended expanding the Corporation Boards "to include a voting member appointed as a Mayoral appointee and a voting member appointed by the City Council." On 3/23/09 the Audit Committee amended this to include only the Mayoral appointee. The COO's 7/14/09 memo to the Rules Committee supported this change.

At the July 15 Rules Committee this item was amended to provide for "a citizen voting member appointed as a City Council representative to the Board" in lieu of a Mayoral representative. To address Corporation concerns about size and number, a recommendation to eliminate one at-large board member seat was accepted. During deliberations on this item, the City Attorney also clarified that a City Council member could not sit as a voting member of the Corporation Board due to "incompatibility of office", in which a conflict could occur when two public offices are held by the same official.

3. **Policies and Procedures-** Corporation Boards shall adopt purchasing and contracting policies that establish limits for staff level approval of contracts and provide for timely public disclosure of such executed contracts. Require Board adoption of policies and procedures for personnel matters, finance, budget, expenditure allowances, ethics, "gifts" and records retention. Require systematic review and update to remain current with best practices. (OA/Bylaws)
4. **Open Records –** The Redevelopment Agency and the City has the right to inspect all documents and records, including but not limited to financial records and personnel records, at a reasonable time to be established but no later than 10 days after written request by the Redevelopment Agency. (OA/Bylaws)
5. **Performance Audits –** The Redevelopment Agency has the right to order a performance audit, to be paid for in full by the corporations, no more than once per year. (OA/Bylaws)

6. **Annual Financial Audits-** Corporations shall perform annual financial audits and submit them to the City no later than 135 days after the end of the fiscal year. **(OA/Bylaws)**
7. **Budget Submissions to City-** Corporations must follow City administrative budget policies in any administrative budget submissions. Any submission must first be submitted to the City CFO for review prior to submission to the Redevelopment Agency. **(OA/Bylaws)**
8. **Removal of Corporation Board Members-** The Mayor has the right to suspend and recommend removal by the City Council of any corporation board members, based upon any breach of the operating agreements or Bylaws. **(Bylaws)**
9. **Violation of Policies-** A violation of an adopted Corporation policy or an applicable City policy constitutes a material violation of the Operating Agreement. In the absence of a City CFO-approved Corporation policy, the applicable City policy shall apply. **(OA/Bylaws)**
10. **Corporation Board Member and Executive Officer Training-** Board member and Executive Officer training in ethics, fiduciary duties and governance shall occur every two years with submission to City CFO of training certificate. **(OA/Bylaws)**
11. **City CFO Approval of Fiscal Policies-**The Corporation Board must approve all Corporation fiscal policies before submission to City CFO for approval. City CFO will have oversight of Corporation policies but contracts will be overseen by the Corporations and be in conformance with City CFO-approved Corporation policies. **(OA/Bylaws)**
12. **Transfer of Budgeted Funds-** Any line item transfer of budgeted funds in excess of \$10,000 must be approved by Corporation Boards on a monthly basis. **(OA/Bylaws)**
13. **President Performance Review/Senior Staff Compensation-** Corporation Boards must approve total compensation for senior officers annually including salary, benefits and performance pay. The Mayor shall perform the annual performance evaluation and set compensation for the President and consult with the Council and Corporation Board of Directors. The Board of Directors should review and approve compensation annually for all other executive officers other than the President. **(Bylaws)**
14. **Personnel Manual-** Corporation Boards must develop and adopt Personnel Manuals that are updated annually. **(OA)**

15. **Board Review of Financial Statements-** Corporation Boards, the Corporation CFO and Corporation President are required to review and certify Corporation financial statements. (OA/Bylaws)
16. **Monthly Financial Statements-** Corporation Boards are to review and approve monthly financial statements presented by the Corporation's CFO, comparing actual to budget with any variance fully disclosed and explained. These statements are to be submitted to the City CFO. (OA/Bylaws)
17. **Redevelopment Law-** Corporation Boards must comply with redevelopment law. (OA)
18. **Board Expertise-** Require that two Corporation Board members have expertise in Finance, Real Estate Law, Economic Development, Redevelopment or Urban Design. (Bylaws)
19. **Public Information-** Corporations must provide key documents and information to the public via website including Board and Board committee agendas, reports and minutes; current adopted budget; annual financial reports; Corporation by-laws and policies. (OA/Bylaws)
20. **Strategic Plan-** Corporations are required to develop a five-year strategic plan with performance goals and metrics that reflect the needs of the community as determined through extensive community outreach and that line up with the vision of the City. This Strategic Plan along with annual performance results must be reported to and approved by the Redevelopment Agency annually in accordance with Redevelopment Law. (OA/Bylaws)
21. **Audit Committee-** Corporations are required to establish and maintain an Audit Committee. (OA/By laws)
22. **Closed Sessions-** Corporations are required to follow City of San Diego closed session policies. (OA)
23. **Oversight of Agency Outside Legal Counsel-** The City Attorney's Office will exercise oversight control of attorneys hired by the Corporations. (Bylaws)

Note: The City Attorney presented this item to the Rules Committee on April 22, 2009, but the Committee took no action.

24. **Clarification of the positions and powers of Corporation Presidents and Corporation Board Chairmen-** In order to clarify the duties and powers of the

Corporation Presidents and the Chairmen of the Boards of Directors, delete any reference to "Chief Executive Officer" from the Bylaws.

Note: This item is new and was raised by the CCDC Board; the City Attorney's Office proposed this revision to the Bylaws to address it.

25. **New Lobbying Provision-** No past Corporation Board member will be allowed to lobby, within their Corporation's jurisdiction, the Corporate Board, the Redevelopment Agency or the City Council, regarding proposed projects, programs and/or related funding for up to one year after leaving office. **(OA)**

Note: This item is new and was proposed by the CCDC Board.

26. **The following recommendation from the Audit Committee was not endorsed by the Rules Committee or supported by the Mayor's Office:** "Amend San Diego Municipal Code to prohibit the Comptroller from expending any tax payer funds on either agency when the board of that agency has less than two-thirds valid current Corporation Board appointments." (N/A)

ATTACHMENT B

Recommended Changes to SEDC/CCDC Operating Agreements/Bylaws
(As of June 19, 2009)

| IBA Recommendations | Mayor's 3/20/09 Proposal | Audit Committee Motion 3/23/09* Rules Committee Motion 3/23/09* | SEDC Response/Action | Mayor's Response/Action |
|---|---|--|--|---|
| <p>A GOVERNANCE: Consider creating additional SEDC/CCDC Board positions and appoint the Redevelopment Agency's Deputy Director to serve as City representative/voting member to these Boards. This is suggested in lieu of the Mayor's proposal to add two new members, one representing the Mayor's Office and one representing the City Council, to avoid the "compatibility of office" issue. (Addresses Audit Rec. #1)</p> | <p>2. Expand the Corporation Boards of Directors to include a voting member appointed as a Mayoral appointee and a voting member appointed by the City Council</p> | <p>Included IBA Item B "Board Expertise"</p> | <p>OK as long as local community representation is specifically preserved as a key element of successful redevelopment</p> | <p>Recommend one Mayoral appointee immediately begin serving and the elimination of one at large board member upon next term expiration</p> |
| <p>B BOARD EXPERTISE: Recommend SEDC bylaws be changed to require 2-3 SEDC Board members to have specific expertise e.g. Finance, Real Estate, Law.</p> | <p>Not addressed</p> | <p>Amended Mayor's Item 1 to provide the Mayor with authority to suspend and terminate the executive officer subject to appeal to the City Council which must be supported with a two-thirds vote. Provide the Mayor with authority to replace the CEO with an interim officer during the appeal process. Amended Mayor's Item 1 to have a candidate selection committee comprised of one representative from the Mayor, one from the City Council, one from the Corporation Board. The selection committee shall provide no less than 3 candidates to the Mayor who shall appoint the CEO subject to confirmation by the City Council which must be supported with a two-thirds vote.</p> | <p>THIS RESPONSE ALSO APPLIES TO CCDC COMMENT: Partially agree with SEDC recommendation. Recommend the Audit Committee recommendation with clarification that a role for the Boards of Directors in the selection of the candidates for CEO be provided. This change is not required to be articulated in changes to the Operating Agreements or Bylaws. Clarity of authority is critical to resolving weaknesses in the status quo. While SEDC argues that the Audit Committee recommendation would limit ability to attract qualified candidates, on the contrary, having multiple bodies (the Mayor and SEDC Board) empowered to remove the CEO could have a substantial chilling effect on recruitment efforts as it causes confusion over with whom final authority rests</p> | <p>Agree with IBA and SEDC</p> |
| <p>C EXECUTIVE HIRING: Recommend City Council and Mayoral representatives serve on a panel with each Corporation Board to participate in recruitment, interviewing and appointing the Executives. Amend bylaws to require Agency confirmation of the appointees. Currently, the Boards have sole authority to hire the Executive.</p> | <p>1. Designate the Mayor as the appointing authority of each corporation's CEO, subject to City Council confirmation, and grant the Mayor termination authority, subject to a right of appeal to the City Council. Include the creation of candidate selection committees for each CEO search to be comprised of 4 Mayoral representative, 2 members of the City Council, and 2 members of the Corporation. The selection committee shall screen potential candidates and provide the Mayor with not less than 4 candidates to select from. The Mayor may select one of the forwarded candidates, or may reject the applicants and require a new recruitment process</p> | <p>This limits the role of the SEDC BOD in hiring and firing without relieving the fiduciary liability for board members. The SEDC BOD must be able to discipline and fire CEO. The SEDC BOD likes the Housing Commission search model which provided for community input not present in the proposed model and prefers to have SEDC BOD vote on final selection of CEO. The structure proposed could unintentionally limit ability to attract qualified applicants. Agrees with Mayor having the right to fire CEO for cause with CEO ability to appeal termination to council.</p> | <p>Closed sessions may cause special problems for any mayor/council appointees under Brown Act. Bringing BOD to even number of members creates potential for tie votes and will require tiebreaking mechanism to be drafted.</p> | <p>Agree with IBA and SEDC</p> |

* The Audit Committee motion is intended to be advisory to the Rules Committee.

Recommended Changes to SEDC/CEDC Operating Agreements/Bylaws
(As of June 19, 2008)

| IJA Recommendations | Audit Committee Motion #78009 Ethics Committee Motion #24009 | SEDC's Response to IJA | Mayor's Response to IJA |
|---|--|--|--|
| <p>D POLICIES/PROCEDURES- Require the development of policies/procedures for personnel, finance, budget, expenditure allowances, purchasing, ethics, recordkeeping, and adherence to them. If no policy, City policy will apply. Require systematic review and update to remain current with best practices. Require Board to approve all such policies. Those impacting the Agency's authority shall be approved by the Agency upon recommendation by the Boards. (Addresses Audit rec's. #1,8,10,11,12,13,14,15,18,29)</p> | <p>3. Corporation boards shall adopt purchasing and contracting policies that establish limits for staff level approval of contracts and provide for timely public disclosure of such executed contracts; 9. Any violation of City policies constitutes breach of the Operating Agreements; 11. Corporation board must approve all internal contracts and fiscal policies before submission to City CFO for approval; 14. Corporation board must develop and approve a Personnel Manual that is updated annually</p> | <p>No. 3 - OK as proposed. No. 9 - Overly broad and charges SEDC BOD with knowledge of all City policies, many of which do/will not apply to SEDC. No. 11 - City CFO approved outside agency policy, still prefers City CFO to "review and comment" on fiscal policies versus review and approve and does not understand why City CFO would be asked to review SEDC contracts. No. 14 - OK as proposed</p> | <p>No. 9 - Partially agree. Outside agencies are expected to implement policies for corporate governance, but in absence of a City CFO approved outside agency policy, City CFO should apply. As stated in Mayor Recommendation 11, policies must be reviewed and approved by the City CFO.No. 11 - Partially agree. City CFO should have oversight of outside agency policies, but contracts should be overseen by outside agencies and be in conformance with City CFO approved contracting policies</p> |
| <p>E CFO REVIEW OF FISCAL POLICIES- Require Corporations to review all fiscal and budget policies with the City's CFO and solicit the CFO's input prior to Board approvals, but not require approval of said policies by the City's CFO as recommended in Audit. (Partially addresses Audit rec. #17)</p> | <p>11. Corporation board must approve all internal contracts and fiscal policies before submission to City CFO for approval</p> | <p>See response to No. 11 above</p> | <p>Ok</p> |
| <p>F BUDGET PROCESS- Require Corporations to adhere to the City's budget process including financial parameters and guidelines, timeliness, format and information. Prior to Agency approval, recommend that Financial Management perform a line item review, comment and critique, and ensure that requested revision revisions are made or, if not made, FM to report deviations to the Agency during budget reviews. (Addresses Audit Rec's. 1, 20, 21,22)</p> | <p>7. Corporations must follow City administration budget policies in any administrative budget submission. Any submission must first be submitted to the City CFO for review prior to submission to Redevelopment Agency</p> | <p>OK as proposed - already part of SEDC budget process</p> | <p>Ok</p> |
| <p>G CITY REIMBURSEMENTS- Recommend that the Corporation's CFO submit requests for reimbursement of eligible expenses for Board approval prior to the request being made to the City Comptroller's Office.</p> | <p>Not addressed</p> | <p>Not workable due to delay between approval and funding which will hurt small vendors, suppliers, and contractors who need prompt payment to survive.</p> | <p>Agree with SEDC</p> |
| <p>H BOARD TRAINING- Require that on a routine basis, the Boards will receive training that shall, at a minimum, cover the Board's fiduciary responsibilities, redevelopment trends and best practices, and redevelopment-related finance. Require attendance at all training to remain on the Boards. (Addresses Audit rec. #7)</p> | <p>10. Corporation board member training in ethics, fiduciary duties and governance shall occur every 2 years with submission to City CFO of training certificate</p> | <p>OK as proposed - already in process.</p> | <p>Ok</p> |

* The Audit Committee motion is intended to be advisory to the Ethics Committee.

Recommended Changes to SEDC/CCDC Operating Agreements/Bylaws
(As of June 19, 2009)

| IBAs Reorganizations | Mayor's 3/24/09 Proposal | Audit Committee Motion 3/25/09* | Mayor's Responses 6/19/09 |
|---|--|---|---|
| <p>I PUBLIC INFORMATION - Require Corporations to provide certain key documents and information to the public via their website including Board agendas and related backup reports and documents; current adopted budget; annual financial reports; Corporation bylaws and policies.</p> | <p>Not addressed</p> | <p>Included IBA Item I "Public Information"</p> | <p>OK, but could be very costly for server capacity. Will basically require FT website maintenance and additional funding for new position to handle this.</p> |
| <p>J STRATEGIC PLAN Require Corporations to develop a multi-year strategic plan that reflects the needs of the community as determined through extensive community outreach and lines up with the vision of the City. Report to LU&H annually. (Addresses Audit Rec. #28)</p> | <p>Not addressed</p> | <p>Included IBA Item J "Strategic Plan"</p> | <p>OK - this is needed, but by what date and using what funding? Can tax increment be used? Will require use of outside consultant(s).</p> |
| <p>K SEDC AUDIT COMMITTEE- Require SEDC to establish its own Audit Committee.</p> | <p>Not addressed</p> | <p>Included IBA Item K "SEDC Audit Committee" and included requirements that the Boards follow Closed Session; policies identical to the City Council's closed session policies.</p> | <p>OK on creating SEDC audit committee and counsel is preparing closed session policy which parallels City Council's</p> |
| <p>L DOCUMENT REVIEW - Require Corporations to allow City to inspect all corporate documents without advance notice (City Attorney suggestion).</p> | <p>4. City has the right to inspect all documents and records, including but not limited to, financial records and personnel records, at a reasonable time to be established but no later than 10 days after written request by the City</p> | <p>Approved Mayor's Item 4 approved as is.</p> | <p>OK except as to personnel records which are protected by employees' right to privacy.</p> |
| <p>M PERFORMANCE AUDITS - Require regular Performance Audits paid for by the Corporations (City Attorney Suggestion).</p> | <p>5. City has the right to order a performance audit, to be paid for in full by Corporation, no more than once per year</p> | <p>Approved Mayor's Item 5 approved as is.</p> | <p>OK, but cost is a concern and cost may not be eligible use of tax increment under CRL.</p> |
| <p>N CITY- City shall be responsible for promptly filling vacant and/or expired Board positions.</p> | <p>Not addressed</p> | <p>Added the following language: "Amend San Diego Municipal Code to prohibit the Comptroller from expending any tax payer funds on either agency when the boards of that agency has less than two-thirds valid current appointments."</p> | <p>THIS RESPONSE ALSO APPLIES TO CCDC COMMENT. Disagree with Committee recommendation. Restricting funding should not be linked to board membership. Potential would exist for unforeseen vacancies to shut down normal operations of outside agencies, potentially causing contract defaults</p> |
| <p>O CITY- City shall be responsible for providing direction to Corporations on financial guidelines, information and formal of the budget to be submitted by the Corporation.</p> | <p>Not addressed</p> | <p>Not addressed</p> | <p>OK as proposed</p> |

* The Audit Committee motion is intended to be advisory to the Rules Committee.

Recommended Changes to SEDC/CDC Operating Agreements/Bylaws
(As of June 19, 2009)

| IBAs/Amendments | Mayor's 3/2009 Proposal | Audit Committee Motion 3/2009 | SEDC Resolution 3/2009 | Mayor's Response 6/19/09 |
|---|---|---------------------------------|---|---|
| P CITY - Consider the Budget and Finance Committee convene as a Subcommittee of the Redevelopment Agency to review the proposed budget in advance of the Agency's review and adoption. | Not addressed | Not addressed | Not addressed | OK, but doesn't apply to SEDC operating agreement(s) |
| Q CITY - Chief Financial Officer's quarterly financial status report to the City Council to include Corporation's financial status and pertinent project area data. Format to be developed by the City in consultation with the Corporation's CFO. SEDC to meet City timelines and information needs. | Not addressed | Not addressed | Not addressed | OK as proposed as long as timelines are reasonable |
| R CITY - Create Redevelopment Committee. This item was raised at Rules Committee. | Not addressed | Not addressed | Not addressed | N/A - applies only to City |
| S Not Addressed by IBA | Corporations shall perform annual financial audits and submit them to the City | Mayor's item 6 approved as is. | OK as proposed | OK |
| T Not Addressed by IBA | Any line item transfers of budgeted funds must be approved by Corporation board on a monthly basis. | Mayor's item 12 approved as is. | OK, but request some standard of materiality in the form of a set dollar amount or percentage. | Agree with SEDC. Transfers in excess of \$10,000 should be approved by the Board of Directors |
| U Not Addressed by IBA | Corporation board must approve total compensation to senior officers annually, including salary, benefits, and performance pay | Mayor's item 13 approved as is. | OK, but who does CEO annual performance evaluation if SEDC BOD cannot fire the CEO for non-performance. | Mayor shall perform annual performance evaluations for the CEO and consult with the Board of Directors. The Board of Directors should review and approve compensation annually for executive officers other than the CEO |
| V Not Addressed by IBA | Corporation board is required to review financial statements and verify with certification by board, CFO, and CEO | Mayor's item 15 approved as is. | Assumed to be OK as long as agreement spells out what BOD, CEO, and CFO are "certifying" to and why. | OK |
| W Not Addressed by IBA | Corporation board is to review and approve monthly financial statements, presented by the Corporation CFO, comparing actual to budget with any variance fully disclosed and explained. These statements are to be submitted to the City CFO | Mayor's item 16 approved as is. | Could be very time consuming and costly unless limited to quarterly. Is this a new policy for all City agencies/corporations? | Disagree with SEDC. Regular review of budgeted to actual results by the Board of Directors would result in increased accountability and governance. City Charter section 39 requires similar information is provided on a monthly basis by the City of San Diego, therefore this requirement aligns outside agency transactions with those of the City. |

* The Audit Committee motion is intended to be advisory to the Rules Committee.

Recommended Changes to SEDC/CCDC Operating Agreements/Bylaws
(As of June 19, 2009)

| IBA Recommended (0/0) | Mayor's 2009 Bylaws | Audit Committee Motion 3/23/09 Rules Committee Motion 4/16/09 Mayor's Item 17 approved as is. | SEDC's Proposed Bylaws OK as proposed | Mayor's Response (0/0) |
|------------------------|--|---|--|--|
| X Not Addressed by IBA | 17. Corporation Boards of Directors must follow redevelopment law. | Mayor's item 8 approved as is. | Need clarification. Is standard for removal to be "at will" or "for cause"? Does member have same right to appeal to Council as CEO? | Board Members are at-will, voluntary positions |
| Y Not Addressed by IBA | B. Mayor has the right to suspend and recommend approval by Council of any Corporation Board members based upon breach of operating agreement. | | | |

* The Audit Committee motion is intended to be advisory to the Rules Committee.