

## FORT ORD REUSE AUTHORITY

100 12<sup>th</sup> Street, Building 2880

Marina, CA 93933

(831) 883-3672 (TEL) · (831) 883-3675 (FAX) · www.fora.org

### MINUTES OF THE FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS' MEETING

Carpenters Union Hall

April 8, 2011

#### 1. CALL TO ORDER

With a quorum present Chair Potter called the April 8, 2011 Board of Directors meeting to order at 3:31 p.m.

#### Voting members present:

Chair/Supervisor Potter (County of Monterey)  
1<sup>st</sup> Vice Chair/Mayor Edelen (City of Del Rey Oaks)  
Mayor Pendergrass (City of Sand City)  
Mayor ProTem Kampe (City of Pacific Grove)  
Councilmember Oglesby (City of Seaside)  
Mayor Della Sala (City of Monterey)

2<sup>nd</sup> Vice Chair/Mayor Pro-Tem O'Connell  
(City of Marina)  
Councilmember Brown (City of Marina)  
Mayor McCloud (City of Carmel-by-the-Sea)  
Supervisor Parker (County of Monterey)  
Jim Cook (County of Monterey)  
Mayor Bachofner (City of Seaside)

Absent: Councilmember Barrera (City of Salinas). Arriving after the roll call was Councilmember Selfridge (City of Monterey).

#### Ex-Officio members present:

Dr. Margon (University of California Santa Cruz ("UCSC")), Kevin Saunders (California State University Monterey Bay ("CSUMB")), Dr. Garrison (Monterey Peninsula College ("MPC")), Dan Albert, Jr., (Monterey Peninsula Unified School District), Gail Youngblood (Base Realignment and Closure ("BRAC")), Debbie Hale (Transportation Agency of Monterey County ("TAMC")), Bill Lee (Marina Coast Water District ("MCWD")), David Meyerson (15<sup>th</sup> State Senate District), and Nicole Charles (27<sup>th</sup> State Assembly District).

Absent: Colonel Brewer (United States Army). Arriving after the roll call were: Alec Arago (17<sup>th</sup> Congressional District) and Hunter Harvath (Monterey Salinas Transit ("MST")).

**2. PLEDGE OF ALLEGIANCE** - Chair Potter led the Pledge of Allegiance.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, CORRESPONDENCE** – Chair Potter acknowledged the return from medical leave, Assistant Executive Officer Jim Feeney. Executive Officer Michael Houlemard reminded members that the May 13 Board meeting would begin one half an hour earlier at 3:00 p.m. for the Legislative Session. He also reported on the impacts of a potential Federal shutdown and the effect it may have on FORA. Mr. Houlemard stated that FORA received a letter from Mike Weaver, Chair - The Highway 68 Coalition, dated April 8, 2011, a letter from Anthony Altfeld, City Manager - City of Marina dated April 4, 2011, and an e-mail correspondence from Richard Rosenthal, Save Our Peninsula Committee dated April 5, 2011.

**4. PUBLIC COMMENT** - none

**5. CONSENT AGENDA** - Mayor McCloud asked about the move-in date to the new Imjin Office Park and Mr. Houlemard confirmed a July 1, 2011 date. **Motion to approve the items 5a. (March 11, 2011 minutes) and 5b. (Imjin Office Park furniture) on the Consent Agenda, was made by Mayor Pro-Tem Kampe, seconded by Mayor McCloud, and carried with one abstention from Mayor Della Sala.**  
Item 5c was trailed.

**6. OLD BUSINESS** - Item 6a. - Mr. Houlemard requested the Board authorize additional expenses for the Capital Improvement Program ("CIP") Economic and Planning Systems contract amendment #2, not to exceed \$10,000.00. **Motion to approve was made by Mayor Edelen seconded by Mayor McCloud and carried.**

Item 6b. i. - Receive a presentation from Transportation Agency of Monterey County.

Executive Officer Houlemard introduced Transportation Agency for Monterey County ("TAMC") Executive Director Debbie Hale who asked Project Delivery Manager/Principal Planner Todd Muck to give a presentation outlining the contingencies and impacts of the Economic Planning & Systems ("EPS") Option #2 and Option #2c. Mr. Muck provided a comprehensive and detailed presentation highlighting the revenue delays by year, revision to the project schedules, assumptions used, impacts of the fee reduction, and delayed projects. Questions regarding the presentation were posed by members and a discussion followed. (A copy of the presentation is Attachment "A" to these minutes.)

Mayor Pro-Tem O'Connell asked if there were any changes in scope of projects or if it was just the timing that changed? Mr. Muck responded that it was just the timing that changed with the exception of the Monterey Branchline Scope.

Supervisor Calcagno asked if there was an escalation clause to the FORA fee? Executive Officer Houlemard responded that the FORA fee was indexed each year by the annual increase in the Engineering News Record's Construction Cost Index.

Mayor Pro-Tem Kampe asked if there is no development that occurs, are the projections true? Mr. Muck responded that, without development, the projections are simply forecasts based development expectations from FORA jurisdictions. He also asked if the jurisdictions forecasts take into account what those forecasts would be for the higher fee versus a lower fee? Mr. Muck responded that this was not part of his work.

Mayor Sue McCloud asked how Mr. Muck would see FORA's CIP obligations transitioning in 2014? Mr. Muck responded that this question would have to be addressed during the Phase II CIP review study, and that he didn't have an answer at this time. Ms. Hale responded that it is clear that none of these options work without continued fees which were questionable if FORA is not extended.

Supervisor Parker asked, if development is delayed, would it cause delays to infrastructure? Executive Officer Houlemard responded affirmatively, noting that the Board decided to implement a "pay as you go" policy when they adopted the fees. As development occurs, the fees to implement CIP projects will be collected, which is concurrent with the impact.

Chair Potter opened public comment. Nick Weaver questioned how Eastside Parkway could be positioned for design and construction in the near-term. There were no other public comments.

Item 6b. ii. - Receive information from consultant Economic & Planning Systems ("EPS").

David Zehnder, Managing Principal at EPS, summarized previous options and new options to be explored relating to comments. Mr. Zehnder discussed the questions previously posed by the Board and introduced a new alternative proposed by UCSC, Option 2C for the Board's consideration. He said that Option 1 was the initial recommendation which took the CIP down 21.5% resulted in a rate of \$36,300 per single family residential unit. A further reduction was explored in February, Option 2, which reduced the contingency further and eliminated the HCP contingency (\$17.5M) and the FORA loan repayment line item (\$12.2M repayment to FORA on land sale revenue) to a fee of \$29,600. Option 2B – reinstated the FORA loan repayment which is more conservative and brings the rate up to \$31, 200. Option 2C was the University of California Santa Cruz proposal, from March 30<sup>th</sup>, building on Option 2B (adding back in the \$17.5M HCP contingency item) bringing the single family residential rate up to \$33,700. Option 3 could initiate economic development lower than the \$29,600 however there would be more risks associated with such a decision. In addition, Mr. Zehnder distributed a document termed "Table 1 – DRAFT" regarding potential CFD Special Tax Revenue Adjustment – Various Options. (A copy of the presentation is Attachment "B" and Table - Attachment "C" to these minutes.)

Chair Potter thanked Mr. Zehnder for a thorough presentation and asked the Directors for questions.

Mayor Pro-Tem O'Connell asked Mr. Zehnder about the \$29,600 fee and if it provides \$35M for the HCP, and will it be studied in the 3<sup>rd</sup> contract amendment. Mr. Zehnder responded that the \$35M HCP endowment is included in the \$29,600 fee. However, the increased \$17.5 endowment cost is the difference between a 4.5% and 3% payout rate. He said under the Phase II scope (the suggested 3<sup>rd</sup> contract amendment), this issue would be researched and reported back to the Board. He further stated that ongoing negotiations with regulators would be necessary regarding an appropriate payout rate. He said that the 3<sup>rd</sup> contract amendment involves working with FORA staff, brainstorming, evaluating the options, preparing for Board discussions, phone conferences, meeting time, PowerPoint presentations, and memos. FORA Director of Planning and Finance, Steve Endsley stated that the Phase II scope included in the packet was an outline of Phase II activities that could be either performed by staff or consultants. The endowment research question was included so that there would be an idea of what it would cost to research and the Board could give direction. Mayor Pro-Tem O'Connell posed a question about the \$12.2M being reinstated under Option 2C and how those funds could be used. Mr. Houlemard commented, stating that the funds were land sales or tax increment revenues used for CFD mitigation obligations. He said these funds were carried as a loan in FORA's CIP, which was anticipated to be repaid and used for building removal, habitat conservation uses, or other obligations at the Board's discretion.

Supervisor Parker asked about the 4.5 – 3% pay out rate, return on investment possibilities commenting that some of the regulatory agencies were talking about figures of 1.2% and asked if a calculation had been conducted. Mr. Zehnder said 3% is a solid formula and the probability of operating at less than that would be low. Mr. Endsley stated that the California Department of Fish and Game ("CDFG") recently certified National Fish and Wildlife Foundation at the 3% number, which is why it was used. Current University of California Santa Cruz return on investment is higher level than 3% and FORA is hoping for the same.

Mayor Della Sala asked about the discrepancy between Option 2C \$33,200 and the Table provided \$33,700. Mr. Zehnder stated that in earlier discussions a \$17M was used as a "round number" vs. the actual \$17.5M. He said \$33,700 is the official number.

Mayor McCloud asked if the staff report was written prior to Option 2C and Option 3, and wanted to know staff's position. She further stated that a \$400,000 home is not affordable housing and asked for clarification on the 100-unit development hypothetical of below market rate housing and how the reductions in fees impacted those projects. Mr. Houlemard said that the Board would like to hear Options 2C and 3, which Mr. Zehnder provided and commented on the below market rate housing, stating that a cost burden analysis had been conducted and certain assumptions were made regarding below market rate housing and tax rates for the value of the unit. Mayor McCloud was concerned that the cost number per unit could jeopardize affordable housing. The cost burden for affordable housing could be 50% of the value. She further questioned the profit margin. Mr. Zehnder said that, for most projects, the affordable housing partner is a non-profit that produces affordable units to meet the developers' 20% state and local affordable housing requirements. Currently, only affordable units in addition to the 20% state and local affordable housing requirements are eligible for FORA's Tier 1, 2, and 3 incentives.

Chair Potter then opened the floor for public comment.

Chris Austin from the Development Planning & Financing Group (DPFG) stated that the \$29,600 fee supports the Administrative Committee and EPS recommendations and stated the additional numbers are speculative. Nick Weaver questioned whether the idea to lower the fee would promote development. Matt Huerta (representing South County Housing) said that he has been working with the housing developer (Marina Community Partners) since 2007 and has been successful in obtaining state funding for their affordable housing project within the Dunes on Monterey Bay project area. He said he is pleased to see progress being made and that their 108-unit affordable housing project may be in a position to proceed if a fee reduction is adopted.

Crisand Giles of the Northern California Building Industry Association commented about the slides shown for the Habitat Conservation Plan ("HCP"), and said that the \$35M is the best number to date however it does not include a detailed financial analysis and the discussion seems premature without that information. She asked if that would be better answered in Phase II and the FORA extension. Mr. Zehnder said that the payout of 3% does have some merit and the components of the \$35M would have to be answered by FORA staff. Chair Potter asked if there were any others wishing to speak and asked for Board comment. There being none, Chair Potter moved to the next item on the agenda.

Crisand Giles asked how large the endowment needed to be? Chair Potter stated that this was the public comment period and there was no debate.

Item 6b. iii. - Receive information on potential benefits of stimulating development through a fee reduction.

Chair Potter asked Crisand Giles to present the benefits of housing development in California. Crisand Giles described the general benefits, ongoing annual fiscal benefit, and jobs benefits produced by residential development projects.

Amy White of Land Watch asked "what does it cost the community to mitigate habitat?" She said she was not clear as to the cost to fund the HCP and not knowing EIR costs are problematic. Land Watch is concerned about the reduction in HCP fees and the project delays that could be created and what does that mean to projects using these transportation projects as mitigations. She said she would like the Board to consider these concerns and stated it is easy to reduce fees however it is harder to bring them back up. Ms. White then submitted a letter to the Deputy Clerk.

Henrietta Stern addressed the Board and stated she is a member of the Fort Ord Recreational Trail Friends, (FORT Friends). She commended about the benefits to new home owners and all residents in the area is the integrated Fort Ord Trails network. Ms. Stern informed the members about the County initiating an effort called the Fort Ord Recreation Habitat Area ("FORHA"). She said that she is concerned about the effects of reducing the fee and having adequate funding to manage the property which is roughly 1500 acres adjacent to those areas which is a benefit to homeowners to enjoy. She said that the management activities include

things like trail maintenance, parking access, signage, garbage cans, and restrooms. Ms. Stern urged the Board to choose an option that would help to preserve a sustainable community and presented a letter to the Deputy Clerk.

Don Wolfer Vice President of Shea Homes spoke in support of the lowering the fee as much as possible. In the few communities where his company is still building homes, everyone involved has had to sharpen their pencils to make the projects work.

Mark Kausing speaking for Centex Homes, a member of Marina Community Partners and a home builder, supported the fee reduction.

Scott Hilk stated that he appreciated staff and Board time and the work EPS has completed. He appreciates the consistency of the FORA "pay as you go" plan. He said that the fees need to be adequate but low enough for developers to move forward or there are no funds for the HCP and transportation.

Chair Potter – Closed public comment and asked the Board to pick an option.

Mayor Bachofner asked if he was correct in his understanding: It sounded like Ms. Giles said that 1-house creates 2.1 jobs? Ms. Giles responded that the 2.1 jobs figure comes from the California Department of Housing and Community Development (HCD).

Graham Bice, Manager of the UC MBEST Center commented regarding his concern with the \$29,600 figure saying that there were too many elements which are unfunded such as the HCP endowment and property management costs. He said that Option 2 assumes that CDFG will agree to a funding arrangement that will pay 4.5%, but that it is not allowed by its current endowment program, as is described on their website. He said that a payout rate of only 3% is available to FORA with the HCP as written and FORA committees have discussed revising the HCP to achieve more flexibility with endowment management, but he said that this would result in further costs and delays. He said that now is not the time to eliminate the \$17.5 million line item necessary to fully fund the habitat endowments. Otherwise, FORA will have to find an alternate way to fund these obligations. Mr. Bice proposed the Board adopt Option 2C, and return \$17.5M line item to the program which provides assurance that development will not be compromised.

Dan Albert read a letter from Monterey Peninsula Unified School District (MPUSD) stating that the City of Marina presented to the district their support in lowering the fees, which would spur development, provide increases in enrollment and taxes which benefits the community. MPUSD supports Option 2.

Chair Potter asked the Board to frame the actions around motions.

Dr. Margon stated he was concerned with the risk. Option 2C includes the HCP contingency, However, under Option 2, the \$17.5 M HCP contingency is not covered, which is gambling with the future since the 3% payout rate is the only payout rate currently approved by CDFG. Option 2C would only affect the sales price of a home by less than 1%. The Board and developers are unified in lowering the fee, which is a fiduciary responsibility. However, option 2C fully funds the HCP. He said that it is easier to lower the fee, if needed, in the future. Option 2C is the only prudent fiscal move the Board can make.

**Mayor McCloud made a motion to support a fee reduction described as Option 2C noting that she felt this is the only option that would satisfy Department of Fish and Game requirements and seizes the opportunity to promote development. Mayor Pro-Tem Kampe seconded.**

Mayor Pro-Tem O'Connell argued that lowering the fee gets development going and would be comfortable lowering the fee to \$29,600 and raising it after Phase II if necessary.

Dr. Margon stated that he would not support any fee number that does not include funding for the \$17.5 M HCP contingency.

Supervisor Parker stated she supports the desire to “right size” the fee, and suggested leaving it at \$46,000 or Option 1. Either of these options is the more prudent way to go; however, she would advocate for and consider Option 2C.

Mayor Edelen said that lowering the fee to \$29,600 wouldn’t entail going to the community for an election. He asked how long would it take to increase the fee if needed in the future. Mr. Houlemard said that the process would likely take a year.

Councilmember Oglesby said that the decision needs to be in alignment with the Department of Fish and Game and it will be hard to “get back in.” He said he supports Option 2C and reduce it later if needed. He further stated that he felt the Board needed to move “cautiously” as there could be a “false” economy. He said that there is a 9 – 12 month inventory now – 6 months is healthy and there may not be a demand for housing.

Mayor Bachofner stated that he had been on the other side in past, supporting fee reductions. However, he would support Supervisor Parker’s statements, preferring Options 1 and 2C.

Chair Potter said that one common theme he heard through this discussion is that it would be difficult to raise the fees once they were lowered. He said that Option 2C does help fund the Highway 156 project, which is a much needed improvement for the people who live here. Chair Potter stated that the pending discussion is the future of FORA. He said that FORA should be extended to 2020 in order to complete projects and forming another level of government to take the place of FORA would not be productive.

Item 6b. iv. - Direct staff to prepare documents and/or policy revisions necessary to approve a fee reduction.

Chair Potter asked for a roll call vote of the motion to support Option 2C.

**Ayes:** Director McCloud, Director Edelen, Director O’Connell, Director Brown, Director Della Sala, Director Potter, Director Calcagno, Director Parker, Director Kampe, Director Pendergrass, Director Bachofner, Director Oglesby.

**Noes:** -0-

**Abstentions:** -0-

Item 6b. v. Direct Staff to prepare an agreement amendment to implement Phase II analysis.

Mr. Houlemard stated that, in order to maintain continuity between Phase I and Phase II, he requested approval to work with Authority Counsel in extending the existing contract with EPS without having to go through the bid process.

Chair Potter asked for a motion to proceed past 5:30 p.m. **The motion was made by Mayor McCloud, seconded by Councilmember Oglesby and carried unanimously.**

Chair Potter asked if there was a motion to direct staff to work with EPS on scoping a third contract amendment for the Phase II study to bring back to the Board at its May meeting. Supervisor Parker noted her concern that the consultant was more of an advocate than a professional advisor during the Phase I CIP review process. She asked that staff work with the consultant to ensure that this line is not crossed during the Phase II CIP review process. **The motion was made by Mayor Pro Tem Kampe and seconded by Mayor Edelen. The motion carried unanimously.**

Item 6c. - Preston Park Management Agreement Modifications. Senior Planner Jonathan Garcia discussed the Preston Park management agreement modifications stating that amendment #1 saved costs to allow a bi-annual audit in place of an annual audit, amendment #2 extended the contract termination date by one year, and amendment #3 clarified language on when Alliance's 6% construction management fee would apply, modified the grievance procedure, and made other minor changes. **Motion to approve was made by Mayor McCloud and seconded by Supervisor Parker and carried.**

Item 5c – Authorize extension of the Top Grade Construction, Inc., Mr. Houlemard discussed amending the contract limits and said the Board had previously taken action to approve recommendations by the EDA to use a portion of the ARRA (American Recovery and Reinvestment Act) funds for the General Jim Moore Boulevard project. He said these were change orders to amend the contract for project completion of Phase II. **Motion was made by Supervisor Parker, (with a comment that the information would have been helpful to see in the board report), seconded by Mayor Edelen and carried.**

**7. NEW BUSINESS – Item 7a – Electronic Distribution of Board Packets.** Mr. Houlemard said that there were members of the Board who requested electronic distribution of the board packets. He said that staff would implement a 60 day trial period. He introduced Controller Ivana Bednarik who discussed the Electronic Distribution of Board Packets. Ms. Bednarik stated that reports would be available Friday, one week prior on the FORA website and staff would notify Board with a link included in the text of an email. She said that for the May Board meeting, both an electronic and paper version will be available. Ms. Bednarik said that a demonstration would be made at the next Board meeting. **Motion to approve staff's recommendation was made by Mayor Edelen seconded by Councilmember Oglesby and carried.**

**8. EXECUTIVE OFFICER'S REPORT –** Executive Officer Houlemard stated that all of the items in the Executive Officer's Report Item 8a. - Outstanding Receivables, Item 8b.- Administrative Committee report, Item 8c.- Travel Report, and Item 8d.- Habitat Conservation Plan stood as information items; however, he highlighted the following: Agreements have been made with the Cities of Del Rey Oaks and Seaside. Regarding unpaid fees, Marina staff was requesting direction to collect the FORA development fee for Neeson Road \$3,996.00. **Motion was made by Mayor Pro-Tem Kampe, seconded by Supervisor Parker and carried.**

**9. ITEMS FROM MEMBERS – none**

**10. REPORT OUT OF CLOSED SESSION –** The Board conferred with negotiators and heard from legal counsel. The Board directed staff to send a letter to the City of Marina acknowledging mediation of the Preston Park sale issue and agreed to meet and confer on April 15, 2011, at 4:30 p.m.

**11. ADJOURNMENT –** Chair Potter adjourned the meeting at 6:07 p.m.

Minutes prepared by Daylene Alliman, Deputy Clerk

Approved by \_\_\_\_\_

  
Michael A. Houlemard, Jr. Executive Officer/Clerk