

**ACTION MINUTES  
OF THE  
FORT ORD REUSE AUTHORITY  
BOARD OF DIRECTORS' MEETING  
June 8, 2007**

**1. CALL TO ORDER**

Chair Joe Russell called the meeting to order at 3:02 p.m.

**2. ROLL CALL FOR VOTING MEMBERS**

Chair Russell requested a roll call of the voting members. The following were present:

Chair/Mayor Russell (City of Marina)	Mayor Mettee-McCutchon (City of Marina)
Mayor McCloud (City of Carmel-by-the-Sea)	Councilmember Wilmot (City of Marina)
Supervisor Armenta (Monterey County)	Mayor Pendergrass (City of Sand City)
Councilmember Jordan (City of Seaside)	

Councilmember Barnes (City of Salinas) arrived after the Closed Session had started. Absent were Mayor Della Sala (City of Monterey), Supervisors Potter and Calcagno (Monterey County), Councilmember Davis (City of Pacific Grove), and Mayor Rubio (City of Seaside).

Chair Russell declared a quorum present and adjourned the meeting to Closed Session.

**3. CLOSED SESSION**

The Closed Session item was a Public Employee Performance Evaluation of FORA's Executive Officer.

**4. RECESS**

No recess was called since the Closed Session had gone overtime.

**5. RECONVENE MEETING**

Chair Russell reconvened the meeting at 3:34 p.m.

**6. ROLL CALL FOR ALL BOARD MEMBERS**

Chair Russell requested a roll call of all board members. The eight voting members were still present and also the following ex-officio members:

Colleen Freeman (27 <sup>th</sup> State Assembly District)	Steve Reed (CSUMB)
Vicki Nakamura (Monterey Peninsula College)	Charles Van Meter (MPUSD)
Dr. Bruce Margon (UC Santa Cruz)	Karen Fisbeck (BRAC)
Kenneth K. Nishi (Marina Coast Water District)	

Late arrivals were Congressman Farr (17<sup>th</sup> Congressional District), Hunter Harvath (Monterey-Salinas Transit), and Debbie Hale (Transportation Agency for Monterey County). Absent were representatives from the 15<sup>th</sup> State Senate District and the U.S. Army.

A quorum was present and Chair Russell called the meeting to order.

## 7. PLEDGE OF ALLEGIANCE

Chair Russell asked Mayor Pendergrass to lead those present in the Pledge of Allegiance.

## 8. REPORT OUT OF CLOSED SESSION BY AUTHORITY COUNSEL

Authority Counsel Bowden reported that the voting members had deliberated on the Closed Session item and given direction to the Executive Committee, along with a request that the Executive Officer's evaluation be returned to the July board meeting for further discussion.

## 9. ACKNOWLEDGEMENTS

Chair Russell acknowledged the presence of the following: Colleen Freeman, who has replaced Craig O'Donnell as Assemblymember Laird's district representative; Supervisor Armenta, alternate to Supervisor Smith; and Councilmember Wilmot, the newly appointed representative from the City of Marina. **Mayor Mettee-McCutchon made a motion requesting that a time-sensitive item be added to the agenda. The motion was seconded by Mayor McCloud and carried.** Chair Russell asked Karen Fisbeck, who was attending her last FORA Board meeting, to come to the podium, where he read and presented her with a Resolution of Appreciation and Commendation, along with a plaque. Ms. Fisbeck made brief comments and announced that Gail Youngblood would be the new BRAC representative to this board.

## 10. PUBLIC COMMENT PERIOD

Thom Gamble from Marina Community Partners announced that Shea and Centex were hosting a Trade Show at the Marina Community Center on Wednesday, June 13, from 3:00 – 5:00 pm, and invited all to attend.

## 11. CONSENT AGENDA

There were three items on the Consent Agenda: Item 11a – Action Minutes of the May 11, 2007 Board Meeting; Item 11b – Amendment to Master Agreement for Professional Services – Creegan + D'Angelo (Capital Improvement Program On-Site Transportation); and Item 11c – Imjin Office Park: Resolution Authorizing the Executive Officer to Execute the Sales' Contracts with the Partners. Mayor McCloud asked that Item 11a be pulled for discussion. She asked that her comments as a private citizen during the Public Comment Period of the May minutes be further clarified with text she provided. **Motion to approve the three items on the Consent Agenda, including the clarifying text in the June 8, 2007 minutes, was made by Mayor Mettee-McCutchon, seconded by Councilmember Mancini, and carried.** Councilmember Barnes and Supervisor Armenta abstained due to absence. Executive Officer Houlemard added that the amendment and the agreement in Item 11b had been reviewed by Authority Counsel.

## 12. OLD BUSINESS

Item 12a – Habitat Conservation Plan Approval Process - Update: Director of Planning and Finance Steve Endsley reported that the submittal process had been “re-energized” in recent weeks by the new consultants from Jones and Stokes. He also called attention to important meetings with key officials in Sacramento on June 11<sup>th</sup>. He noted that funding for the Jones and Stokes contract had been included in FORA’s 2006-07 budget, and additional funding needed for the federal scope will be included in an amendment to the 2007-08 budget. There was one question from the Board and no public comments.

Item 12b – Fort Ord Reuse Authority Consistency Appeal Fee: Authority Counsel Bowden introduced the item and provided background information. He stated that Richard Rosenthal, attorney for Save Our Peninsula, had requested findings on the cost and processing of an appeal, and he had responded that the fee was tied at any given time to the County’s appeal fee for combined development permits, as prescribed by the 1998 Settlement Agreement with the Sierra Club. Board comments included the following: Congressman Farr stated that he was shocked at the fee. Mayor Mettee-McCutchon asked why the fee wasn’t higher and whether it had been adjusted for inflation. Councilmember Wilmot asked if the fee could be changed and Mr. Bowden replied no, since it was part of the Sierra Club Settlement Agreement, which had been approved by the Court.

Public comments included the following: Richard Rosenthal, attorney representing Save Our Peninsula, said the fee wasn’t \$4,600+ in 1998 and said he doubted that the appeal fee was negotiated at all prior to the Settlement Agreement. He asked if FORA staff had called the County to verify the current fee (yes). He also asked why there was an appeal fee for the Cypress Knolls project but none for the Marina Heights and University Village. Mr. Rosenthal stated that an appeal on a consistency determination must be filed within ten days of the FORA Board’s determination, so the work undertaken for the consistency hearing should not have to be redone for the appeal. He referenced Mr. Bowden’s letter dated 6/23/05 regarding the University Village consistency determination, in which Mr. Bowden stated “there is no basis for an appeal.” Mr. Rosenthal stated that allocation of staff time will be the subject of the lawsuit and he would take depositions from all to show that the appeal fee was unreasonable. Mr. Bowden remarked that it is not necessary to appeal these matters, because all major projects are brought before the Board independently, independent of an appeal, so it’s an error to think that the only way a citizen can be heard on de novo on one of these projects is to spend the appeal fee and have the appeal hearing. On the contrary, he said the exact same issues, namely consistency of the decision that the local agency has made with the Base Reuse Plan, is the very same issue that is before the Board when these matters are heard by the Board, so whether there is an appeal or not, any member of the public can say whatever they want without spending a nickel. Congressman Farr remarked that he disagreed with Mr. Bowden’s analysis, saying differences of opinion about what is subject to consistency review exist, e.g., something staff had not addressed in their analysis. Executive Officer Houlemard clarified that all legislative land use actions must be brought to the Board for review and there is a separate process for a development entitlements, e.g., the Cypress Knolls project. He said there will be hundreds of development entitlements in the future, and if all were to be appealed, a very difficult administrative problem would result. He reiterated that Mr. Rosenthal’s appeal relates to a project entitlement appeal, not a legislative land use component of the review. Mayor McCloud said she was confused about the findings in the board report and asked if they would be returned after the board’s deliberations. She recommended that “factual” findings be included in the resolution. Mr. Bowden said he could clarify the terminology in the draft resolution and staff could be directed to provide more factual findings. Councilmember Wilmot suggested hiring someone to do an

independent analysis of the matter, and Mayor Mettee-McCutchon remarked that it would be a waste of funds, since FORA staff had already verified something explicit in the Master Resolution, and any findings would not change the appeal fee anyway. **Motion to adopt factual findings to confirm the relationship between FORA’s administrative cost of processing appeals and the appeal fee charged under Master Resolution Section 8.01.050 and approve Resolution No. 07-13 was made by Mayor Mettee-McCutchon and seconded by Councilmember Jordan. Supervisor Armenta suggested that Mayor McCloud’s suggestion be added to the motion. Mr. Bowden agreed to add additional text in Section 2.1 of the resolution regarding factual findings. There were no objections to this amendment to the motion.** There were no further board or public comments, and **the motion carried.** (Supervisor Armenta left the meeting at this time, but a quorum remained.)

### 13. NEW BUSINESS

Item 13a – Capital Improvement Program (“CIP”) for FY 2007-2008 through 2021-2022: Assistant Executive Officer Jim Feeney summarized the draft CIP with a PowerPoint presentation, which included figures for the remaining Base Reuse Plan obligations, Program offsets, significant updates in this CIP, and the CIP transportation map. Board comments followed. Congressman Farr asked if \$2M-3M from the contingency reserves could be used for funding the veterans’ cemetery, and Mr. Feeney responded that the \$90M is on paper and represents forecasted monies. Working on a pay-as-you-go basis, he said all monies collected to date have been spent; however, if excess funds are available when FORA sunsets, a review could certainly be scheduled. Executive Officer Houlemard confirmed that the board’s policy is to support the cemetery but noted that several items in the CIP have changed during the last few years, namely, the Habitat Conservation Plan costs have risen significantly, and the Community Facilities District fees have been adjusted to enable others to finance more affordable housing, if taken advantage of. Additional funds must be obligated to satisfy these obligations. Mayor McCloud asked if the Board should consider executing a resolution of intent to support the veterans’ cemetery. Mayor Mettee-McCutchon remarked that the CIP was not the appropriate place to add funding for the cemetery and added that any such funding should be included in FORA’s budget. Mr. Houlemard noted that agreements are already in place concerning habitat management, road, etc., which require setting aside funds, and recommended that this matter be brought back to the Board at a later time. Public comments followed. John Fischer asked what the three tiers under Affordable Housing Adjustment (page 18, Table 4) were and where this housing will be located. He also questioned whether all the new hotel rooms wouldn’t overload the number of hotel rooms in the area and questioned whether existing hotels would survive. Richard Rosenthal suggested that FORA should contribute to the improvements to the on/off ramp at Highway One and Imjin Parkway and finance all the costs that were relocated or shifted out of the project when the FORA re-evaluation project is undertaken. **Motion to approve the draft FY 2007/08 – 2021/22 Capital Improvement Program document was made by Councilmember Barnes and seconded by Councilmember Wilmot.** Councilmember Barnes commented that FORA is not flush with funds, as some have concluded; on the contrary, she said FORA’s CIP looked “thin,” considering all the obligations. **The motion carried.**

Item 13b – FORA FY 07-08 Preliminary Budget: Executive Officer Houlemard provided background information. Finance Committee Chair/Mayor Sue McCloud made brief remarks about the preliminary operating budget, noting the total change in format. Mr. Houlemard guided those present through a summary PowerPoint presentation, which included recommended adjustments in staff salaries and benefits and 3.5 additional staff positions. He thanked Mayor McCloud for the focus she brought to the

Preliminary Budget review. Mayor Mettee-McCutchon made the only board comment, remarking that the Habitat Conservation Plan continues to be a drain on FORA's financial and personnel resources and she hoped the final approval would be soon. There were no public comments. **Motion to approve the FORA fiscal year 2007-08 preliminary budget was made by Mayor Pendergrass, seconded by Mayor McCloud, and carried.** Mayor McCloud asked that any comments on the new format be directed to either her or Mr. Houlemard.

Item 13c – Extension Agreement for University of California Fort Ord Natural Reserve Funding: Executive Officer Houlemard summarized this agreement and the request for extension. **Motion to approve the “Agreement to Extend Funding of Habitat Management Related Expenses on the Fort Ord Natural Reserve by and between the Regents of the University of California the FORA” was made by Councilmember Wilmot, seconded by Mayor McCloud, and carried.**

#### 14. EXECUTIVE OFFICER'S REPORT

There were four items in the Executive Officer's Report: Item 14a (Administrative Committee Report), Item 14b (Finance Committee Report), Item 14c (Executive Officer's Travel Report), and Item 14d (Preston Park Management Agreement: (i) Amendment Number One and (ii) Authorize the Executive Officer to Authorize the City of Marina to Proceed with a Request for Proposals (“RFP”) for Preston Park (and Abrams B) Property Management Services). All items were informational, except Item 14d(ii) which Executive Officer Houlemard summarized. Mayor McCloud questioned the dates in paragraph 2.1 (TERM) of the amendment and asked if the RFP needed Authority Counsel's coordination. Mr. Houlemard replied that the RFP is not a legal document but review by counsel could be requested, if desired. Congressman Farr asked why the possible change in management and expressed concern about proper maintenance and monitoring of the affordable units. Mr. Houlemard replied that the City of Marina's housing authority oversees these matters, since the complex is publicly owned and will continue to be so. **Motion to authorize the Executive Officer to authorize the City of Marina to proceed with a Request for Proposals for Preston Park (and Abrams B) property management services was made by Councilmember Jordan, seconded by Councilmember Wilmot, and carried.**

#### 15. ANNOUNCEMENTS AND CORRESPONDENCE

Congressman Farr asked why the City of Sand City was not participating in the Scenic Highway Corridor designation. Mayor Pendergrass responded that the City has questions about the regulations and duplicate bureaucracy of Caltrans and the Coastal Commission, which will have an impact on the city's decision to participate. He said the City has requested clarification from Caltrans. Mr. Farr offered his assistance to help alleviate any concerns.

#### 16. ADJOURNMENT: Chair Russell adjourned the meeting at 5:15 pm.

Minutes prepared by Linda Stiehl, Deputy Clerk

Approved by \_\_\_\_\_  
Michael A. Houlemard, Jr., Executive Officer/Clerk