



Fort Ord Reuse Authority

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BOARD OF DIRECTORS REGULAR MEETING

Friday, April 12, 2013 at 3:30 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenter's Union Hall)

MINUTES

APPROVED

1. CALL TO ORDER AND ROLL CALL

Chair Edelen called the meeting to order at 3:30 p.m. The Board immediately adjourned to closed session.

2. CLOSED SESSION

a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – Four Cases

i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Numbers: M114961, M116438, M119217

ii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566

b. Conference with Legal Counsel – Anticipated Litigation, Gov Code 54956.9(b) – Two Cases

c. Public Employee Appointment: Authority Counsel – Gov Code 54957

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Acting Authority Counsel Jon Giffen announced that the Board had received a report from legal counsel and provided direction on closed session items. No reportable action was taken.

ROLL CALL

After reconvening into open session, a roll call was conducted and a quorum was confirmed.

Voting Members Present: (*alternates)

Chair/Mayor Edelen (City of Del Rey Oaks)
Councilmember Alexander (City of Seaside)*
Mayor Burnett (City of Carmel-by-the-Sea)
Councilmember Edwards (City of Seaside)*
Mayor Gunter (City of Salinas)
Mayor Kampe (City of Pacific Grove)
Councilmember Morton (City of Marina)

Mayor ProTem O'Connell (City of Marina)
Supervisor Parker (County of Monterey)
Mayor Pendergrass (City of Sand City)
Supervisor Potter (County of Monterey)
Supervisor Salinas (County of Monterey)
Councilmember Selfridge (City of Monterey)

Voting Members Absent: Mayor Pro-Tem Oglesby (City of Seaside), Mayor Rubio (City of Seaside)

The following ex-officio Board members were present: Sonja Arndt (20th Congressional District), Nicole Charles (17th State Senate District), Erica Parker (29th State Assembly District), Graham Bice (University of California), Andre Lewis (California State University), Walter Tribley (Monterey Peninsula College), Mike Gallant (Monterey-Salinas Transit), Todd Muck (Transportation Agency of Monterey County), Pamela von Ness (U.S. Army), Bill Collins (Fort Ord BRAC Office), Director Thomas Moore (Marina Coast Water District).

4. PLEDGE OF ALLEGIANCE

Councilmember Edwards led the Pledge of Allegiance.

5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

a. **May 2-3, 2013 Fort Ord Prevailing Wage Training Conference. Executive Officer Houlemard provided details on the upcoming prevailing wage conference, co-hosted by FORA and the Carpenters Union.**

Chair Edelen noted that several supplemental materials had been provided for the Board and public, including previously request Fort Ord Base Reuse Plan (BRP) binders. He reported that an initiative had been filed to amend the BRP by designating currently developable parcels as

open space and that FORA was exploring the prospect of contracting with the Monterey County Department of Elections in the case that an election is required.

One member of the public requested he be allowed to make a brief comment out of agenda order, due to an urgent family matter that required him to leave the meeting early. Chair Edelen allowed the brief comment.

6. CONSENT AGENDA

- a. Consider Letter of Support for AB 946 (Assemblymember Mark Stone)**
- b. Consider Letter of Support for SB 106 (Senator Bill Monning)**
- c. Approval of the March 15, 2012 Board Meeting Minutes**
- d. Approval of the March 22, 2012 Board Meeting Minutes**

Executive Officer Houlemard stated that each Board Member had before them a copy of the 2013 legislative track, which listed proposed legislation affecting Fort Ord. Draft legislative support letters would be forthcoming. Chair Edelen thanked Senator Monning's office for their ongoing support.

MOTION: Mayor Pro-Tem O'Connell moved, seconded by Supervisor Potter, to approve the Consent Agenda as presented.

MOTION PASSED: Unanimous

7. OLD BUSINESS

- a. FORA Pollution Legal Liability Insurance Presentation/Report**

Mr. Houlemard introduced the item. Special Counsel Barry Schlossberg presented an overview of the coverage provided under the Pollution Legal Liability (PLL) policy, noting that that the coverage would expire in 2014. The policy was purchased prior to the negotiation of the Environmental Services Cooperative Agreement (ESCA) and before it was known how long it would take the Army to perform the cleanup work. Mr. Steinberg stated there had been no claims against the PLL policy, to date, which would be favorable if FORA choose to obtain a new policy. The information now understood regarding previously unknown factors and the substantial risk reduction due to the cleanup work already performed should allow for a lower premium and overall cost of a new policy. He stated there was a risk to local land use jurisdictions if the policy expired without a replacement form of coverage. He would work with the insurance broker to bring a solicitation to the Board in 5-6 months. Mr. Houlemard noted that FORA met with land use jurisdiction staff regarding this item and planned to present it to the Administrative Committee.

MOTION: Councilmember Morton moved, seconded by Supervisor Parker, to receive the report.

MOTION PASSED: Unanimous

- b. Environmental Services Cooperative Agreement (ESCA) Update**

ESCA Program Manager Stan Cook provided an update on the ESCA, noting that a total of 4,950 items of concern, munitions and/or unexploded ordnance had been removed to date. Mr. Houlemard stated that processing the paperwork through the regulatory agencies would take a considerable amount of time. Once processed, the documents would undergo public review prior to property transfer to the underlying jurisdictions, currently expected to occur in 2015. Mr. Cook reported that physical remediation of the veterans cemetery parcel had been completed. The regulatory agencies had signed off on the burial area as cleaned to "best available detection," rather than a specific depth, and had deemed the area suitable for use as a cemetery.

MOTION: Councilmember Morton moved, seconded by Councilmember Alexander, to accept the report.

MOTION PASSED: Unanimous

c. FORA Legal Representation

- i. Authorize the Executive Officer to Execute a Contract with the Law Offices of Alan Walter, not to exceed \$24,950, for Review of Base Reuse Plan (BRP) Actions**
- ii. Authorize the Executive Officer to Execute a Contract with Jon Giffen of Kennedy, Archer, and Giffen to Serve as Authority Counsel**

Mr. Houlemard stated the Executive Committee had recommended both items for authorization by the Board. He introduced Alan Waltner, noting that he had previously worked with FORA regarding the BRP. Mr. Waltner provided a brief overview of his experience and qualifications.

MOTION: Mayor Gunter moved, seconded by Supervisor Potter, to authorize both contracts as stated in the staff recommendation.

MOTION PASSED: Unanimous

d. Base Reuse Plan Post-Reassessment Follow-Up: "Category I"

Associate Planner Darren McBain briefly explained Category I edits and noted that the Board-appointed Post Reassessment Advisory Committee (PRAC) had initiated review of these edits at their first meeting, held the previous Friday. He stated that the PRAC would also review Category IV. Category II edits would be reviewed by Alan Waltner, and Category III would be reviewed by FORA staff working with the Administrative Committee. Chair Edelen expressed his appreciation for PRAC members in volunteering for this work.

MOTION: Mayor Kampe moved, seconded by Councilmember Morton, to receive the report.

MOTION PASSED: Unanimous

e. Fort Ord Reuse Authority Master Resolution

- i. Review Fort Ord Reuse Authority (FORA)/Ventana Chapter of the Sierra Club (Sierra Club) Settlement Agreement Requirements/Notification Process**
- ii. Consider Sierra Club's 23 Proposed Chapter 8 Typographical Corrections**
- iii. Consider Sierra Club's Request to Remove Sections 8.02.020(t) And 8.02.030(a)(8)**
- iv. Consider Section 2.09.020 (FORA Conflict-of-Interest Code) Modifications**

Chair Edelen stated that the Sierra Club had retracted their request under item (iii).

Mr. Houlemard noted that the Conflict of Interest code had been modified to include additional staff members required to file form 700 and to amend several job titles for current filers.

MOTION: Councilmember Edwards moved, seconded by Supervisor Potter, to approve the staff recommendations for items (i), (ii), and (iv).

MOTION PASSED: Unanimous

f. Capital Improvement Program Review – Phase II Study

- i. Receive FORA Fees Calculation Report**
- ii. Review/Consider Draft Resolution to Implement Fee Adjustment**

Senior Planner Jonathan Garcia reported that EPS had prepared the requested study (distributed at the meeting) and was performing the calculations to adjust the developer fee through a formulaic approach. Recent analysis had shown that application of the formula would produce a 35% fee reduction. Mr. Garcia explained that the Board would have the opportunity to review/recalculate the fee in spring 2014 and again every two years afterward, or in the case of a major event. Staff responded to Board member inquiries, and Chair Edelen requested that Board members requiring additional information/clarifications review the study prepared by EPS and work with FORA staff to resolve any remaining issues prior to the next Board meeting. Mayor Pro-Tem O'Connell expressed frustration with the delay in

implementation of the fee adjustment, as the City of Marina had projects that were ready to move forward.

MOTION: Mayor Kampe moved, seconded by Councilmember Morton, to receive the report.

MOTION PASSED: Unanimous

8. NEW BUSINESS

a. Veterans Cemetery Agreement and Budget

i. Consider Approval of Seaside-FORA Cemetery Agreement

ii. Consider Approval of \$4,000 FY 2012-13 Budget Increase for Veterans Cemetery Consultants

iii. Consider Authorizing a \$30,000 Check to California Department of General Services for Land Acquisition Services

Mr. Garcia stated that the City of Seaside had approved an agreement with FORA to transfer their portion of the veterans cemetery parcel to the state, and that the FORA Board must also approve the agreement to authorize transfer. Executive Officer Houlemard noted two changes that had been made by Authority Counsel to the agreement in order to provide clarity. Supervisor Parker noted that the Monterey County resolution included in the packet was not the final version and that a signed version was now available.

MOTION: Mayor Gunter moved, seconded by Councilmember Alexander, to approve the staff recommendations for items (i) as amended, (ii) and (iii).

MOTION PASSED: Unanimous

9. PUBLIC COMMENT PERIOD

The Board received comments from several members of the public.

10. EXECUTIVE OFFICER'S REPORT

a. Outstanding Receivables

b. Administrative Committee

c. Finance Committee

d. Post-Reassessment Advisory Committee

e. Veterans Issues Advisory Committee

f. Water and Wastewater Oversight Committee

g. Habitat Conservation Plan Update

h. Travel Report

i. Public Correspondence to the Board

j. Notice of Requirement Regarding Items Received from the Public for Reproduction and Distribution at Board/Committee Meetings

Mr. Houlemard highlighted Principal Analyst Robert Norris' recent trip to Washington, D.C., which was undertaken at his own expense.

11. ITEMS FROM MEMBERS

None

12. ADJOURNMENT

Chair Edelen adjourned the meeting at 6:36 PM.

Minutes prepared by Crissy Maras, Acting Deputy Clerk

Approved by: _____

Michael A. Houlemard, Jr.