

**ACTION MINUTES
OF THE
SPECIAL FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS' MEETING
Fort Ord Reuse Authority Conference Facility/Bridge Center
September 14, 2007**

1. CALL TO ORDER AND ROLL CALL OF VOTING MEMBERS

Acting Chair/ Mayor Ralph Rubio (also 1st Vice Chair) called the meeting to order at 3:31 p.m. and requested a roll call of the voting members.

Voting members present:

1 st Vice Chair/Mayor Rubio (City of Seaside)	Councilmember Edelin (City of Del Rey Oaks)
Mayor Della Sala (City of Monterey)	Councilmember Davis (City of Pacific Grove)
Mayor Pendergrass (City of Sand City)	Mayor McCloud (City of Carmel-by-the-Sea)
Councilmember Mancini (City of Seaside)	Councilmember Wilmot (City of Marina)
Mayor Mettee-McCutchon (City of Marina)	Councilmember Barnes (City of Salinas)
Supervisor Potter (Monterey County)	

Absent were Supervisors Smith and Calcagno (Monterey County).

Acting Chair Rubio adjourned the meeting to Closed Session.

2. CLOSED SESSION

There were four items in the Closed Session: Item 2a (Performance evaluation of the Executive Officer), and the following Conferences with legal counsel regarding existing litigation: Item 2b(i) (City of Marina, FORA, et al. v. Trustees of CSU), Item 2b(ii) (Beltran v. FORA, et al), and Item 2b(iii) [Robert Curry (and Bonnie Curry) v. FORA, et al (2 cases)].

3. ROLL CALL OF ALL MEMBERS

All eleven voting members present during the first roll call were still present, and the two absent supervisors were still absent.

Ex-officio members present:

Jim Main (CSUMB)	Dr. Douglas Garrison (Monterey Peninsula College)
Dr. Marilyn Shepherd (MPUSD)	Carl Sedoryk (Monterey-Salinas Transit)
Debbie Hale (TAMC)	Graham Bice (UC MBEST)
COL Pamela Martis (U.S. Army)	Gail Youngblood (BRAC)
Alec Arago (17 th Congressional District)	Rito Guerro (15 th State Senate District)

Arriving after this roll call was Kenneth K. Nishi (MCWD). There was no representative from the 27th State Assembly District.

4. PLEDGE OF ALLEGIANCE

Acting Chair Rubio asked all to join him in the Pledge of Allegiance.

5. REPORT OUT OF CLOSED SESSION BY AUTHORITY COUNSEL

Authority Counsel Jerry Bowden reported that the members had heard reports on the status of the legal cases in Item 2b and had accepted the Executive Committee's recommendation regarding the Executive Officer's performance evaluation, approving it unanimously.

6. ACKNOWLEDGEMENTS

Acting Chair Rubio acknowledged the presence of, and welcomed, Jim Main, the newly appointed representative from CSUMB. Mr. Main was recently hired as Vice President of Administration and Finance.

7. PUBLIC COMMENT PERIOD

James Bogan, chairman of the Fort Ord Veterans Cemetery Citizens Advisory Committee, read a letter urging FORA to provide funding support for the Business Development Plan and implementation program for the cemetery. Rudy Rosales, representing the indigenous American Indian groups in this area, asked whenever there is any digging on former Fort Ord that an Indian consultant be present, in the event artifacts are unearthed. Mr. Rosales also asked if the military were still subject to CERCLA (yes), and requested copies of the letter regarding gating on former Fort Ord. He introduced Louise Ramirez, the Tribal Chairwoman of the Esselen Nation, who reiterated Mr. Rosales' request for an Indian consultant during any digging and asked to be included/involved in the actions of the FORA Board. Executive Officer Houlemard responded that the Administrative Committee would be making a recommendation to the Board regarding Mr. Bogan's request and that staff would provide a copy of the gating letter to Mr. Rosales.

8. CONSENT AGENDA

There were three items on the Consent Agenda: Item 8a (Action Minutes of the August 10, 2007 Board Meeting), Item 8b (Contract Amendment for Economic Development Conveyance (EDC) Special Counsel), and Item 8c (Amendment to Special District Risk Management Authority's Joint Powers Agreement). **Motion to approve Items 8a, 8b, and 8c was made by Councilmember Mancini, seconded by Mayor Mettee-McCutcheon, and carried.**

9. OLD BUSINESS

Item 9a - Habitat Conservation Plan ("HCP") Approval Process

Item 9a(i) - Status Report: Director of Planning and Finance Steve Endsley reported that progress is being made toward the finalization of the HCP. He said he has noted a marked improvement in the energy that is moving this process.

Item 9a(ii) - Amendment to Incorporate the Federal Permit into the Jones & Stokes Contract: After a brief summary of the amendment, Acting Chair Rubio opened the item to the board and then the public, and there were no comments. **Motion to approve an amendment to incorporate the federal permit**

into the Jones & Stokes contract, not to exceed \$151,105 in additional budget authority, was made by Councilmember Wilmot, seconded by Councilmember Davis, and carried.

Item 9b – Early Transfer/ Environmental Services Cooperative Agreement (“ET/ESCA”): Executive Officer Houlemard provided an overview of each of the four items.

Item 9b(i) – Individual Memoranda of Agreement with the Jurisdictions/ Entities re FORA’s Holding Early Transfer Properties during Remediation Services: Real Property and Facilities Director Stan Cook explained that these memoranda were necessary because while FORA holds property during the ESCA cleanup, agreements must be in place to cover public safety needs, since FORA has no police, fire or other safety services. Executive Officer Houlemard said that the Administrative Committee had recommended approving the form of the documents, since each contained information pertinent to its jurisdiction/entity and not all had received approval yet from their respective councils/boards. He noted that the Department of Toxic Substance Control and the U.S. Environmental Protection Agency both require that public safety issues be addressed prior to the Early Transfers to FORA. A major concern during the ESCA remediation work is restricting access to parcels which had previously been allowed and how to handle this. He said the first meeting with the interim users had been scheduled on September 27th at CSUMB.

Board comments included the following: Councilmember Davis asked if land use covenants could be renegotiated (no, but they can be lifted, if so requested, when the parcel is deemed clean). Mayor McCloud asked what the ESCA funds don’t pay for (see list on page 2 of the board report) and who is responsible prior to the early transfer (the Army). Public comments included the following: Henrietta Stern, representing the Monterey Off-Road Cycling Association (“MORCA”), expressed the organization’s concern about access, while recognizing the need for safety. She asked when and where closures would be and said the group needs access to the western lands, which are flatter. She said MORCA would like to work with FORA on the access issue. Mark Kintz, cycling coach for Monterey County student cyclists and a MORCA member, added his concern about having access to the western lands where he trains his cyclists. Mary Pomerick from the TAMC bicycle and pedestrian committee agreed with Ms. Stern and suggested keeping 8th and Gigling open to allow access to the Bureau of Land Management lands and doing a staggered cleanup. Chris Meck, a Carmel architect, also agreed with the latter two statements. John Fischer from Pacific Grove asked who has final responsibility after all the cleanup work is completed.

Executive Officer Houlemard reminded all that when the land was under Army control and ownership, there was no access to the military training areas, because of all the live MEC. He said the current insurance coverage would cover all incidents as long as compliance is assured. He stated that the Army is responsible for individual incidents in the long-term. When all the cleanup has been completed, access will be unrestricted. Gail Youngblood, BRAC Director, said the Army access policy has been “stay on the paved roads,” “no vehicles past gates or blockades; and restricted access during active cleanup. Longer and more frequent closures are anticipated during the ESCA cleanup, but access will be worked out as much as possible. It was noted that the state and federal regulators are the final determiners of these issues.

Motion to authorize the chair and/or Executive Officer to execute the individual MOA’s with the jurisdictions/entities regarding responsibilities during remediation of properties was made by Mayor Mettee-McCutchon, seconded by Councilmember Mancini, and carried.

Item 9b(ii) - Contract Change Order #1 to the Remedial Services Agreement (RSA) Authorizing Amendment of the Existing Army Work Plan for Seaside 1-4 Munitions and Explosives of Concern

Remediation to Support FORA Capital Improvement Program Roadwork – Status Report: Executive Officer Houlemard summarized this item and reported that he had executed this change order, which was within his authority since it involved less than \$25,000.

Item 9b(iii) – Contract Change Order #2 to the Remedial Services Agreement (TSA) accelerating munitions and explosives of concern remediation work for General Jim Moore Boulevard and Eucalyptus Road: Executive Officer Houlemard said this change order with LFR, Inc. and insured by AIG involves a substantial change and requires more work before it can be finalized. He recommended pulling the item and referring it to the ESCA Negotiating Team for a recommendation. He said that there are some time-sensitive issues that, when resolved, could require scheduling a special board meeting. **Motion to continue the item and refer it to the ESCA Negotiating Team to work with staff and return with a recommendation to the Board was made by Mayor Della Sala, seconded by Councilmember Mancini, and carried.**

Item 9b(iv) – Remedial Services Agreement (RSA) – Payment Schedule Adjustment: Executive Officer summarized this item, saying that the U.S. Army has indicated early payment of the second installment, which conflicts with the RSA funding schedule that must be amended. He said that LFR was amenable to this contract change. **Motion to authorize the FORA Chair and/or Executive Officer to execute the amended RSA to allow ESCA payments from the Army earlier than the 1/1/08 deadline was made by Councilmember Davis and seconded by Mayor McCloud.** There were no board or public comments and **the motion carried.**

Item 9c – Memorandum of Agreement (“MOA”) Among FORA and Certain Entities with Department of Toxic Substances Control (DTSC) Regarding Monitoring and Reporting Environmental Restrictions (Land Use Covenants): Executive Officer Houlemard explained that the purpose of this MOA was cost-savings and efficiency in the reporting and compliance monitoring of parcels with special restrictions. The annual estimate for this service by DTSC is \$20,000 for the affected jurisdictions, less if processed according to this MOA. He said FORA would handle the processing and cover DTSC’s and FORA staff costs without seeking reimbursement from the eight reporting entities for the first two years, after which the County Health Department would assume the responsibility and seek reimbursement from the entities. He stated the MOA is in substantially final form now. Among the comments by board members was one by Graham Bice, who said that UC counsel still needs to review their MOA before final approval. Thom Gamble (Marina Community Partners) made the only public comment when he asked if the asbestos and lead-based paint were included (no). **Motion to approve the agreement, pending final approval by UCSC counsel, was made by Mayor Mettee-McCutchon, seconded by Councilmember Mancini, and carried.**

10. NEW BUSINESS

Item 10a – CONSISTENCY DETERMINATION: Amendment to the Young Nak Church Specific Plan

Item 10b – CONSISTENCY DETERMINATION: New Marina Subdivision Ordinance

Item 10c – CONSISTENCY DETERMINATION: Amendments to the Marina General Plan

Executive Officer described each item briefly. Mayor McCloud asked that these consistency determinations be considered separately and presented in a more user-friendly way. Christi DiIorio, Marina’s Director of Community Development, summarized the changes in each item. Mayor McCloud requested a more in-depth explanation of changes in future consistency determinations. Graham Bice asked for a clarification of the section of Imjin Parkway Road referenced in Item 10c.

There were no public comments. **ITEM 10a: Motion to approve Resolution #07-17, concurring in the City of Marina's determination and making findings that the amendment to the Young Nak Church Specific Plan, covering areas within FORA's jurisdiction is consistent with the Fort Ord Base Reuse Plan, was made by Mayor McCloud, seconded by Mayor Pendergrass, and carried. ITEM 10b: Motion to approve Resolution #07-15, concurring in the City of Marina's determination and making findings that the New Marina Subdivision Ordinance, covering areas within FORA's jurisdiction is consistent with the Fort Ord Reuse Plan, was made by Mayor Della Sala, seconded by Councilmember Mancini, and carried. ITEM 10c: Motion to approve Resolution #07-16, concurring in the City of Marina's determination and making findings that the amendments to the Marina General Plan, covering areas within FORA's jurisdiction are consistent with the Fort Ord Base Reuse Plan, are consistent with the Fort Ord Base Reuse Plan was made by Mayor McCloud, seconded by Mayor Pendergrass, and carried.**

11. EXECUTIVE OFFICER'S REPORT

Item 11a – Administrative Committee Report: Executive Officer Houlemard said there was nothing to add to this report. Mayor McCloud asked if staff were planning a retreat or workshop for the reassessment of the Base Reuse Plan. Mr. Houlemard replied that staff is seeking specialized legal assistance at this time and more staff work on the kind of format is needed first.

12. ANNOUNCEMENTS AND CORRESPONDENCE

Mayor Mettee-McCutchon reminded all of the ribbon cutting ceremony at Forest and Reservation Roads for the new Marina Transit Exchange, a joint Marina/ Monterey-Salinas Transit project, on September 21st at 10:00 a.m. and also the Air Fair on October 13th. Councilmember Edelin announced that the annual Del Rey Oaks picnic would be held on October 30th from noon to 3:00 p.m. Executive Officer Houlemard noted that agreement has been reached with the Building Trades Council regarding the lawsuit. He also said that announcement of the new chancellor of UC Santa Cruz is expected within a week and FORA staff is coordinating a special reception for the new appointee, which will be held at CSUMB on September 26th.

Item 12a – Public Meeting announcement regarding Remedial Investigation/Feasibility Study (RI/FS) for remedial action for the Del Rey Oaks Munitions Response Area: Gail Youngblood reported that the public comment period had been extended to October 30th.

9. ADJOURNMENT:

Acting Chair Rubio adjourned the meeting at 3:23 p.m.

Minutes prepared by Linda Stiehl, Deputy Clerk.

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