

**ACTION MINUTES  
OF THE  
FORT ORD REUSE AUTHORITY  
BOARD OF DIRECTORS' MEETING  
Fort Ord Reuse Authority Conference Facility/Bridge Center  
December 12, 2008**

1. CALL TO ORDER AND ROLL CALL

Chair Russell called the meeting to order at 3:30pm and requested a roll call.

The following board members were present:

Voting members present:

Chair/Mayor Russell (City of Del Rey Oaks)	Mayor Rubio (City of Seaside)
Mayor McCloud (City of Carmel)	Mayor Wilmot (City of Marina)
Council Member McCall (City of Marina)	Council Member Barnes (City of Salinas)
Councilmember Mancini (City of Seaside)	Mayor Pendergrass (City of Sand City)
Supervisor Mettee-McCutchon (County of Monterey)	Mayor Della Sala (City of Monterey)

Absent were Supervisors Calcagno and Potter (County of Monterey) and Council Member Davis (City of Pacific Grove).

Ex-Officio members present:

Bruce Margon (UCSC)	James Main (CSUMB)
Vicki Nakamura (MPC)	Debbie Hale (TAMC)
Gail Youngblood (BRAC)	Kenneth Nishi (MCWD)
COL Darcy Brewer (U.S. Army)	

Arriving after the roll was called Dan Albert, Jr. (MPUSD) and Hunter Harvath (Monterey-Salinas Transit). Absent were representatives from the 17<sup>th</sup> Congressional District, the 15<sup>th</sup> State Senate District and the 27<sup>th</sup> State Assembly District.

With a quorum present, Chair Russell opened the meeting.

2. PLEDGE OF ALLEGIANCE

Chair Russell asked Council Member Barnes, who agreed, to lead the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS - none

4. PUBLIC COMMENT PERIOD - none

5. CONSENT AGENDA

There were two items on the Consent Agenda: Item 5a (November 14, 2008 board meeting minutes) and Item 5b (Memorandum of Agreement regarding Habitat Management on Portions of the Landfill Site at the Former Fort Ord). There were no board or public comments. **Motion to approve the two items on the Consent Agenda as presented was made by Mayor Rubio, seconded by Council Member Mancini, and carried.**

6. OLD BUSINESS

Item 6a - Habitat Conservation Plan (“HCP”) approval process: Director of Planning and Finance Steve Endsley said that staff is “leaving no stone unturned” voicing its displeasure at the slippage of the schedule and is making best efforts to keep the process moving forward. He reported a number of conference calls and meetings had been held recently, which will culminate in an all-hands meeting on December 17<sup>th</sup> to address the technical and agency/policy points of concern in the HCP document. He called attention to the letters to Messieurs Chrisman and Arroyo in the board packet, which had been directed by the board. Council Member Mancini asked who would be meeting with representatives from U.S. Fish & Wildlife Service and the CA Department of Fish & Game on the 17<sup>th</sup>, and Executive Officer Houlemard responded that FORA staff and a representative from each FORA jurisdiction affected by the HCP would attend. There were no further board or any public comments.

Item 6b – Marina Coast Water District (“MCWD”) capacity charges: Executive Officer Houlemard provided a brief background and called attention to the staff recommendations in the board report, noting that they had been discussed and approved by the Administrative Committee. MCWD General Manager Jim Heitzman remarked that MCWD had not had enough time to examine the \$7,052 per EDU (Equivalent Dwelling Unit) combined capacity charge determined by the Bartle Wells Associates (“BWA”) study, which assumes the Water for Monterey County (“WMC”) project is approved. He said MCWD had not been comfortable with this figure, one reason being it didn’t include an approved environmental impact report. Working with BWA, he said MCWD was now recommending \$7,800, which would provide protection to the ratepayers. He said there is no need for the developers to spend \$50,000 for an updated rate study, into the event the WMC project is not approved; he suggested they deposit a total of \$12,500 in an escrow account, if such a study is needed, and this study commence within 60 days following WMC approval. Mayor Della Sala asked how the \$7,052 figure had been determined, and Mr. Heitzman said by adding the BWA wastewater charge to BWA’s estimated water charge if the WMC project is approved. Mayor Wilmot asked if the capacity charges could be lower if the WMC project is approved, and Mr. Heitzman replied yes, particularly if economic stimulus funds or statewide grants could be accessed. Executive Officer Houlemard suggested adding text to the capacity charges motion to include the possibility of grant funds being received. Mr. Wilmot said that the charges would have to be reduced if revenues from outside sources were received, because a public agency can charge only for the services it provides. Chair/Mayor Russell recommended that the word “would” in staff recommendation (2) be changed to “could.” Mayor Della Sala asked if the FORA Board had to take action on the capacity charges today. Discussion followed. Mayor Rubio suggested that any refinements be returned to the Administrative Committee for recommendation. There were no public comments at this time.

**The following motion was made by Supervisor Mettee-McCutchon and seconded by Mayor Rubio: 1) change “would” to “could” in the second staff recommendation; 2) adopt \$7,800 as the capacity charges at this time; 3) seek additional funding from state, federal and grant sources and recognize the possibility that the charges might increase if the WMC is not approved or decrease if the WMC project is approved; and 4) accept the offer of the Fort Ord developers to deposit a total of \$12,500 into an escrow account for an updated study if/when needed.** Council Member McCall commented that moving forward signals a positive move to the community and indicated support for the motion. **Mayor McCloud suggested adding the following text to the resolution: “approval of the capacity charges is pending review by counsel and the Administrative Committee,” which was accepted by the motion makers.** Mayor Pendergrass said he had a problem with the “cheap cost” of the WMC figure and suggested waiting until the final numbers are in before approving any dollar amount. Mayor Rubio remarked that it is important for the Board to approve the capacity charges because the 90-day grace period has long since passed, noting that the board-approved motion would

provide the content of the resolution, which the Board will be asked to approve at the next meeting. Discussion followed. Authority Counsel Bowden opined that FORA is already out of compliance in not responding, and providing a detailed response, to MCWD covering the points of disagreement, and he advised caution in considering further delays. **A call for a vote on the motion was made. Mayor Pendergrass cast a negative vote and the motion failed. A second vote will occur at the next board meeting when a majority vote will prevail.**

Item 6c – Multi-Modal Transit Corridor (“MMTC”) realignment – approve the Memorandum of Agreement (“MOA”): Director of Planning and Finance Steve Endsley provided a PowerPoint covering a background/summary, maps showing the former and realigned corridors, the outstanding issues and the responses to them, along with the staff recommendation to authorize the Executive Officer to execute the MMTC realignment MOA. Mayor McCloud asked if individual residents were included in the list of stakeholders, and Mr. Endsley replied that some off Reservation Road were included; he added that a program level document does not require that all impacted be individually notified. He said when Monterey-Salinas Transit (“MST”), the lead agency, prepares to construct the corridor, which is a project level process, all those impacted will be notified. Project level undertakings also require a full CEQA process. Ms. Hale asked what would happen to the rights-of-way (“ROW’s”) in the old MMTC, and Mr. Endsley responded that FORA does not own them and most will revert back to the habitat areas. When the realigned corridor undergoes the project level process, the ROW’s will be negotiated by MST, not FORA, even if it still exists. Executive Officer Houlemard remarked that the jurisdictions have all contributed ROW’s for FORA’s infrastructure improvements in the past, because their communities gain compensatory benefits from the improvements; the ROW’s are transferred back to the jurisdictions upon completion of the project. Mr. Harvath, the MST representative, stated that he could not recommend that MST approve the MOA until the ROW issues are resolved and the changes in the MOA are reviewed by MST counsel. Executive Officer Houlemard reminded all that changes, including amendments, to the MOA could be considered and approved in the future. He said authority counsel would review the MOA as to form prior to final approval and execution. Authority Counsel Bowden explained that an MOA is an agreement to cooperate, which does not require an environmental review by FORA. Mr. Houlemard said the Board had two choices: 1) choose to approve the old alignment, which would create obstacles for the regulators who must accept an MOA before final HCP approval, OR 2) the realigned corridor. Discussion followed. One public comment was offered; John Fischer from Pacific Grove said the document had not had enough review by the public. **A motion to authorize the Executive Officer to execute the Multi-Modal Transit Corridor realignment Memorandum of Agreement, subject to review as to form by Authority Counsel and return to the board if substantive changes are inserted into the document by any jurisdiction and subsequently recommended by the Administrative Committee, was made by Mayor Rubio and seconded by Council Member McCall.** There were no additional public comments, and the motion carried.

Item 6d – Imjin Office Park (“IOP”): Agreement with Marina Coast Water District (“MCWD”) regarding sale and joint building: Mayor Rubio recused himself from participating in this item and left the board table during the discussion. Associate Planner Jonathan Garcia provided a brief summary of the staff recommendations. Executive Officer Houlemard reported additional details regarding MCWD’s offer to construct the FORA building under the same terms originally offered in the RFQ but which would also provide FORA and AMBAG office space in one building on the IOP site. **A motion was made by Council Member Mancini and seconded by Mayor Wilmot to authorize the Executive Officer to execute an agreement with Marina Coast Water District regarding the sale of FORA property and a joint use building consistent with the term sheet attached to the board report (staff recommendation #1).** Several board members

questioned whether this agreement would put MCWD at financial risk. Authority Counsel Bowden said he had put in a call to MCWD counsel but was unable to talk to him. MCWD General Manager Jim Heitzman said MCWD Counsel Lloyd Lowrey had opined that MCWD had every legal right to purchase property in or out of its service area but must keep the ratepayers interests in mind. Authority Counsel Bowden concurred and provided several examples of property purchases outside of public agencies' jurisdictions. Mayor Pendergrass asked if any of the charges would be passed on to the ratepayers and from which fund the revenues would be taken. Authority Counsel Bowden responded that these are MCWD's matters, not FORA's, when considering approval of this agreement. Mayor McCloud indicated support for the agreement but requested that an appraisal be returned with the term sheet in dollar signs. **The motion carried.**

**A motion was made by Supervisor Mettee-McCutchon and seconded by Council Member Mancini to adopt Resolution #08-11 granting PG&E an easement for underground electric and gas facilities to serve the new Imjin Office Park development (staff recommendation #2).** There were no comments by either the board or the public. **The motion carried.**

## 7. NEW BUSINESS

Item 7a - Fiscal Year 07-08 Annual Financial Report: Executive Officer Houlemard provided background information about the audit, including the impact of the current recession on FORA's finances. He said that although FORA's debt had increased, the year-end figures are positive. FORA expects to receive the final ESCA payment from the Army next Wednesday, December 17<sup>th</sup>, which will provide full funding for this project. The General Jim Moore road improvements are being funded by existing funds and some debt. Mr. Houlemard said the Finance Committee would be recommending revisions to the investment policy, when they review the mid-year budget next month. Finance Committee Chair Mayor McCloud remarked that the investment policy is currently overweight in mutual funds, which will be reexamined at a special meeting in January. There were no public comments. **Motion to accept the Fiscal Year 07-08 Annual Financial Report (audit report) of the Fort Ord Reuse Authority by Marcello & Company, certified Public Accountants, was made by Mayor McCloud, seconded by Mayor Wilmot, and carried.**

## 8. EXECUTIVE OFFICER'S REPORT

There were three items in this report: Item 8a (Administrative Committee report), Item 8b (Executive Officer's travel report) and Item 8c (Fort Ord Reuse Authority's investments – status report): Re Item 8b: Executive Officer Houlemard said he expects to get valuable information about the opportunities to benefit from the economic stimulus funds that the federal government is working on now, when he attends the Association of Defense Communities Winter Forum in San Antonio in February.

## 9. ANNOUNCEMENTS AND CORRESPONDENCE

Two letters were in the board packet: one to CA Resources Secretary Mike Chrisman and the other to Brian Arroyo, an assistant director in the U.S. Fish & Wildlife Service, both regarding the draft HCP document.

## 10. ADJOURNMENT

There being no further business, Chair Russell adjourned the meeting at 5:12 p.m.

Minutes prepared by Linda Stiehl, Deputy Clerk.

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

Approved