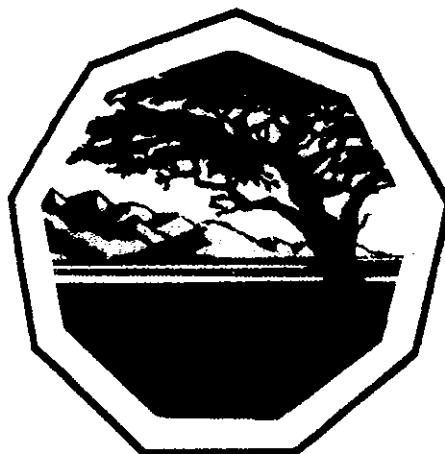


Fort Ord
Reuse Authority



Board Packet
For
Board Meeting
January 8, 2010



Fort Ord Reuse Authority

100 12th Street, Building 2880, Marina, CA 93933
Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

BOARD OF DIRECTORS MEETING

Friday, January 8, 2010, at 3:30 p.m.
FORA Conference Facility/Bridge Center
201 13th Street, Building 2925, Marina (on the former Fort Ord)

AGENDA

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **ACKNOWLEDGEMENTS AND ANNOUNCEMENTS**
4. **PUBLIC COMMENT PERIOD:** Members of the audience wishing to address the Board on matters within the jurisdiction of the Authority but not on the agenda may do so during the Public Comment Period. You may speak for a maximum of three minutes on any subject. Public comments on specific agenda items will be heard at the time the matter is being considered by the Board.
5. **CONSENT AGENDA** ACTION
 - a. December 11, 2009 board meeting minutes
6. **OLD BUSINESS** - none
7. **NEW BUSINESS**
 - a. Errata/corrections to the Fort Ord Reuse Authority Master Resolution ACTION
8. **EXECUTIVE OFFICER'S REPORT**
 - a. Administrative Committee report INFORMATION
 - b. Executive Officer's travel report INFORMATION
 - c. Status update of outstanding receivables INFORMATION
9. **ELECTION OF OFFICERS FOR 2010** ACTION
10. **ADJOURNMENT**

Fort Ord Reuse Authority

100 12th Street, Building 2880, Marina, CA 93933

Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

Economic Development Continues at Former Fort Ord

Contact: Michael Houlemard, Jr.
FORA Executive Officer
883-3672

IMMEDIATE RELEASE
January 7, 2010

Monday, January 11 will celebrate two "firsts" in economic development at the former Fort Ord during a ground-breaking ceremony at 11 a.m. at Ord Market on Imjin Parkway. The public is invited to attend the event.

"Ord Market was the first retail business to open for civilian use as part of the regional base reuse program for economic development and recovery following the 1994 closure of the former Fort Ord military base," said Michael Houlemard, FORA executive officer.

Ord Market opened in 2001 and is locally owned and operated by Darryl Choates of Seaside. It provides grocery and deli services for a variety of residents, CSUMB students and faculty and many others traveling Imjin Parkway between the Monterey Peninsula and Salinas Valley.

Ground-breaking for a new Shell gas station on the Ord Market site is a second "first". It will be the first civilian gas station on the former Army base, and services will be available to the general public. A gas station previously located at the Ord Market site was for military use only and was closed by the U.S. Army in 1994 during the base closure process. A gas station at the corner of General Jim Moore Boulevard and Giggling Road remains open for military personnel use only and services are not available to the general public.

"Despite difficult economic times, it's encouraging to see local business development and successes," Houlemard noted. "The ceremony is a tribute to diligence and perseverance on the part of small business owners, and the new station will provide additional service and convenience for the public."

What: Ground Breaking for the new Shell Gas Station at Ord Market

When: Monday, January 11, 2010

Time: 11 a.m.

Where: 2700 Imjin Parkway, Marina (on the former Fort Ord)

Public Invited

MINUTES
of the
FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS' MEETING
Fort Ord Reuse Authority Conference Facility/Bridge Center
January 8, 2010

APPROVED

1. CALL TO ORDER AND ROLL CALL

Chair Ralph Rubio called the January 9, 2010 meeting of the Board of Directors to order at 3:30 p.m. and requested a roll call.

Voting members present:

Chair/Mayor Rubio (City of Seaside)	Supervisor Parker (County of Monterey)
Councilmember Clark (City of Del Rey Oaks)	Supervisor Potter (County of Monterey)
Councilmember Gray (City of Marina)	Councilmember Mancini (City of Seaside)
Councilmember Kampe (City of Pacific Grove)	Mayor McCloud (City of Carmel-by-the-Sea)
Councilmember McCall (City of Marina)	Jim Cook (County of Monterey)
Mayor Pendergrass (City of Sand City)	

Absent was Councilmember Barnes (City of Salinas). Mayor Della Sala (City of Monterey) arrived after the roll call had finished. Alternate Jim Cook represented Supervisor Calcagno and alternate Kristen Clark represented Mayor Edelen.

Ex-Officio members present:

Don Bachman (TAMC)	Gail Youngblood (BRAC)
Kenneth Nishi (Marina Coast Water District)	Dan Albert, Jr. (MPUSD)
COL Darcy Brewer (U.S. Army)	Graham Bice (UC Santa Cruz)
Vicki Nakamura (Monterey Peninsula College)	James Main (CSUMB)
Hunter Harvath (Monterey-Salinas Transit)	

Congressman Sam Farr (17th Congressional District) and Rito Guerra (15th State Senate District) arrived after the roll call had finished. Absent was a representative from the 27th State Assembly District.

With a quorum present Chair Rubio opened the meeting.

2. PLEDGE OF ALLEGIANCE

Chair Rubio asked Supervisor Parker, who agreed, to lead the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS AND ANNOUNCEMENTS

Chair Rubio announced that work had started on the General Jim Moore Boulevard road improvement project.

4. PUBLIC COMMENT PERIOD - none
5. CONSENT AGENDA

There was one item on the Consent Agenda: Item 5a (December 11, 2009 board meeting minutes). There were no board or public comments. **Motion to approve the December 11, 2009 board meeting minutes was made by Councilmember Kampe, seconded by Supervisor Potter, and carried.**

6. OLD BUSINESS - none
7. NEW BUSINESS

Item 7a – Errata/corrections to the Fort Ord Reuse Authority Master Resolution: Executive Officer introduced this item by calling attention to Exhibit 1 of draft Resolution #10-01, where the corrections/edits were listed. A lengthy discussion by board members identified words and/or sentences in the document that needed either clarification, correcting or another review by staff. Councilmember Gray suggested that staff consider bringing back a clean copy next month. There were objections to this suggestion from the members.

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 (Status update of outstanding receivables). **Re Item 8c:** Executive Officer Houlemard reported that he had consulted with Del Rey Oaks City Manager Daniel Dawson about the city's outstanding Pollution Legal Liability loan payment and been assured that a check would be issued no later than January 20, 2010.

Councilmember Gray asked for updates on the Office of Economic Adjustment ("OEA") grant and the General Jim Moore Boulevard loan. Mr. Houlemard confirmed that construction had started; and he had met with Mary Rudokas from the Department of Commerce Economic Development Administration ("EDA") Seattle regional office and Dianne Church, the EDA district director for this area, to discuss the grant match rate and possible enhancement of the project's scope. He said these kinds of changes require considerable additional work and thus more time for EDA to process. He will provide updates to the Administrative Committee members, which will send a recommendation to the Board when appropriate. Mr. Gray asked about a revised match for the loan, noting the December 17, 2009 deadline for final EDA approval. Director of Planning and Finance Steve Endsley said that the bank was moving forward with the processing of FORA's loan and given a verbal loan commitment, which met EDA's requirements for FORA to begin construction no later than December 17, 2009. He said FORA can access its existing line of credit to pay construction bills until the final loan papers arrive, which he expected in a few days. Mr. Houlemard noted some risk in moving forward without a formal written loan commitment and said he would forward the bank's emails and the final loan documents to the City of Marina when they are received.

9. ELECTION OF OFFICERS FOR 2010

Mayor McCloud, who served as chair of the 2010 nominating committee, announced the slate of candidates as follows: Mayor Rubio (Chair), Supervisor Potter (1st Vice Chair), Councilmember McCall (2nd Vice Chair), and two representatives at large, since there was no past chair. They are Mayor Pendergrass and Councilmember Barnes. **A motion to elect the three officers and confirm the two representatives-at-large was made by Councilmember Mancini and seconded by Councilmember Kampe.** There were no public comments, and the motion carried.

Congressman Sam Farr asked to speak to the Board. There were no objections. He summarized his legislation during the last congressional session that has or will benefit former Fort Ord and other closed military installations. He said he had obtained another \$38.4 million for cleanup on legacy bases, which brought the total to \$497 million. Having been involved in the no-cost Economic Development Conveyance ("EDC") fight, he remarked that Fort Ord had probably been the only base in the country that had benefited from a 100% no-cost EDC. He reported that legislative approval to fund the joint Veterans Administration/ Department of Defense medical clinic for active duty military and veterans had been achieved. The clinic will be built privately but Congress will reimburse the developers. He urged the FORA land recipient jurisdictions not to encourage resales of certain educational EDC properties, which would allow former Fort Ord properties to be turned into a privately developed area geared primarily for profit, thus losing the land for public benefit. Mr. Farr said he was pleased with the progress of the veterans' cemetery project. He said he had been working with Assemblymember Monning, who had submitted a bill to lower the threshold of funding in the endowment before the state can submit an application to the federal government for reimbursement of many of the costs. Chair Rubio thanked Congressman Farr for advocating for this area, the former base and its communities.

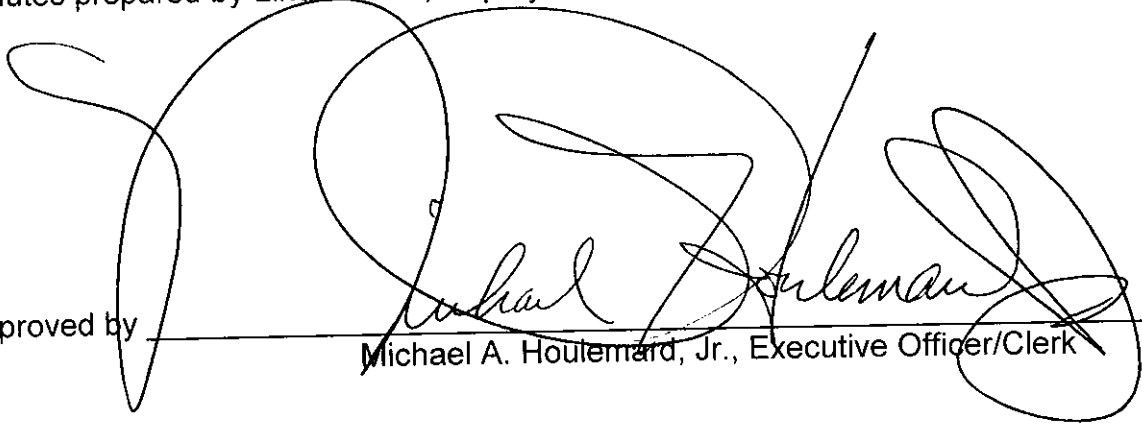
Executive Officer Houlemard announced that the Office of Economic Adjustment had awarded the grant for the veterans' cemetery infrastructure.

10. ADJOURNMENT

Their being no further business, Chair Rubio adjourned the meeting at 4:00 p.m.

Minutes prepared by Linda Stiehl, Deputy Clerk

Approved by



Michael A. Houlemard, Jr., Executive Officer/Clerk

FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject: Errata/corrections to the Fort Ord Reuse Authority Master Resolution

Meeting Date: January 8, 2010

Agenda Number: 7a

ACTION

RECOMMENDATION:

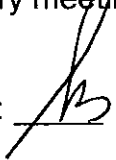
Adopt Resolution #10-01 (**Attachment A**) approving errata and corrections to the Fort Ord Reuse Authority Master Resolution ("Master Resolution").

BACKGROUND/DISCUSSION:

Upon recent review of the Master Resolution, Authority Counsel noted corrections and updates he recommends be made to the document. These adjustments are listed in table form on Exhibit A to Resolution #10-01. To assist board members in locating precisely where corrections occur in the Master Resolution, the select pages, shown in "track changes" format, are included as **Attachment B**.

Adopting Resolution #10-01 will amend the Master Resolution to reflect these corrections. An updated copy of the Master Resolution will be distributed to board members at the February meeting, if the resolution is adopted.

FISCAL IMPACT:

Reviewed by Controller: 

None

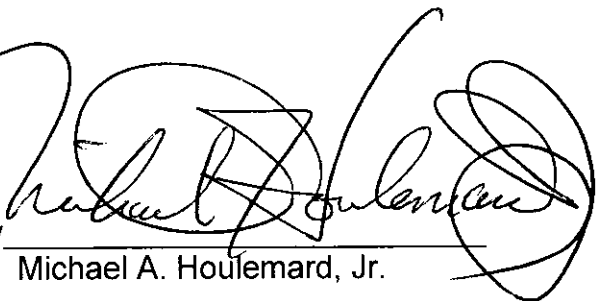
COORDINATION:

Authority Counsel and Executive Committee

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.

RESOLUTION #10-01

DRAFT

**Resolution of the Board of Directors
of the Fort Ord Reuse Authority
Approving errata/corrections to the Master Resolution**

WHEREAS, the Fort Ord Reuse Authority Board of Directors (“Authority”) adopted the Fort Ord Reuse Authority Master Resolution (“Master Resolution”) on March 14, 1997; and

WHEREAS, the Authority adopted changes or amendments to the Master Resolution on November 20, 1998, February 19, 1999, January 21, 2000, January 18 and February 8, 2002, April 16, 2004 and February 8, 2008; and

WHEREAS, Authority counsel noted some corrections that should be made to the amended Master Resolution; and

WHEREAS, the Authority Board reviewed the attached errata on January 8, 2010, noting the corrections to the Master Resolution; and

WHEREAS, approving these corrections will result in better general understanding of the Master Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Authority approves the errata (corrections and adjustments) as appended hereto (as Exhibit 1) amending the Master Resolution to take effect from and after adoption of this resolution.

PASSED AND ADOPTED on January 8, 2010, by the Fort Ord Reuse Authority Board of Directors by the following vote:

Ayes:

Noes:

Abstain:

Absent:

I, Ralph Rubio, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered in the minutes hereof in Item 7a, page __ of the duly approved minutes dated January 8, 2010.

DATED: _____

BY: _____

Ralph Rubio
Chair, Board of Directors
Fort Ord Reuse Authority

ATTACHMENT A
To Item 7a
January 8, 2010 FORA Board Meeting

Exhibit 1 to Resolution #10-01

Errata/corrections to the Fort Ord Reuse Authority Master Resolution

Page	Article	Sub-heading	Line	Correction/Edit
1	1.01.040		1	Change "subsection" to "subsections"
1	1.01.040		2	Remove word "headings"
2	1.01.050		2	Add "and offices located at the Imjin Office Park in" between 2862, and Marina
2	1.01.050		6	Add "for prevailing wage policy only," in between "addition" and "the"
3	1.01.050		1	Replace "and includes wares or merchandise" with "personal property"
5	1.01.080		3	Remove "either" and add a colon after "by"
5	1.01.080		4	Add "(1)" in front of "personal"
5	1.01.080		5	Add "(2) electronic mail if FORA conventionally communicates with the recipient by electronic mail, or"
5	1.01.080		7	Add "(3)" and remove "by" in front of deposit
6	1.01.090		1	Replace "shall be" with "is"
6	1.01.100	(a)	1	Remove "The provisions of"; Replace "shall be" with "contains"
6	1.01.100	(b)	2	Remove "shall"; Add "s" to "include"; Remove "all"
7	1.01.100	(e)		Change to read: "Powers or duties granted to or imposed upon an Official may be performed by a person authorized to act for the Official."
7	1.01.100	(g)	1	Replace "The sections, paragraphs, sentences, clauses, and phrases" with "Parts"
7	1.01.100	(g)	2	Add a period after "severable"; Remove "and" and capitalize "Any"
7	1.01.100	(g)	6	Replace "of" with "or"
14	2.01.020	(a)	2	Add new sentence "Ex-officio members are not counted to establish a quorum."
14	2.01.020	(b)	6	Change "subcommittees" to "committees"
14	2.01.020	(b)	8	Replace "in the event a vote is taken, pursuant to" with "under"
21	2.04.020			Remove entire section

Chapter 1. GENERAL PROVISIONS

Article 1.01. THE MASTER RESOLUTION

1.01.010. SHORT TITLE.

This Master Resolution shall be known and may be cited as the "Fort Ord Reuse Authority Master Resolution" or the "Authority Master Resolution."

1.01.015. EXISTING LAW CONTINUED.

The provisions of this Master Resolution, insofar as such provisions are substantially the same provisions of ordinances relating to the same subject matter and existing at the time of the adoption of this Master Resolution, shall be continued as restatements and continuations of ordinances in existence at the time of the adoption of this Master Resolution and shall not be considered as new enactments.

1.01.020. THE EFFECTS OF PENDING ACTIONS AND ACCRUED RIGHTS.

The adoption of this Master Resolution as well as the provisions of this Master Resolution shall in no way affect the legality or enforceability of any action or proceeding commenced before this Master Resolution takes effect or any right which accrued before this Master Resolution takes effect. All procedures taken after adoption of this Master Resolution shall conform to the provisions of this Master Resolution so far as possible.

Deleted: .

1.01.030. RIGHTS UNDER EXISTING LICENSES AND CERTIFICATES.

No rights given by any license, permit or certificate under prior actions of any predecessor or governmental entities are affected by the enactment of this Master Resolution; however, such rights shall be exercised according to this Master Resolution from the effective date of this Master Resolution.

1.01.040. HEADINGS OF PROVISIONS.

The headings of the part, title, chapter, section, and subsections contained in this Master Resolution are intended to indicate the contents of such provisions and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of such provisions.

Deleted: headings

1.01.050. DEFINITIONS.

(a) In the interpretation and construction of this Master Resolution, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the Authority Board or the context clearly required otherwise:

"Affected territory," means property within the Fort Ord Territory that is the subject of a legislative land use decision or an application for a development entitlement and such additional territory within the Fort Ord Territory that may be subject to an adjustment in density or intensity of allowed development to accommodate development on the property subject to the development entitlement.

"Army urbanized footprint" means the Main Garrison Area and the Historic East Garrison Area as such areas are described in the Reuse Plan.

"Augmented water supply" means any source of potable water in excess of the 6,600 acre-feet of potable water from the Salinas Basin as allowed under the Reuse Plan.

"Authority" means the Fort Ord Reuse Authority ("FORA"), an independent governmental and public entity, organized under the laws of the State of California pursuant to the Authority Act.

"Authority Act" means the provisions of the Fort Ord Reuse Authority Act, Title 7.85, Section 67650, *et seq.*, (also known as Senate Bill 899, Chapter 64 of the 1994 California Statutes) of the California Government Code, as may be amended from time to time.

"Authority Board" or "Board" or "Board of Directors" means the governing body of the Authority as established pursuant to the Authority Act.

"Authority Offices" means the facilities located at 100 12th Street, Buildings 2900, 2901, 2902, 2903, 2880, 2881, 2882, 2883, 2861, and 2862, and offices located at the Imjin Office Park in Marina California.

"Authority Officers" means the officers, officials, agents, employees, departments, and agencies of the Authority.

"Computation of time" The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

"County" or "this County" means the County of Monterey.

"Day" A day is the period of time between any midnight and the midnight following.

Deleted: _____

"Daytime" means the period of time between sunrise and sunset. The word "nighttime" means the period of time between sunset and sunrise.

"Development entitlements" includes but is not limited to tentative and final subdivision maps, tentative, preliminary, and final parcel maps or minor subdivision maps, conditional use permits, administrative permits, variances, site plan reviews, and building permits. The term "development entitlement" does not include the term "legislative land use permits" as that term is defined in this Master Resolution. In addition, for prevailing wage policy only, the term "development entitlement" does not include:

- (1) Construction of one single-family house, or one multiple family house not exceeding four units, on a vacant lot within an area appropriately designated in the Reuse Plan.
- (2) Improvements to existing single-family residences or to existing multiple family residences not exceeding four units, including remodels or room additions.
- (3) Remodels of the interior of any existing building or structure.
- (4) Repair and maintenance activities that do not result in an addition to, or enlargement of, any building or structure.
- (5) Installation, testing, and placement in service or the replacement of any necessary utility connection between an

existing service facility and development approved pursuant to the Authority Act.

- (6) Replacement of any building or structure destroyed by a natural disaster with a comparable or like building or structure.
- (7) Final subdivision or parcel maps issued consistent with a development entitlement subject to previous review and approval by the Authority Board.
- (8) Building permit issued consistent with a development entitlement subject to previous review by the Authority Board.

"Enforcement" shall mean: the making of investigations as may be required; demanding and signing criminal complaints or civil declarations; appearing as a witness in any prosecution or proceeding when so required; and generally doing all things necessary and proper to enforce and obtain compliance with the provisions of this Master Resolution.

"Entitlement" means any license, permit, authorization, or grant, which is issued, granted, or given by the Authority or any of its officers, officials, agents, employees, departments, or agencies to any person.

"Executive Officer" means and includes the appointed official of the Authority who occupies the position of Executive Officer of the Authority pursuant to the Authority Act or any person designated by the Executive Officer to perform certain duties pursuant to this Master Resolution under the direction of the Executive Officer.

"Ex-Officio Members" means the persons or entities designated in the Authority Act as ex-officio members or such persons or entities as the FORA Board may designate as ex-officio members. Ex-Officio Members include the Monterey Peninsula Community College District, the Monterey Peninsula Unified School District, the Member of Congress from the 17th Congressional District, the Senator from the 15th Senate District, the Assembly Member from the 27th District, the United States Army, the Chancellor of the California State University, the President of the University of California, the Transportation Agency of Monterey County, the Monterey-Salinas Transit Authority and Marina Coast Water District.

"First Generation Construction" means construction performed during the development and completion of each parcel of real property contemplated in a disposition or development agreement at the time of transfer from each member agency to a developer(s) or other transferee(s) and until issuance of a certificate of occupancy by the initial owners or tenants of each parcel.

"Fort Ord Territory" means all territory within the jurisdiction of the Authority.

"Goods" means personal property.

"Habitat Management Plan", means the Fort Ord Installation-Wide Multi-Species Habitat Management Plan dated April 1997,

"Land use agency" means a member agency with land use jurisdiction over territory within the jurisdiction of the Authority Board.

"Legislative land use decisions" means general plans, general plan amendments, redevelopment plans, redevelopment plan amendments, zoning ordinances, zone district maps or amendments to zone district maps, and zoning changes.

Deleted: and includes wares or merchandise

Deleted: .

and the plans, policies, and programs of the Authority Board, including the Master Resolution.

"Sale" means and includes any sale, exchange, barter or offer for sale.

"Week" A week consists of seven consecutive days.

"Writing" means and includes any form of recorded message capable of comprehension by ordinary visual means.

"Year" means a period of 365 days, except where otherwise provided. The added day of a leap year, and the day immediately preceding if they occur in any such period, shall be reckoned together as one day.

(b) Words and phrases are to be construed according to the context and the approved usage of the language. Technical words and phrases, and such other terms as may have acquired a peculiar and specific meaning in the law, or are specifically defined herein, are to be construed in accordance with such peculiar and specific meaning or definition.

1.01.060. TERRITORIAL LIMITATION.

This Master Resolution refers only to the omission or commission of acts within the territorial limits of the Authority and to that territory outside of the Authority over which the Authority has jurisdiction or control by virtue of the state constitution, any state law, the Authority Act, or by reason of ownership or control of property.

1.01.070. DISTRIBUTION AND MAINTENANCE OF THE MASTER RESOLUTION.

(a) Not less than one copy of this Master Resolution shall be filed for use and examination by the public in the office of the Executive Officer. Copies thereof shall be distributed to the members of the Authority Board, the alternates, the member agencies, and the ex-officio members.

(b) The Executive Officer shall keep and maintain this Master Resolution together with all amendments as may be adopted by the Authority Board. The Executive Officer on a timely and recurring basis shall publish and distribute such amendments.

1.01.080. NOTICES – SERVICE PROCEDURE.

(a) Notice required to be given under this Master Resolution, unless different provisions are otherwise specifically made in this Master Resolution, may be given by:

- (1) personal delivery to the person to be notified, or
- (2) electronic mail if FORA conventionally communicates with the recipient by electronic mail, or
- (3) deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the person to be notified, at such person's last known business or residence address, as such address appears in the public records of the Authority or

Deleted: either

Deleted: by

other records pertaining to the matter to which the notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail.

(b) Proof of giving any notice required by this Master Resolution may be made by the certificate of any officer or employee of the Authority or by affidavit or declaration of any person over the age of 18 years, which shows service in conformity with this Master Resolution or other provisions of law applicable to the subject matter of the notice.

1.01.090. HOLD HARMLESS CLAUSE FOR LICENSES AND PERMITS.

(a) Every entitlement is subject to the condition that the person receiving the entitlement agrees to save, indemnify, and keep harmless the Authority and Authority Officers against all liabilities, judgments, costs, and expenses which may in any manner or granting of an entitlement or in consequence of the use or occupancy of any sidewalk, street, or other public place, or the occupancy of any property or facility owned or leased by the Authority. The person receiving an entitlement shall also agree to strictly comply with the conditions of the entitlement and with this Master Resolution and all ordinances, rules, and regulations of the Authority relating to the entitlement.

Deleted: shall be

(b) Whenever it is administratively proper, the Executive Officer shall print, type, or write the Condition State above into every entitlement form substantially as it appears in this section.

1.01.100. INTERPRETATION, CONSTRUCTION, AND SEVERABILITY.

(a) This chapter contains the minimum requirements of the protection of the public convenience, safety, health, and general welfare.

Deleted: The provisions of t

Deleted: shall be

(b) Any reference in this Master Resolution to any portion of any statute includes amendments and additions to such statute.

Deleted: shall

Deleted: all

(c) Any reference in this Master Resolution to an ordinance of the Authority or provision of this Master Resolution shall include all amendments and additions to such ordinance or provision. Reference to any section of this Master Resolution shall include the penalty provisions specified in this chapter, unless otherwise expressly provided.

(d) The act or omission of an act which is made unlawful under this Master Resolution shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. Whenever any act or omission is made unlawful, it includes causing, permitting, aiding, abetting, suffering, or concealing such act or omission.

Deleted: Whenever a p

Deleted: is granted to,

Deleted: y is

Deleted: the power may be exercised or the duty

(e) Powers or duties granted to, or imposed upon, an Official may be performed by a person authorized to act for the Official.

Deleted: a deputy or designee of such Official, or other employee or

Deleted: pursuant to law or ordinance, unless this Master Resolution expressly provides otherwise

(f) The provisions of this Master Resolution and all proceedings under this Master Resolution are to be construed so as to give effect to the objectives of the Authority Act, this Master Resolution, and the promotion of justice.

(g) Parts of this Master Resolution are severable. Any declaration of unconstitutionality of any phrase, clause, sentence, paragraph, or section of this Master Resolution or any amendment to this Master Resolution by the valid judgment or decree of a court of competent jurisdiction shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Master Resolution or any amendment to this Master Resolution.

Deleted: The sections, paragraphs, sentences, clauses, and phrases

Deleted: and a

Deleted: f

1.01.110. GRAMMATICAL INTERPRETATION.

- (a) General Rules.
 - (1) Any gender includes the other genders.
 - (2) The singular number includes the plural, and the plural includes the singular.
 - (3) Words used in the present tense include the past and the future tenses and vice versa.
 - (4) The word "or" may be read "and" and the word "and" may be read "or" if the sense requires it.
 - (5) Words and phrases used in this Master Resolution that are not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Section 13 and 1645 of the Civil Code of the State of California are adopted in the interpretation of words and phrases, unless otherwise provided in this Master Resolution.
- (b) Specific Rules.
 - (1) It is the policy of the Authority Board that the legal documents of this Authority, including all ordinances, resolutions, and contracts, should be gender neutral.
 - (2) It is the policy of the Authority Board that the legal documents of this Authority including all ordinances, resolutions, and contracts, should be written in "plain English."

Article 1.02. ENFORCEMENT OF MASTER RESOLUTION

1.02.010. RESPONSIBILITIES FOR ENFORCEMENT.

(a) Whenever the enforcement of any provision of this Master Resolution is imposed upon or delegated to a specific official, such official shall be primarily responsible for the enforcement of such provision. In the absence of any specific impositions or delegation or enforcement responsibility, the Executive Officer shall be primarily responsible for enforcing the provisions of this Master Resolution.

Chapter 2. AUTHORITY OFFICES AND GENERAL REGULATIONS

Article 2.01. AUTHORITY BOARD

2.01.010. MEMBERSHIP.

(a) The Authority shall be governed by a thirteen (13) member Board of Directors consisting of three (3) members of the Monterey County Board of Supervisors, two (2) city council members from each of the Cities of Marina and Seaside, and one (1) city council member from each of the Cities of Carmel-by-the-Sea, Del Rey Oaks, Sand City, Monterey, Pacific Grove, and Salinas.

(b) The legislative body of each member agency may appoint an alternate member for its respective positions on the Board of Directors. Each alternate member shall have all the same rights, responsibilities and privileges as a Board member when serving in a Board member's place. Board members and alternates shall serve at the pleasure of the legislative body of the member agency making the appointment.

(c) Each member and each alternate shall serve at the pleasure of the legislative body making the appointment. Each member and each alternate shall be a member of the legislative body making the appointment, except that alternates appointed by the Board of Supervisors of Monterey County shall be members of the Board of Supervisors or county staff.

2.01.020. EX-OFFICIO MEMBERSHIP.

(a) A representative of each of the ex-officio members may serve as nonvoting members of the Board of Directors. Ex-officio members are not counted to establish a quorum.

(b) The Board of Directors may appoint or remove additional ex-officio nonvoting members at its pleasure. Each ex-officio member may participate in public meetings and hearings of the Authority. For the purpose of this Master Resolution, the term "participate in public meetings and hearings" shall include, but is not limited to, the ability to make motions, request the placement of matters on the Authority's agenda, serve on committees, and to participate in all discussions regarding any matter which may come before the Authority in public session. The term "participate in public meetings and hearings" does not include the ability to cast a vote under Section 2.02.040 of this Master Resolution, nor does it include the ability to meet with the Authority Board in closed session.

Deleted: sub

Deleted: , in the event a vote is taken, pursuant to

2.01.030. APPOINTMENT.

Each Board member, alternate, and ex-officio member appointed by a governmental entity must be appointed by a member agency or such other appointing authority as provided in the Authority Act and this Master Resolution. Minute action or a resolution making the required appointment must be presented to the Executive Officer

or as necessary. The Executive Officer and/or the Controller of the Authority shall attend these meetings. The Finance Advisory Committee's duties will be as follows:

(a) Review and evaluate the annual budget of the Authority as presented by the Controller. Recommend action to the Executive Committee and the Authority Board, including parameters to staff compensation budgets.

Deleted: FORA

(b) Review and evaluate the scope of services for the selection of the Authority auditor as prepared by the Controller. Comment, as appropriate, on modifications to the scope of services. Serve as an advisory selection committee to the Authority Board on the selection of the auditor. Review and evaluate the annual audit of the Authority financial statements as presented by the selected auditor.

(c) Consult with the Authority Administrative Committee, the Executive Officer, the Controller and/or Director of Planning and Finance, and advise and inform the Authority Board on proposed financing mechanisms to fund the obligations of the Authority. The Finance Advisory Committee will develop recommendations to the Authority Board for actions associated with its advice and information responsibilities.

Article 2.04. EXECUTIVE OFFICER

2.04.010. OFFICE CREATED.

The office of the Executive Officer is created and established, as provided in the Authority Act. The Executive Officer shall be appointed by the Authority Board wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Authority Board.

2.04.020. VACANT.

Deleted: BOND

2.04.030. COMPENSATION.

The Executive Officer shall receive such compensation as the Board shall from time to time determine. In addition, the Executive Officer shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.

Deleted: The Executive Officer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board, and shall be conditioned upon the faithful performance of the duties imposed upon the Executive Officer and as prescribed in this Article. Any premium for such bond shall be a proper charge against the Authority.

2.04.040. POWERS AND DUTIES OF THE EXECUTIVE OFFICER.

(a) The Executive Officer shall be the administrative head of the Authority under the direction and control of the Authority Board except as otherwise provided in this Master Resolution. The Executive Officer shall be responsible for the efficient administration of all the affairs of the Authority, which are under the control of the Executive Officer. In addition to general powers of the Executive Officer as administrative head, and not as a limitation thereon, it shall be the duty of the Executive Officer and the Executive Officer shall have the powers set forth in the Authority Act and in the following sections.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Administrative Committee report

Meeting Date: January 8, 2010

Agenda Number: 8a

INFORMATION

RECOMMENDATION:

Receive a report from the Administrative Committee

BACKGROUND/DISCUSSION:

The Administrative Committee met on December 16, 2009, and the draft minutes are attached for your review. The December 30, 2009 meeting was canceled.

FISCAL IMPACT:

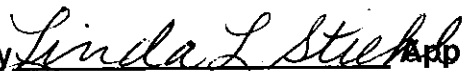
Reviewed by the FORA Controller 

Staff time for the Administrative Committee is covered in the approved FY 09-10 budget.

COORDINATION:

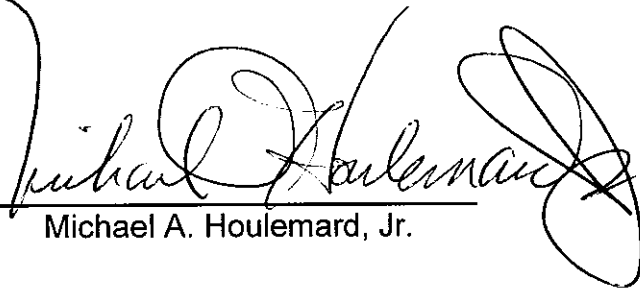
Administrative Committee

Prepared by



Linda L. Stiehl

Approved by



Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY

100 12th Street, Building 2880

Marina, CA 93933

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

DRAFT

**MINUTES OF THE
ADMINISTRATIVE COMMITTEE MEETING
Wednesday, December 16, 2009**

1. Call to Order

Chair Doug Yount called the meeting to order at 8:17 a.m. The following land recipient jurisdiction representatives, establishing a quorum, were present:

*Jim Cook - County of Monterey

*Doug Yount – City of Marina

*Diana Ingersoll - City of Seaside

*Elizabeth Caraker – City of Monterey

*Daniel Dawson – City of Del Rey Oaks

Also present, as noted by the roll sheet, were:

Sean Tillema – Marina Heights project

Steve Endsley – FORA

Jonathan Garcia – FORA

*Kathleen Ventimiglia – CSUMB

Tim O'Halloran – City of Seaside

Bob Schaffer – Marina Community Partners

*Graham Bice – UC MBEST

Jim Arnold – FORA

*Todd Muck – TAMC

*Vicki Nakamura – Monterey Peninsula College

Pat Ward – Bestor Engineers

*Carl Niizawa – Marina Coast Water District

* indicates a committee member

Voting board member jurisdictions not represented at this meeting were Salinas, Pacific Grove, Sand City, and Carmel.

2. Pledge of Allegiance

Chair Yount asked Bob Schaffer, who agreed, to lead the Pledge of Allegiance.

3. Acknowledgements, announcements and correspondence - none

4. Public comment period - none

5. Approval of December 2, 2009 meeting minutes

There were no objections to the minutes, so the chair declared them approved as presented.

6. Follow-up to December 11, 2009 FORA board meeting

Executive Officer Houlemard said follow-up discussion on the Capital Improvement Program item could be taken up on the Administrative Committee agenda. He reported that the graphic information on the FORA ESCA display boards that were set up at the board meeting was beneficial and helpful. He added that the boards were available to display at city council, agency board, and the Board of Supervisors meetings, and ESCA staff members could attend to make a presentation and answer questions. Jim Cook (Monterey County) and Diana Ingersoll (Seaside) expressed interest.

7. Old Business

Item 7a - Habitat Conservation Plan ("HCP") – status report: Executive Officer Houlemard said three or four follow-up items came out of the December 10th meeting: (1) the process to review compliance with the HCP (The general consensus was to keep it at the local level; other agencies can get involved when appeals arise, although this item needs further discussion. Jonathan Garcia will distribute the revised text.); (2) text in the Implementing Agreement needs to clearly state that individual jurisdictions' costs are included in the HCP (The jurisdictions should not have to pay costs from their general funds.); (3) obtain full support to fold existing permits into the HCP; and (4) the need for assurance that "we" have maximum control over funding in cases where the state and federal regulatory agencies disagree about something; the local entities must not have to pay to settle these interagency differences. Mr. Houlemard said money will be put in the endowment assurance fund, but these funds should be wound down for other uses, as the state and federal issues are worked out. Discussion of these points followed.

Executive Officer Houlemard suggested the following strategies in today's meeting with the regulators, which was scheduled to begin at 9:30: (1) Each issue should be negotiated independently of all others. He recommended taking the basewide approach that was assumed in 1994; and (2) He recommended speaking up at the meeting when FORA staff members say something you don't agree with or that is not in line with your jurisdiction's understanding. Mr. Houlemard also acknowledged that there are miscellaneous questions floating out there that require accurate responses, e.g., the comment about FORA's supposed exemption from tree removal. He explained that the FORA ESCA project is work being done on behalf of the Army, which is not subject to CEQA or NEPA. He reminded all that today's HCP meeting would be held in the UC MBEST Center.

Item 7b – Capital Improvement Program ("CIP"): (i) 2010/2011 jurisdiction development projections – status report and (ii) Future project funding: Director of Planning and Finance Steve Endsley reported that the FORA board had accepted the amendments to, and approved, the 2009/2010 CIP. They had also indicated interest in moving forward with the 2010/2011 CIP. He said that the staff request for development numbers and timelines was off to a good start, since two jurisdictions had already responded. He added there is still time to revise the CIP tables, because staff does not plan to take the '10/11 CIP to the board for approval until May at the earliest. Jonathan Garcia, Senior Planner, congratulated the County for being the first jurisdiction to submit their information, with the City of Seaside

coming in a close second. He is awaiting information from the cities of Del Rey Oaks, Marina and Monterey, the University of California, and CSU Monterey Bay. Mr. Endsley added that when all the numbers are in and the CIP is updated, staff would meet with Marina Coast Water District so both CIP's are coordinated.

Executive Officer Houlemard said the HWY 156 project, for which FORA must dedicate some funding under its regional transportation obligations, came up at the December 11th board meeting. Todd Muck from TAMC reported that TAMC would have new numbers and a smaller phased-in package to share by next June. Mr. Endsley said that project would probably be programmed in FORA's 2011/12 CIP. Mr. Houlemard also mentioned that the Eastside Road project needs to be finished and will be next in priority in FORA's CIP. There appear to be placement-in-time issues pending EDA's decisions early next year. Mr. Arnold said these would be clarified when EDA reviews FORA's request for adjustment of the match percentage. Mr. Houlemard urged all to be flexible in waiting to hear from EDA before discussing priorities within FORA's CIP projects. He noted that some items, amounting to about \$1 million in the original General Jim Moore Boulevard project grant request, had to be value-engineered out due to cost estimates, and these items should be restored first. Mr. Arnold estimated possibly \$2 to \$3 million could be available if EDA accepts a lower match with FORA's grant award. . . . Executive Officer Houlemard announced that Jim Feeney, FORA's Assistant Executive Officer, is gradually coming back to work now.

Item 7c – Approved 2010 Administrative Committee calendar: Executive Officer Houlemard called attention to the approved 2010 committee meeting calendar, noting that the December 30th meeting might not be held. He said both Seaside and Marina have closed their offices that week. He encouraged the members to send their comments about the draft January board agenda that was distributed earlier in the week. Since a quorum of the three other land recipient jurisdictions has been confirmed, he said staff would hold this meeting open, since there might be enough on the agenda to have the meeting. Otherwise, it would be canceled.

8. New Business - none

9. Adjournment

Chair Yount adjourned the meeting at 8:58 a.m.

Minutes prepared by Linda Stiehl, Executive Assistant

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Executive Officer's travel report

Meeting Date: January 8, 2010

Agenda Number: 8b

INFORMATION

RECOMMENDATION:

Receive an informational travel report from the Executive Officer

BACKGROUND/DISCUSSION:

The Executive Officer regularly submits reports to the Executive Committee providing details of his travel requests, including those by the Fort Ord Reuse Authority ("FORA") staff and board members. Travel expenses may be paid or reimbursed by FORA, outside agencies/jurisdictions/organizations, or a combination of these sources. The Executive Committee reviews and approves these requests, accordingly, and the travel information is reported to the Board as an informational item.

~Trip to Umatilla Army Depot in Umatilla, Oregon (tentatively January 20-22, 2010):

The Office of Economic Adjustment ("OEA") asked Executive Officer Houlemard to provide advisory assistance to the Umatilla Army Depot Reuse Authority, which is in the planning stages of redeveloping this closed chemical depot in northeast Oregon, with the objective of mitigating the economic impact of the closure. Travel expenses will be covered by an OEA grant or the Umatilla Army Depot. Any remaining expenses will be reimbursed by FORA, subject to FORA's travel policy.

FISCAL IMPACT:

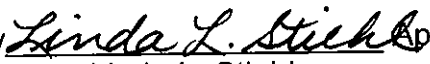
Reviewed by FORA Controller 

Travel expenses for this item are covered as noted above or are minor and included in the approved FY 09-10 budget.

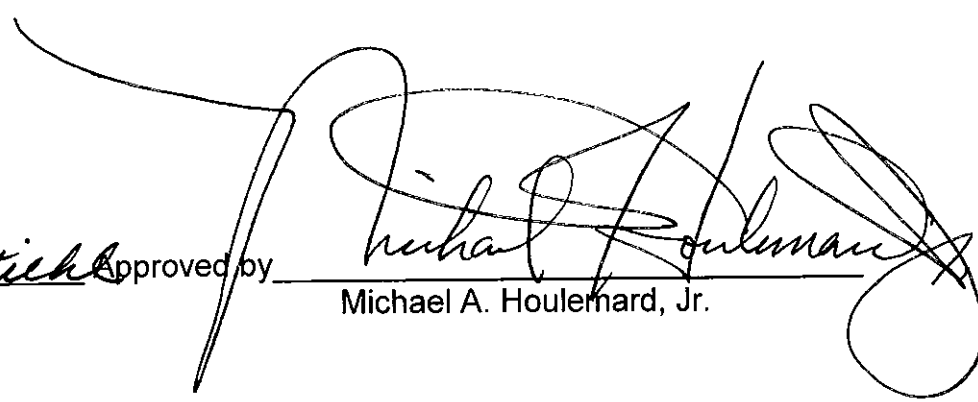
COORDINATION:

Chair/Mayor Rubio, Executive Committee, and Umatilla Army Depot Reuse Authority

Prepared by


Linda L. Stiehl

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Status update of outstanding receivables

Meeting Date: January 8, 2010

Agenda Number: 8c

INFORMATION

RECOMMENDATIONS:

Receive a report regarding outstanding receivables.

BACKGROUND/DISCUSSION:

This is an update report regarding Fort Ord Reuse Authority (FORA) outstanding receivables as of December 31, 2009.

1. Del Rey Oaks (DRO) annual Pollution Legal Liability (PLL) loan payments.

The DRO developer, Federal LLC, owed FORA for two annual insurance premium payments totaling \$467,046. The developer reported ongoing financial partner problems, then stopped making payments and communicating with FORA staff. Staff prepared a recommendation for the FORA Board to remove the DRO PLL last fall. To prevent losing coverage, DRO paid the remaining 08-09 premium. The 09-10 premium of \$256,023 is still outstanding.

- ❖ FORA staff, in accord with the provisions of PLL MOA, offered DRO a payment plan for the 09-10 premium. DRO has agreed to pay the PLL premium in equal monthly payments through June 2010. The first payment is due by January 8, 2010.

2. Association of Monterey Bay Area Governments (AMBAG) Land sale proceeds and expenses.

In November 2007, FORA sold an Imjin Office Park parcel (IOP) to AMBAG. AMBAG requested that the sale agreement allow AMBAG to pay the outstanding balance of \$171,288 in three annual installments. FORA and AMBAG memorialized that provision with a note that provides for 7% annual interest and a 1.5% late fee. AMBAG has not made any payment against the note; In addition to the land payment, AMBAG owes FORA \$14,686 for pre-construction costs. The developer fee will be paid to FORA prior to building permit issuance for this parcel.

- ❖ MCWD and AMBAG executed a sales contract to transfer AMBAG's IOP parcel to MCWD. The escrow closed on December 11, 2009. FORA received \$171,288 in principle and \$25,625 in interest for payment of AMBAG's note, and \$14,686 for payment of AMBAG's portion of pre-construction costs.

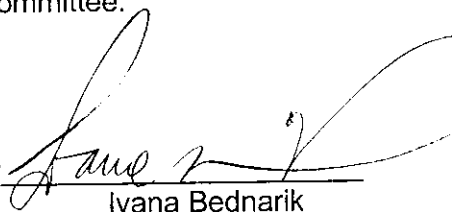
FISCAL IMPACT:

Positive. FORA was able to collect all outstanding receivables by the calendar year end except the insurance payment from DRO, which will be paid by the end of the fiscal year.

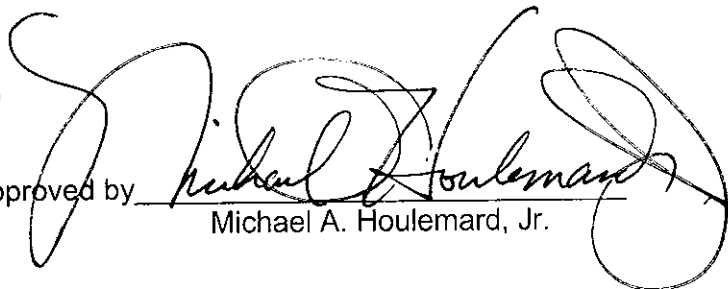
COORDINATION:

Executive Committee.

Prepared by


Ivana Bednarik

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

ELECTION OF OFFICERS FOR 2010

Subject:	Election of officers for 2010	
Meeting Date:	January 8, 2010	ACTION
Agenda Number:	9	

RECOMMENDATIONS:

1. Elect three voting members of the Fort Ord Reuse Authority ("FORA") Board of Directors to serve as officers for a term of one year (February 2010 – January 2011):
 - Chair
 - First Vice-Chair
 - Second Vice-Chair
2. Confirm the Nominating Committee's recommendation of two other representatives from the Board, both to serve on the Executive Committee:
 - A past Chair of the Board or, in the absence of one, a second representative-at-large
 - One other voting member of the Board to serve as a representative-at-large

BACKGROUND/DISCUSSION:


The FORA Master Resolution states that the Authority's three officers shall be elected by the Board at the end of its first regular meeting in January of each year. Serving on the 2010 Nominating Committee were Mayors Sue McCloud (Chair), David Pendergrass, and Ralph Rubio; Supervisor Dave Potter; and Councilmember Dave McCall. The Committee met on December 30th and recommended the following slate:

Chair: Mayor Ralph Rubio, City of Seaside
1st Vice Chair: Supervisor Dave Potter, County of Monterey
2nd Vice Chair: Councilmember Dave McCall, City of Marina
Past Chair: (Vacant for 2010 – Executive Committee opening to be filled by the second representative-at-large below)
Representative-at-Large: Mayor David Pendergrass, City of Sand City
Representative-at-Large: Councilmember Janet Barnes, City of Salinas

VOTING PROCEDURE: A summary nomination covering all offices may be offered by any board member before voting for the individual offices is commenced. In the absence of this, the Chair will accept nominations for each office, starting with the Chair, and conduct an election as noted in **Attachment A**. A simple majority of the total number of votes cast determines the election.

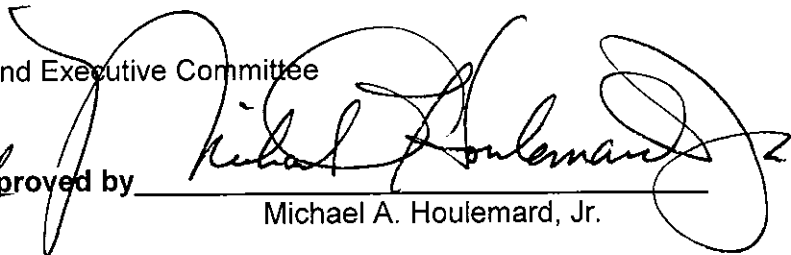
The Authority officers serve for a term of one year. They may be reelected for no more than one consecutive, additional term in the same office. The board policy is that the officers shall rotate on a regular basis among the voting members of the Board. Succession is from 2nd Vice Chair to 1st Vice Chair to Chair. The Board may appoint other officers as deemed necessary. The three officers and a representative-at-large comprise the Executive Committee at this time. There has been no past chair since the August 14, 2009 board meeting.

FISCAL IMPACT: None

Reviewed by FORA Controller 

COORDINATION: Nominating Committee and Executive Committee

Prepared by 
Linda L. Stiehl

Approved by 
Michael A. Houlemard, Jr.

VOTING PROCEDURES

Election of Officers

January 8, 2010 FORA Board Meeting

1. The Chair (or Acting Chair) opens the election of officers by requesting that the Chair, or other member, of the Nominating Committee present the committee's recommended slate of officers.
2. The Board may elect the three officers by a summary nomination, wherein a motion to elect all three is made, seconded and carries. In the absence of a summary nomination, the Chair will request nominations for each board position in turn. The order of the election shall be the Chair first and then the First Vice-Chair followed by the Second Vice-Chair. Each position, if voted individually, is voted on before the next position is voted on. The two appointed representatives to the Executive Committee (a representative-at-large and a past board chair or, if there is none, another voting board member) may be elected, appointed, or simply confirmed by acclamation by the Board.
3. If only one nomination is received for a position, a voice vote to elect by acclamation may be accepted by the Chair.
4. If more than one nomination for any position is received, the procedure shall be as follows:
 - Nominees for each position are given the opportunity to make a short statement.
 - Ballots are distributed, voted and then collected by the Executive Assistant.
 - Ballots are tallied by the Executive Officer and the Authority Counsel.
 - Voting results are announced by the Executive Officer before election of the other officers takes place.