

From: [Michael DeLapa](#)
To: [FORA Board](#); [Dominique Jones](#)
Cc: [Michael Houlemard](#); [Jon Giffen](#)
Subject: LandWatch's Question to FORA Transition Board Study Session Friday, July 13
Date: Thursday, July 12, 2018 11:29:45 AM
Attachments: [LandWatch Questions on FORA Transition.pdf](#)
[ATT00001.htm](#)

Dear Ms. Jones,

Attached are LandWatch's questions related to the FORA Transition Board Study Session scheduled for Friday, July 13. LandWatch asks that FORA's staff, counsel, or Board members be prepared to address the following questions on Friday.

Please reply to confirm receipt of this request.

Thank you.

Regards,

Michael

Michael D. DeLapa
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[LandWatch Monterey County](#)
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MONTEREY COUNTY



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June 22, 2018

Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
920 2nd Ave, Suite A
Marina, CA 93933

Subject: Draft FORA Transition Plan

Dear Mr. Houlemard:

The purpose of this letter is to inform you that the County of Monterey is in receipt of the draft FORA Transition Plan. We are currently in the process of analyzing and evaluating issues of concern to the County.

Please feel free to call me at (831) 755-5145 if you have any questions.

Sincerely,

Nicholas E. Chiulos
Assistant County Administrative Officer

cc: Honorable Chair, Luis E. Alejo
Honorable Vice Chair John M. Phillips
Supervisor Simon Salinas
Supervisor Jane Parker
Supervisor Mary L. Adams
Lew Bauman, County Administrative Officer
Charles McKee, County Counsel
Wendy Strimling, Senior Deputy County Counsel
Carl Holm, Resource Management Agency, Director
Melanie Beretti, Resource Management Agency, Service Manager



CITY MANAGER

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Telephone (831) 899-6700
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June 29, 2018



Michael Houlemard
Executive Director
Fort Ord Reuse Authority
920 2nd. Avenue Suite A
Marina, CA. 93933

Dear Michael:

With respect to every person who has worked to advance the region's interests in the wake of the closure of Fort Ord, my comments on the Draft Transition presentation to the FORA Board on June 8 are that, in the twenty-four months before FORA is scheduled to terminate, the focus should be on three topics. As we have discussed at the Administrative Committee in recent months, the three topics FORA should focus on are updating the Base Reuse Plan, removing blight and hastening empowerment of the land-use jurisdictions.

While the Base Reuse Plan was constructed with the best of intentions, it represents a world that no longer exists. Shackling the region to a plan that looks backward rather than forward is not a recipe for success. It perpetuates rather than resolves the false-choice environment vs. economy debate that stymies progress and enforces a status quo of haves and have-nots in the region. A plan that facilitates economic sustainability predicated on environmental stewardship would be catalytic, as would a plan that reduces capital investment in roads through protecting greater amounts of open space, while facilitating intensification of development and re-development in proximity to the region's economic engines. From my vantage point, the FORA Board should leave the region with a plan that looks forward from 2020, not backward to the 1990's.

As FORA wraps up its tenure, it should also focus on developing and implementing a plan that removes every blighted structure on the former base. The FORA Board and local jurisdictions should be bold and resolute in developing a plan that removes the blighted structures that consume public resources, compromise quality of life and serve as investment repellant. A forward-looking plan, together with a clean slate for redevelopment, would be a legacy each FORA Board member could be especially proud of.

With a forward-focused plan and a clean slate for investment, the final topic the FORA Board should focus on is hastening the empowerment of local land-use jurisdictions. Seaside, Marina, Del Rey Oaks, Monterey and Monterey County are all more than able to plan their futures, collaborating where necessary and working together for the betterment of the region. Again, with appreciation and respect for the individuals who have worked to advance the Base Reuse Plan, the termination of FORA need not and should not be viewed as a "devolution". Empowered and engaged citizens, leading their communities forward, is anything but a devolution. It is how progress is achieved.

Please convey my appreciation to FORA staff for their hard work. If I can be of any assistance, do not hesitate to ask.

Sincerely,

A handwritten signature in blue ink, appearing to be "Craig Malin", with a large, sweeping flourish extending to the left.

Craig Malin
City Manager

Cc: Mayor & Council, FORA Administrative Committee



June 27, 2018

Michael Houlemard
Executive Officer
Fort Ord Reuse Authority (FORA)
920 2nd Avenue, Suite A
Marina, California 93933

Subject: Transition of Capital Improvement Program Fees for Transportation Impacts

Dear Mr. Houlemard:

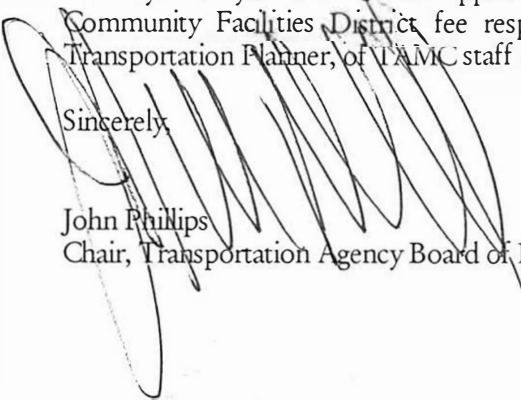
At the June 8, 2018 FORA Transition Plan special meeting, you requested a recommendation from the Transportation Agency for Monterey County on its preferred approach to meeting FORA's regional transportation responsibilities, should the Authority expire in 2020 as currently provided for in state law. The Draft FORA Transition Plan (dated June 5, 2018) includes an option for transferring FORA's functions to multiple agencies, with the Transportation Agency identified as receiving responsibility for regional transportation improvements.

The Transportation Agency is currently in the process of updating the Regional Development Impact Fee program with the 2018 Nexus Study Update. To provide information on this potential transfer of responsibilities from FORA to TAMC, the update to the regional fee program includes a scenario for incorporating the FORA area into the Regional Development Impact Fee program.

At its Board meeting of June 27, 2018, the TAMC Board voted to create a separate FORA zone within its regional development impact fee, to be activated in the event of FORA's transition. This recommendation is consistent with FORA's Draft Transition Plan.

Thank you for your collaborative approach in addressing the potential sunset of FORA and the assignment of Community Facilities District fee responsibilities post-FORA. Please contact Michael Zeller, Principal Transportation Planner, of TAMC staff at (831) 775-4416 with any questions.

Sincerely,


John Phillips
Chair, Transportation Agency Board of Directors



July 12, 2018

Mayor Ralph Rubio, Chair
Fort Ord Reuse Authority (FORA) Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933

Dear Chair Rubio and Board of Directors:

LandWatch asks that FORA's staff, counsel, or Board members be prepared to address the following questions at the Transition Board Study Session scheduled for Friday, July 13.

1. Why hasn't FORA staff identified a proposed Implementation Local Redevelopment Authority ("Implementation LRA") as required by federal law?

Unaccountably, FORA's June 5, 2018 Draft Transition Plan does not identify a successor Implementation LRA that would actually receive surplus property and quitclaim it to developers; seek, monitor, and implement Public Benefit Conveyances and Homeless Assistance Provider land conveyances; or manage financing of the BRP economic development objectives, including infrastructure requirements.

According to FORA's federal law counsel's (Kutak Rock LLP's) January 19, 2018 memorandum to FORA regarding the "Role of Federally Recognized Local Redevelopment Authorities," the Army will recognize only a single Local Redevelopment Agency (an "Implementation LRA") during the implementation phase of a Base Reuse Plan for the purpose of conveying surplus federal property, including water rights. Surplus property has previously been conveyed to FORA at no cost through an Economic Development Conveyance ("EDC") for FORA's subsequent conveyance of that property to developers. The EDC has been amended seven times between 2000 and 2018 and the memorandum states that there will likely be many more amendments to the EDC as surplus federal land is redeveloped. Under 32 C.F.R section 174.9(b), only the Implementation LRA can seek and enter these amendments.

The Kutak Rock memo also states that the Implementation LRA must

- Seek, monitor, and implement Public Benefit Conveyances and Homeless Assistance Provider land conveyances, a continuous process that must be in accord with Base Reuse Plan.
- Have segregated funding and ability to finance economic development objectives, including infrastructure requirements, in the BRP.

- Be able to accept and account for federal funding without co-mingling assets.

2. What parcels remain to be conveyed for future development?

Consideration of a transition plan should be informed by the identification of the status of undeveloped surplus property. It is unclear to the public what surplus parcels still held by public agencies are expected to be developed in the future and which public agency currently owns these parcels, e.g., the Army, FORA, or FORA member agencies. We ask that FORA provide this information in a systematic form, including maps and a list of parcel numbers with ownership and land use designation under the local General Plans and the Base Reuse Plan, since it would affect post-FORA actions, e.g., the ability to convey and condition development parcels.

3. What were the prior FORA deliberations on the transition issues that should have been anticipated?

Inexplicably, the staff report and draft transition plan make no reference to prior FORA deliberations on transition issues, deliberations that should have taken place at the time the existing commitments were made and that may help inform choices at this point.

For example, when FORA decided to implement a CFD funding arrangement in 2002, it knew or should have known that the CFD mechanism could not survive FORA's then-expected termination date. Before committing FORA to a funding mechanism with such a short shelf life, did FORA consider how it would transition to another funding system when it terminated? If so, what were those plans? Or, for example, at the time it adopted the prevailing wage requirement in the Master Resolution, what plans did FORA have to ensure the continued payment of prevailing wages after FORA sunsets?

4. Please provide a legal opinion with respect to the proposed CEQA exemption.

The draft transition plan makes two arguments without any substantive legal analysis that the transition plan should be exempt from CEQA review.

First, the draft transition plan characterizes the transition plan as a mere administrative or financial reorganization that could not have any effect on the physical environment. However, the transition plan would apparently alter or abandon specific provisions of the BRP that were identified as CEQA mitigation when the BRP was adopted, including numerous specific policies and the entire DRMC system. CEQA requires that an agency make findings that altered mitigation will remain effective or that there is no feasible alternative to abandonment of mitigation. How does FORA intend to address this obligation, especially in light of the repeated statements in the draft transition plan that it is unclear whether BRP policies will even continue to apply in the future?

Second, the draft transition plan claims that the adoption of a transition plan is ministerial because state law mandates it. State law mandates FORA adopt a transition plan just like it mandates that a city adopt a general plan, but it does not mandate the contents of these plans. The contents of the plan are discretionary, and for that reason the transition plan is just as much subject to CEQA as a general plan is.

Thank you for your consideration and timely response.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. DeLapa", with a stylized flourish at the end.

Michael D. DeLapa
Executive Director