



MINUTES

Tuesday, September 11, 2018

5:00 P.M. Closed Session
6:00 P.M. Open Session

**SPECIAL MEETING
CITY COUNCIL, AIRPORT COMMISSION,
MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE
COMMUNITY NON-PROFIT CORPORATION AND SUCCESSOR AGENCY OF THE
FORMER MARINA REDEVELOPMENT AGENCY**

Council Chambers
211 Hillcrest Avenue
Marina, California

VISION STATEMENT

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 - May 2, 2006)**

MISSION STATEMENT

The City Council will provide the leadership in protecting Marina's natural setting while developing the City in a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 - May 2, 2006)**

1. CALL TO ORDER



2. ROLL CALL & ESTABLISHMENT OF QUORUM: (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Successor Agency of the Former Redevelopment Agency Members)

MEMBERS PRESENT: Nancy Amadeo, Gail Morton, Frank O'Connell, Mayor Pro-Tem/Vice Chair, David W. Brown, Mayor/Chair Bruce C. Delgado

3. CLOSED SESSION: *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency Members) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*

- a. Conference with legal Counsel, anticipated litigation: initiation of litigation pursuant to paragraph (4) of subdivision (d) of CA Govt. Code Section 54956.9 – Two potential cases

Robert Rathie, Assistant City Attorney reported out Closed Session: Council met in closed session this evening on the two matters listed on the agenda which were both matters of potential litigation. Information was received, no reportable action was taken

4. MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE (Please stand)

Police Chief Nieto and Fire Chief McCoun wanted everyone to take a moment to remember all the firefighters, police officers and civilians who lost their lives 17-years ago today when those three terrorists attacked. It changes our nation forever and deeply affected every public service agency in some way or another, all the husbands, the wives, the significant others that were in those buildings that went down. Reminded the public that if they are ever in the Public Safety building that when you go into the lobby and look directly to your left we do have a memorial to the 9-11 victims which was part of the tower.

5. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).

- a. City Council review and consideration of the Fort Ord Reuse Authority Proposed Transition Plan and Findings.

Layne Long, City Manager

1994 Legislation established the Fort Ord Reuse Authority (FORA) ACT Gov't Code 67650, et seq; GC 67658 The authority's purpose is to plan for, finance, and manage the transition of the property known as Fort Ord from military to civilian use.

FORA Life Expectancy - May 20, 1994 to June 30, 2014

2012 Reassessment - FORA Sunset Date Extension 2014 to June 30, 2020

AB 1614 Assemblymember Bill Monning Transition Plan by 12-31-2018

CURRENT STATUS FORA TO SUNSET 2020

Gov. Code 67700 Sunset Provision: (a) This title shall ***become inoperative*** when the board determines that ***80 percent*** of the territory of Fort Ord that is designated for ***development*** or reuse in the plan prepared pursuant to this title has been developed or reused in a manner consistent with the plan adopted or revised pursuant to Section 67675, or ***June 30, 2020, whichever occurs first***, and on January 1, 2021, this title is repealed.

(FORA was to jump start the plan to insure that the redevelopment of the base was not limited to Marina and Seaside's interests - Prohibited from completing the FORA implementation plan)

(b)(2) The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The transition plan shall be approved only by a majority vote of the board.

Transition Plan Assigns FORA's Obligations to Responsible Parties = **Debt**

Types of FORA Obligations to assign to other jurisdictions: ESCA (Environmental Services Cooperative Agreement) **No Marina land involved. 100% financed by the army** - Administrative (Pensions, Pending Litigation, misc.) **Should Marina agree to assume these obligations?** - Capital Improvement Program (CIP)

Major Obligations	Assignments	POST-2020	2029
Expenses			
Transportation/Transit	Jurisdictions – On-site and Off-site projects; TAMC – Regional Projects and Transit or Extension of FORA	\$132.3 M	0
Water Augmentation	MCDW/NRWPCA/Extension of FORA	\$17.1 M	0
Habitat Management	Fort Ord Habitat Cooperative (JPA)	\$45.1M	0
Sub-Total		\$194.5M	0
ESCA Program	New JPA or County or extension of FORA	\$0M*	0
Total		\$194.5M	0
Administrative	New JPA/All Land use/Voting Members?	6.4-8.8M*	0*

Transition Plan has a lot of debt to assign

ESCA – ENVIRONMENTAL SERVICES COOPERATIVE AGREEMENT (Removal of military ordinance) All affected land come with grants; No affected land is in Marina

Jurisdiction	VOTING (%)
City of Monterey 1713	7.89%
City of Marina 2713	15.38%
City of Del Rey Oaks 1713	7.89%
City of Monterey 1713	7.89%
County of Monterey 2713	23.11%
City of Pacific Grove 1713	7.89%
City of Carmel-by-the-Sea 1713	7.89%
City of San Jose 1713	7.89%
City of Seaside 2713	15.38%
	100%

FORA ADMINISTRATIVE LIABILITIES
(Proposed to be shared by local jurisdictions)

- CalPERS Pension Liability (\$6.6 – 8.8M)
- Pending Litigation
- Other miscellaneous claims (acts of the board, unknown)

*** City's General Fund at Risk

Assigning a potentially unlimited liability to another board is problematic

Other Obligations – **Water Augmentation:** To be fully assumed by Marina Coast Water District – No Marina Obligation; **Habitat Protection:** Habitat Management Plan (HMP) **REQUIRED and APPROVED by Monterey Co.;** Habitat Conservation Plan (HCP) **DISCRETIONARY and NOT APPROVED after 21 years;** Funding source – 30% of each \$24,000 residential permit, or \$7,200 per house. **These obligations can be managed by assignment or limitation**

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How to finance

Revenues	Expenses
Land Sales/Property Tax/7 \$67M	Transportation \$132.3M
CFD (Proposed) \$16,800	HCP \$5.1M
CFD (Historical) \$72.2M	Water \$17.1M
\$144.3 M	\$194.5M

Notion balanced

Jurisdiction	2020 (Entitled)	Post 2020 (Entitled)	Proposed
Del Rey Oaks	\$ 42,310	\$ 42,310	\$ 42,310
Marina	\$ 10,640,866	\$ 55,333,751	\$ 1,692,790
City of Monterey	\$ -	\$ 192,946	\$ 192,946
City of Seaside	\$ 2,578,905	\$ 2,670,964	\$ 26,988,138
County Of Monterey	\$ 5,983,517	\$ 13,960,985	\$ -
UC	\$ -	\$ -	\$ 3,966,189
Total	\$ 15,245,118	\$ 72,220,946	\$ 53,179,873

Bulk of revenues to come from buildings in Marina

CFD – Community Facility Development Fee @ \$24,000 per home - **30% of the \$24,000 dedicated to Habitat Protection; Of the \$24,000, \$16,800 available for Transportation Projects: \$66,000,000 divided by \$16,800 each = 3,930 homes**

Current Entitlement Inventory: Dunes 1,000; Sea Haven 900; Cypress Knowles 850 = TOTAL 2,750
All the projected revenue is insufficient to complete the plan and City must wait for developer to complete these.

How can the cities and the county bring the transition plan into balance?

Determine what are the legal responsibilities of FORA - Some things are mandatory others are aspirational, e.g. Habitat Management Plan vs. Habitat Conservation Plan

To the extent possible, assign obligations to entities equipped to manage the obligations best, e.g. water augmentation to Marina Coast Water District and Regional Road Projects to TAMC

Reduce or eliminate administrative costs if obligations are assigned to cities or county

Fort Ord Reuse Plan is a wonderful opportunity for the community, but it is time to manage the plan to the resources available in the community.

Council Questions: has the 7-page plan/resolution been vetted by the Ad-Hoc Transition Committee or the Admin Committee? GC67700, states that LAFCO shall provide the orderly dissolution. So, is it legal counsels understanding that even if there's no transition plan LAFCO still has to go through the process to the best of its ability to take care of the existing obligations and rights that the parties have?

If the no transition plan that becomes a problem, but if there was a transition plan that assigns obligations to jurisdictions without proper authority to do so there could also be a different kind of mess, correct? If the transition plan is approved as it is required to be by a majority vote instead of unanimous vote of the FORA Board and let us assume for the moment that Seaside or Marina votes against the transition plan that is submitted and LAFCO picks up the transition plan and runs with it, have we still the rights to challenge the content of the transition plan or are we looking at a potential lawsuit/litigation to exercise our rights? Are any of the obligation discretionary or are the all required under the legislation? Under Assignment of Administrative Liabilities, why are there unknow funds that can't be listed? If FORA went through with this and none of the supervisors from the County of Monterey voted for it but everybody else did, they become obligated but if they already have difficulty meeting their obligations that they have could they just default on participating in this or could any of the underlying jurisdictions default on participating for lack of funding? GC67707(b)(2) "*The transition plan shall assign assets and liabilities, designate responsible successor agencies and provide a schedule of remaining obligations*". Is this something that the legislator could properly delegate to FORA to impose liabilities if the transition plan is approved to impose liabilities on cities without their consent, or to LAFCO? If FORA drafts a transition plan and LAFCO agrees/approves it do you believe that Marina still has the right to say, there's no authority to obligate us? Are the road obligations in the transition plan, do they have the same tenor as the litigation liabilities? Can a court judge order an entity like FORA to come up with the money to pay a judgement and then FORA prorate the membership monies to pay for the judgement? **Habitat Conservation Plan** - Out of the monies collected for each housing permit obtained is supposed to go toward the Habitat Conservation Plan and if this never got approved before it sunsets then it doesn't mean anything anymore, correct? What would happen? If we don't have a Habitat Conservation Plan and if we're just doing the habitat management plan what is the funding required? **Capital Improvement Program (CIP)** – What kind of shortfall are we looking at? If \$55million were to come from Marina towards that \$72million how much of that \$72million is pledged or expected to be spent in Marina projects? We already see a shortfall and if everything went according to plan, there's not enough money but there will never be enough money, there would always be a shortfall because the projects can't generate the money in the future even if the CFD was more but it's not, correct? What we're being able to determine tonight, isn't this somewhat feeding into the argument that FORA should be extended? If we see these shortfalls and there's a potential the jurisdictions are being nailed for financial obligations isn't this becoming an argument that favors those of FORA who want to extend? Can tax increment monies be used for salaries? **Financial Obligations - Mandatory Required Obligations vs. Discretionary/Aspirational Obligations** - Are you suggesting that HMP and HCP are different? Which one is aspirational, and which one is mandatory? Do we want to accept those administrative costs or those things that are FORA obligations? Is your opinion that we would net dollars by assuming some of these obligations because we would save so much if FORA sunsets that we could do some of this on our own?

1. What input do you want to give us on the transition plan?
2. What are the contractual obligations?
3. What are the actual legal obligations?
4. What are the things that are important to Marina in a transition plan?
5. Is blight removal important for us?
6. We have roads that are on the former Fort Ord property that are not part of this CIP Program, do we want those?
7. How do we want to look at funding?

Public Comments:

- Paula Pelot – very disheartening to hear this. It has the appearance again of FORA taking advantage of Marina and trying to obligate Marina to this we should not, cannot fund and to tie our hands. Blight removal, all this money is poured into there and what are we really get back for it? Not sure what the outcome of this is going to be but I was one of the people who testified before the state assembly committee suggesting that FORA shouldn't have been extended that last time and it shouldn't be extended this time. There are agencies that can take on these obligations. Developers of the future developments can take on these obligations and the city has to not support something that would unnecessarily obligate the city. It's not even clear if there is a legal obligation, so there is a lot to chew on here tonight. It's going to take a lot of time but it's worthy of that time.
- Doug Yount, Marina Community Partners – Some of us have been working with FORA on this for 15-years and understand it very well and we just stand willing as a developer to assist in any way you may need with the FORA transition or provide information or align on strategies which I think the city and the developers in your community are aligned on strategies with FORA transitions. We're here for assistance and to help in any way you may need.
- Bob Nolan – believes there is a misconception in the public that the blight is really easy to take down and that all we have to do in knock it down and clean it up. It's obvious that there really isn't a funding mechanism to take down the blight. Why hasn't the Management Protection Plan been approved? After 21-years what is holding up the Management Protection Plan? Agrees that FORA is setting itself up to not sunset.

Council Questions continued...EXHIBIT A Findings

Page 3, bottom of H, it says *“when the FORA legislation sunsets the community facilities district fees may no longer be collect. If the CDF is replaced with a Nexus Fee it's likely the underlying taxation will be shifted to job generating uses paying more and housing paying less.”* Is this statement true? Would this paragraph be more correct or more helpful if it said: *“when FORA legislation sunsets the FORA CFD may no longer be collected, however jurisdictions could replacement CFD's so that no funding is lost”*. Section 67679GC – Are the other 11 options available to us? CEQA Habitat Mitigation Approval - Are there additional problems related to their three key areas that there isn't a funding source available to us? If FORA were to go away what happens to that tax increment? If in our agreements we already received a portion, would we continue to receive a portion plus we would get additional distribution? What does the County get on an annual basis? Base-wide costs and base-wide measure Mitigation Measures (Fort Ord Comprehensive Business Plan, the Development and Resource Management Plan, Reuse Plan and the Capital Improvement Program) - what are the total list of mitigation measures that those documents call out? What does the law state and what are our contractual obligations in going through the four documents (Fort Ord Comprehensive Business Plan, the Development and Resource Management Plan, Reuse Plan and the Capital Improvement Program) and the EIR? Implementation Agreement, can it be assigned? If so, if it were to terminate would Marina get 100% of the land sales?

Public Comments Continued:

- Treas – East Garrison resident and interested in the water issues. Basewide mitigation measures on page 4, water augmentation and storm drainage costs and a slide said that MCWD was going to take care of \$17.1 million of water augmentation costs and understands that somehow right now MCWD and/or Marina pays FORA and equivalent of about \$500,000 and going up per year relative to water and was wondering if anyone can bring these things together and speak to if FOR A sunset's or not what will happen to these monies that are now being paid to FORA, where do

they come back to? And the \$17.1 million does that get paid by MCWD regardless if FORA sunsets or not?

Next Steps

- Go through line by line of the resolution that FORA has drafted
- Look at each finding, those things that we disagree with or we think are incorrect
- We'll look at contractual obligations
- We'll look at what we think are our legal obligations

And we'll bring that document back to the Council on September 18th and then again at a special Council meeting on September 25, 2018.

Council Member Morton, for the record – I have been informed that we do not have contracts Wathens Castanos and for Mr. Lande's group with regard to the Marina Heights project. The new CDF Agreement. Also asked if any representative at FORA send a public records request for copies of those signed contracts? Did anybody send to the city a public records request for copies of those signed contracts?

6. ADJOURNMENT: The meeting adjourned at 8:30pm

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor