

LAFCO *of Monterey County*

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

2020

May 14, 2020

Commissioners

Chair

Matt Gourley
Public Member

Vice Chair

Ian Oglesby
City Member

Luis Alejo
County Member

Joe Gunter
City Member

Mary Ann Leffel
Special District Member

Christopher Lopez
County Member

Warren Poitras
Special District Member

Maria Orozco
City Member, Alternate

Jane Parker
County Member, Alternate

Steve Snodgrass
Public Member, Alternate

Graig R. Stephens
Special District Member, Alternate

Counsel

Kelly L. Donlon
General Counsel

Executive Officer

Kate McKenna, AICP

132 W. Gabilan Street, #102
Salinas, CA 93901

P. O. Box 1369
Salinas, CA 93902

Voice: 831-754-5838

www.monterey.lafco.ca.gov

Fort Ord Reuse Authority
Chair/Supervisor Jane Parker and Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933

Subject: May 14, 2020 FORA Board Agenda Items 6d Transition Status Report and 7a Memoranda of Agreements (MOAs) for Capital Improvement Program (CIP) and General Fund Project Transfers

Dear FORA Chair/Supervisor Jane Parker and FORA Board,

On behalf of the Local Agency Formation Commission (LAFCO), I am writing in our dissolution oversight role to respectfully request that the FORA Board:

- 1) Pull Item 6d Transition Status Report from the Consent Agenda and allow public comments from LAFCO, and
- 2) Take public comments from LAFCO representatives on Item 7a MOAs for CIP and General Fund Project Transfers.

Our comments below pertain to the two agenda items. More broadly, in our May 5 and 6 letters to the FORA Administrative and Executive Committees, respectively, we have made specific requests to FORA regarding a wide range of matters in need of urgent attention by FORA and its member agencies. We reiterate our requests that the substantive issues raised by LAFCO and FORA stakeholders be addressed as priorities by the FORA Board of Directors. Our comments and requests are in the spirit of fulfilling LAFCO's oversight role under Government Code section 67700. In the short time available for FORA to address outstanding items, we remain engaged with FORA to accomplish our respective dissolution responsibilities to the fullest extent possible.

ITEM 6d, TRANSITION STATUS REPORT

In its Transition Status Report, FORA staff provided initial responses to requests in LAFCO's May 6, 2020 letter to the FORA Executive Committee. Our general comment is that the initial responses are incomplete and in need of further review and attention by FORA staff, counsel, and the FORA Board. In some instances, there is also a need for discussion with affected stakeholders. The timing of FORA's comprehensive responses is urgent as most of the items will require FORA Board review and action for a clear public record. Listed below in bold are LAFCO's requests from our May 6 letter, and our comments about FORA staff's initial responses to those requests.

1. LAFCO Request: Address unresolved CEQA-related issues.

In LAFCO's May 6 letter, LAFCO requested that FORA identify and assign the FORA CEQA lead agency projects and their responsibilities for mitigation measures to successors. FORA staff's response to this request was to reference the May 14 FORA Board Agenda Item 7a MOAs as addressing this item. LAFCO staff acknowledges that, through these draft MOAs, FORA would address transfer of its CEQA lead agency status and legal risk from FORA to FORA member agency successors. Nevertheless, FORA has not resolved issues raised by California Native Plant Society (CNPS) through its draft MOA. LAFCO requests that FORA address CNPS's unresolved issues before finalizing the FORA-Del Rey Oaks MOA.

2. LAFCO Request: Address unresolved issues identified by FORA stakeholders.

LAFCO's May 6 letter raised issues from four stakeholders to FORA's attention. These stakeholders had previously communicated their issues regarding aspects of FORA dissolution to FORA through correspondence to the FORA Board. In LAFCO's May 6 letter, LAFCO requested that FORA prepare a written summary of FORA's responses to issues raised by each FORA stakeholder and address these matters with the FORA Board.

a. CNPS Unresolved Issues.

FORA staff's initial response to this request was that FORA counsel is preparing a response to CNPS. FORA has not engaged CNPS to attempt to address issues raised. CNPS's May 13, 2020 letter to the FORA Board (**Attachment 1**) now provides notice that FORA is in breach of its existing contracts with CNPS, requests that FORA and Del Rey Oaks enter into mediation with CNPS, and informs FORA that FORA has failed to implement mitigation 3 of the North-South Road/Highway 218 Project. LAFCO requests that, at its next meeting, the FORA Board review and discuss responses to address issues raised by CNPS.

b. Carpenters Union Local 605's (Carpenters Union) Unresolved Issues.

FORA staff's initial statement noted that FORA counsel is preparing a response to the Carpenters Union. LAFCO finds that FORA has not resolved Carpenters Union's issues, as they relate to survival of FORA's 2001 Implementation Agreements post-June 30, 2020, in its recent interactions at FORA committee meetings. The Carpenters Union's issues should be reviewed and discussed at the next FORA Board meeting.

c. Keep Fort Ord Wild's (KFOW) Unresolved Issues.

FORA staff's response noted "see May 5 letter, Item 1," but included no further explanation or reference. KFOW transmitted a new letter to FORA on May 14, 2020 (**Attachment 2**) providing notice of its intent to sue FORA and jurisdictions for failure to implement Reuse Plan mitigations and notice of intent to sue FORA for failure to assign the ongoing mitigations and duties of FORA with regard to approved projects. LAFCO requests that FORA address KFOW's issues in a written response that is reviewed and discussed by the FORA Board at its next meeting.

d. Monterey Peninsula College's (MPC) Unresolved Issues.

FORA staff's initial response noted that FORA has conferred with MPC, inadequate time remains to perform the terms of the 2003 agreement among FORA, MPC, and County of Monterey, and FORA believes that the 2003 agreement will terminate pursuant to Section 17.B of the agreement, which would likely coincide with FORA dissolution on June 30. LAFCO requests that MPC's unresolved issues be reviewed and discussed with the FORA Board at its next meeting.

3. LAFCO Request: Address the definitive status of FORA agreements, contracts and plans after June 30, 2020.

FORA staff's response stated that FORA counsel has reviewed these FORA documents and believes that all have been satisfied and/or may no longer be enforceable post-June 30, 2020. In LAFCO's opinion, FORA's response is ambiguous and incomplete with respect to the survival of these FORA documents. LAFCO requests that the FORA Board review and determine the survival of FORA agreements, contracts and plans after June 30, 2020.

4. LAFCO Request: Prioritize action on a 2020 Transition Plan and ensure that the Transition Plan meets specific requirements described in the FORA Act.

FORA staff's response stated that the FORA Board will likely consider the 2020 Transition Plan at its June 11, 2020 to allow time to reflect actions related to CalPERS debt. LAFCO staff disagrees with the proposed schedule for FORA Board action on the Transition Plan. Time is of the essence. The FORA Board should consider the Transition Plan as an action item at its May 22 meeting to allow for Board direction to staff on the contents of the Transition Plan. FORA risks not having sufficient time to consider the 2020 Transition Plan. LAFCO requests that FORA provide a definitive statement on the status of the "contracts, agreements, and pledges to pay or repay money" that were included in Exhibit A to the 2018 Transition Plan. Lastly, LAFCO staff requests that future FORA Transition Status Reports no longer refer to dated staff-level discussion

material referenced as Tier 1 and Tier 2 action items, and reference instead LAFCO's requested actions and priorities expressed recently in writing, including LAFCO's March 3, April 17, and May 6 letters to FORA.

5. LAFCO Request: Prioritize action to address FORA's CalPERS liability funding strategy.

FORA staff's response provided an update on the CalPERS payment status, stating that FORA is intending to satisfy its CalPERS liability with \$5 million in funds from its issuance of tax increment bonds for building removal. Attachment B to Item 6d Transition Status Report includes a listing of planned FORA Board actions, which includes a Sunset Finance Strategy item planned for the May 22 FORA Board meeting. LAFCO staff finds that FORA's plan to schedule this item for the May 22 is the best available scheduling option at this time.

6. LAFCO Request: Provide up to \$1.5 million in supplemental litigation reserve funding to LAFCO, include language in an agreement that provides for post-dissolution disbursement of FORA funds to pay for LAFCO's costs, coordinate on matters of legal risk, and assign a successor to litigation that may not be resolved by June 30.

FORA staff's response stated that the FORA Board will consider supplemental funding for LAFCO's litigation reserve at its June 11 meeting and, at present, FORA has no litigation pending against FORA. LAFCO views FORA staff's response as incomplete. FORA does not provide context that FORA only has \$1.8 million available in unassigned funds to allocate to multiple public agencies' funding requests. FORA staff previously indicated that it would not be supporting LAFCO's request for up to \$1.5 million in additional litigation reserve funds. FORA has not identified an agreement or vehicle that could include language to provide for post-dissolution disbursement of FORA funds to pay for LAFCO's legal and administrative oversight costs. FORA has a list of potential litigation items that could become pending litigation matters before June 30. As evidence, in the last two of weeks, LAFCO has been contacted by four potential litigants inquiring about the process for filing claims against FORA. FORA has received three notices of intent to file legal action in the past week. Unresolved issues from FORA stakeholders continue to increase the likelihood of litigation risk for FORA member agencies and LAFCO post-dissolution. LAFCO requests that FORA address these LAFCO funding and legal risk matters at the next FORA Board meeting. LAFCO urges FORA to provide responses to its stakeholders' unresolved issues and to resolve the issues before they become costly legal matters.

7. LAFCO Request: Provide \$100,000 in funding for LAFCO administrative oversight post-dissolution.

FORA staff's response stated that the FORA Board will consider this item at its June 11 meeting. FORA staff also noted support for this funding from the FORA Finance and Administrative Committees. We acknowledge this positive response.

ITEM 7a MOAs FOR CIP AND GENERAL FUND PROJECT TRANSFERS

Through this item, FORA is seeking to transfer its funding and CEQA lead agency status for three FORA CIP projects and one General Fund planning study to four FORA member agencies. LAFCO requests that FORA postpone consideration of Item 7a (3), as it relates to the draft MOA between FORA and Del Rey Oaks, to the next FORA Board meeting to allow time to formally address and resolve critical issues raised by CNPS. FORA has received CNPS's April 14, April 17, May 1, and May 13 letters. Those letters address issues related to FORA's breach of contract, request for mediation, failure to implement mitigations, habitat reserve protections, and proposed projects for South Boundary Road and General Jim Moore Boulevard, among others. LAFCO requests that FORA staff and counsel prepare formal responses for FORA Board review and discussion at the next Board meeting.

Conclusion

Thank you for your consideration of these agenda item comments. We request urgent attention to the unresolved issues raised by LAFCO and stakeholders in the interests of accomplishing an orderly dissolution. The Local Agency Formation Commission will hold a public hearing on June 22 at 4:00 p.m. to make determinations about FORA's dissolution. Our Commission and staff remain engaged in assisting FORA and the Monterey Bay communities throughout the process.

Sincerely,



Kate McKenna, AICP
Executive Officer

cc: Josh Metz, FORA Executive Officer

Attachment:

- 1) Letter from CNPS dated May 13, 2020 to FORA Board of Directors
- 2) Letter from the Law Offices of Stamp | Erickson dated May 14, 2020 on behalf of Keep Fort Ord Wild to FORA Board of Directors



CALIFORNIA
NATIVE PLANT SOCIETY

Monterey Bay Chapter: PO Box 221303, Carmel, CA 93923

Attachment 1

Jane Parker, Chair

May 13, 2020

Board of Directors, Fort Ord Reuse Authority

SUBJECT: Notice of Breach of Contract of the FORA-Del Rey Oaks-CNPS Contract and Request for Mediation; Failure by FORA to implement Mitigation 3 of the North-South Road/Highway 218 project.

Dear Chair Parker and Members of the Board of Directors:

The Monterey Bay Chapter of the California Native Plant Society (MB-CNPS) has repeatedly stated to FORA and the City of Del Rey Oaks that the MB-CNPS protests the current proposal to realign and widen South Boundary Road and create a new intersection at General Jim Moore Boulevard. The Environmental Assessment/Initial Study for this proposal was certified by FORA in 2010 – the EA/IS included language that noted CNPS had to agree to any road alignment that impacted Plant Reserve 1 North. MB-CNPS has repeatedly stated that Plant Reserve 1 North must be protected in its entirety and that we do not agree to the realignment of South Boundary Road as currently proposed and approved by FORA. We have not received a response to our May 1, 2020 letter to FORA and its attachments.

Regarding Item 7.a.3, on the May 14, 2020 Agenda for the FORA Board Meeting, Memorandum of Agreement Regarding Funding to be Provided for the South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements – the MB-CNPS **PROTESTS** the transfer of road improvement funding to the City of Del Rey Oaks without the unequivocal assurance that proposed road improvements **WILL NOT IMPACT IN ANY WAY the 4.58-ACRE PLANT RESERVE 1 NORTH.**

As stated in our May 1, 2020 letter to FORA from MB-CNPS attorney Molly Erickson:

“CNPS is and has been steadfastly committed to the habitat protected by contract between CNPS, FORA and Del Rey Oaks (DRO) and also by CEQA mitigation.”

“The environmental assessment/initial study (EA/IS) certified by FORA in 2010 stated that the habitat preserve area is ‘adjacent to the Del Rey Oaks Resort’ which was to be developed adjacent to the northern boundary of the habitat parcel. The EA/IS maps show that the proposed South Boundary Road realignment would put a wide multi-lane roadway directly through the habitat area.”.

“... before FORA can proceed with its South Boundary Road project, FORA must successfully negotiate with CNPS to agree ‘to relocate a currently identified habitat preserve area further south.’ (2010 EA/IS, p. 3-2.) If FORA cannot renegotiate the location then FORA cannot proceed with the realignment and widening project as approved and must pursue other options. This requirement was stated in FORA’s EA/IS.”

The Monterey Bay Chapter of CNPS firmly reiterates that it has not agreed to relocate the 4.58-acre habitat preserve area referred to as Plant Reserve 1 North. FORA and Del Rey Oaks have agreed to the protection of the 4.58-acre parcel. Del Rey Oaks and FORA have destroyed or lost their records that document this contractual agreement and mitigation requirement, as evidenced by their responses to our recent California Public Records Act requests. MB-CNPS has retained these important records. As a separate and independent claim, MB-CNPS is concerned that FORA has failed to assign a successor lead agency for all projects for which FORA previously served as lead agency. This means there is no entity that has been assigned to implement project mitigations previously adopted by FORA. CEQA mandates that mitigations must be carried out. The failure to carry out mitigations is a violation of CEQA. In 1999, FORA approved the Environmental Assessment/Initial Study, adopted mitigations, and approved the North-South Road/Highway 218 Improvements project. FORA constructed the improvements project and FORA has not yet implemented all adopted mitigations, including Mitigation 3, which was in direct response to the comment letter MB-CNPS provided on the project EA/IS and for which there is a continuing need. The MB-CNPS EA/IS comment letter on the North/South Road/Highway 218 project led not only to the creation of Plant Reserve 1 North and the CNPS-FORA-DRO Agreement regarding its permanent protection, but also Mitigation 3.

MB-CNPS is concerned that FORA has made an anticipatory breach of the 1998 agreement between CNPS, FORA and DRO, as modified in 1999. MB-CNPS is concerned that FORA has, or intends to abandon, its responsibilities under the Agreement, specifically including but not limited to the term that "the [protected habitat] area will be protected from fragmentation and degradation in perpetuity," that no "road widening ... would affect the reserve," that "any future widening [that] would affect the habitat would require negotiation of this agreement," and that "no development would be permitted in the plant reserve."

MB-CNPS is concerned that FORA also has, or intends to, abandon its responsibilities under the EA/IS adopted in 2010 for the South Boundary Road project, specifically including but not limited to FORA's apparent new position that the MB-CNPS agreement with FORA and DRO is not a necessary condition precedent for the construction of the South Boundary Road realignment project. MB-CNPS is concerned that FORA's actions show that it has, or intends to, abandon its duties as to these matters as well as the unimplemented project mitigations described above, including Mitigation 3, when FORA is dissolved on June 30. MB-CNPS is concerned that FORA has not and will not assure an adequate assignment to an entity that will step into FORA's shoes and honor FORA'S agreement for the permanent protection of Plant Reserve 1 North, as well as the documented CEQA mitigations.

Accordingly, MB-CNPS puts FORA on notice of these important responsibilities and allegations and demands that FORA and Del Rey Oaks promptly enter into dispute resolution with MB-CNPS, with mediation to take place and be resolved no later than May 31, 2020, so in the event of an impasse MB-CNPS would have time to act before FORA is dissolved on June 30, 2020.

California Native Plant Society, Monterey Bay Chapter to Fort Ord Reuse Authority
May 13, 2020
Page 3

Please contact MB-CNPS Attorney Molly Erickson at (831) 373-1214 no later than May 15, 2020, in order to arrange mediation with a mutually acceptable mediator. FORA's failure to respond will be interpreted by MB-CNPS to be a refusal to mediate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian LeNeve", with a long horizontal flourish extending to the right.

Brian LeNeve

President

California Native Plant Society, Monterey Bay Chapter to Fort Ord Reuse Authority
May 13, 2020
Page 3

cc: Mayor Kerr, City Manager Pick, and members of the City Council, Del Rey Oaks
Kate McKenna, Executive Officer, LAFCO of Monterey County
Debbie Hale, Executive Director, Transportation Agency of Monterey County
Members of the Board of Directors, Monterey Bay Chapter - CNPS

STAMP | ERICKSON
Attorneys at Law

Attachment 2
Monterey, California
T: (831) 373-1214

May 14, 2020

Via email

Jane Parker, Chair, Board of Directors, Fort Ord Reuse Authority
County of Monterey Board of Supervisors
Mayors and city councils of FORA member and land use jurisdictions

Subject: Notice of intent to sue Fort Ord Reuse Authority (FORA) and jurisdictions for failure to implement Reuse Plan mitigations; notice of intent to sue FORA for failure to assign the ongoing mitigations and duties of FORA with regard to approved projects

Dear Chair Parker and members of the FORA Board of Directors, the County board of supervisors, and mayors and city councils of FORA member jurisdictions:

To: Fort Ord Reuse Authority Board of Directors and the governing bodies of the member jurisdictions of the Fort Ord Reuse Authority

Keep Fort Ord Wild (KFOR) has been active in Fort Ord and FORA matters for nearly ten years. KFOR hereby puts FORA and its member jurisdictions on notice that KFOR intends to initiate litigation under CEQA, California and Planning and Zoning Law and other laws due to FORA's failure to ensure that all Reuse Plan mitigations, policies and programs have been implemented, and for the failure of FORA to assign, and to ensure the assignees' acceptance of, the ongoing and incomplete duties and mitigations for approved FORA projects.

1. Failure to ensure that all Reuse Plan mitigations, policies and programs have been implemented.

The Fort Ord Reuse Plan applies to FORA and Fort Ord land. All FORA member jurisdictions agreed to the Reuse Plan and its policies when the FORA Board certified the Reuse Plan EIR and approved the Reuse Plan in 1997. The member jurisdictions and the public relied on the adoption of the plan and its mitigations. The jurisdictions who later took land at Fort Ord accepted the Reuse Plan and accepted that land with knowledge of the Reuse Plan, its mitigations, its policies and programs, and that the land was subject to the plan. These were commitments by FORA and the member jurisdictions.

CEQA requires implementation of mitigations, and California Planning and Zoning laws require implementation of plan policies. Many Reuse Plan policies and programs are mitigations and remain unimplemented. FORA has actual knowledge of these unimplemented policies and mitigations through its own Reassessment Report in

2012 and through KFOW's past letters to FORA spanning years. KFOW has never received a response from FORA to KFOW's numerous fact-filled letters on these important matters. There has been no CEQA review of abandoning the mitigations.

FORA's mandate is to carry out the Reuse Plan. KFOW demands that FORA and its member jurisdictions take prompt action to ensure that the policies, programs and mitigations in the approved Reuse Plan and the Reuse Plan EIR are applicable to all Fort Ord lands in the jurisdictions after FORA dissolves, and that they are enforceable with the same status and legal force as the existing Reuse Plan. There have not been any amendments to the Reuse Plan since it was adopted, according to the FORA responses to the CPRA requests. FORA should ensure that the Reuse Plan is applicable in perpetuity and should ensure that the plan can be enforced by Keep Fort Ord Wild and other members of the public. The County's Fort Ord Master Plan has not even been deemed consistent with Reuse Plan. The course of action, the pattern and practices by FORA and the member jurisdiction has rendered the Reuse Plan a farce, a lengthy mandatory plan that FORA and the land use jurisdictions intend to discard after 23 years without implementing its mitigations, which include policies and programs. The jurisdictions who took land subject to the Reuse Plan should take prompt actions to implement the Reuse Plan mitigations and policies and programs before the FORA sunset date.

The Reassessment Report identified many mitigations that had not been implemented by FORA and the jurisdictions. KFOW and others have provided to FORA lists of incomplete and unimplemented policies and programs. No action was taken by FORA or the jurisdictions to remedy these omissions. The reassessment checklist was incomplete in material part, as KFOW and others comments to FORA in writing at the time and since then. The unimplemented, partially implemented, and inadequately implemented, policies and mitigations include as follows, as a few examples, with regard to some or all of the land use jurisdictions:

- Commercial Land Use Policy B-2: The [jurisdiction] shall not include nor allow card rooms or casinos for gambling as acceptable land uses on the former Fort Ord. None of the land use jurisdictions have implemented this mandatory policy.
- Biological Resources policy B-2, the oak woodlands requirement, which FORA proposes to assign to the County, while ignoring the applicability of the oak woodlands protection to the cities of Del Rey Oaks, Monterey, Seaside and Marina, each of whom have significant oak woodlands in their Fort Ord lands. Del Rey Oaks, Monterey and Marina are subject to the oak woodlands protection requirement because they took lands intended for the County and the lands were analyzed in the EIR as if the lands were to be acquired by the County.

- Seaside Recreation Policy B-2: The City of Seaside shall establish landscape gateways into the former Fort Ord along major transportation corridors with the intent of establishing a regional landscape character.
- Recreation/Open Space Land Use Program C-1.3: The City of Seaside shall designate land uses for the following park locations and acreage:
 - Community Park in housing area (Polygon 18): 50 acres.
 - Neighborhood Park near new golf course community (Polygon 15): 10 acres.
 - Neighborhood Park with Recreation Center (Polygon 20h): 10 acres.
 - Community Park with equestrian/trailhead access to BLM: (Polygon 24): 25 acres.
 - (note: The Reassessment Report claim regarding the above program and Recreation/Open Space Land Use Program C-3-2 is unsupported by reliable documentation. (The unsupported claim is that "Polygon 18 is now designated as High Density Residential. Seaside has provided other parkland within Polygon 20g (Soper Park, 4 acres) and open space walking trails in Polygon 20a (Seaside Highlands) and expanded the park in Polygon 24, for an equal amount of total parkland.") KFOW made CPRA requests to Seaside for this information, and nothing was produced that supported the claim that an "equal amount" of parkland was reserved and there is no evidence that tiny scraps of parkland are equal to the large parks envisioned by the Reuse Plan.
- Recreation Policy G-1: The [jurisdiction] shall use incentives to promote the development of an integrated, attractive park and open space system during the development of individual districts and neighborhood's [sic] within the former Fort Ord (to encourage recreation and the conservation of natural resources).
- Recreation Policy G-2: The [jurisdiction] shall encourage the creation of private parks and open space as a component of private development within the former Fort Ord.
- Recreation Program F-2.1: The [jurisdiction] shall adopt a Comprehensive Trails Plan, and incorporate it into its General Plan. This Trail Plan will identify desired hiker/biker and equestrian trails within the portion of the former Fort Ord within [jurisdiction's] jurisdiction, create a trail hierarchy, and coordinate trail planning with other jurisdictions within Fort Ord boundaries in order to improve access to parks, recreational facilities and other open space.
- Recreation Policy D-4: The [jurisdiction] shall develop a plan for adequate and long-term maintenance for every public park prior to construction.
- Recreation Policy F-2: The [jurisdiction] shall encourage the development of alternative means of transportation for recreation and other travel.
- Recreation Program F-2.1: The [jurisdiction] shall adopt a Comprehensive Trails Plan, and incorporate it into its General Plan. This Trail Plan will

identify desired hiker/biker and equestrian trails within the portion of the former Fort Ord within [jurisdiction's] jurisdiction, create a trail hierarchy, and coordinate trail planning with other jurisdictions within Fort Ord boundaries in order to improve access to parks, recreational facilities and other open space.

- Recreation Policy G-1: The [jurisdiction] shall use incentives to promote the development of an integrated, attractive park and open space system during the development of individual districts and neighborhood's [sic] within the former Fort Ord (to encourage recreation and the conservation of natural resources).
- Recreation Policy G-3: The [jurisdiction] shall adopt landscape standards to guide development of streetscapes, parking lots, government facilities, institutional grounds, and other public and semi-public settings within the former Fort Ord.
- Recreation Policy G-4: The [jurisdiction] shall coordinate the development of park and recreation facilities with neighboring jurisdictions including the City of Marina, City of Seaside, Monterey County, CSUMB, California State Parks, Monterey Peninsula Regional Parks District, and the Bureau of Land Management.
- (Seaside) Biological Resources Policy B-2: As site-specific development plans for a portion of the Reconfigured POM Annex Community (Polygon 20c) and the Community Park in the University Planning Area (Polygon 18) are formulated, the City shall coordinate with Monterey County, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting the open space lands of the habitat management areas on the south of the landfill polygon (8a) in the north.
- Program B-2.1: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall ensure that those areas are managed to maintain or enhance habitat values existing at the time of base closure so that suitable habitat is available for the range of sensitive species known or expected to use these oak woodland environments. Management measures shall include, but not limited to maintenance of a large, contiguous block of oak woodland habitat, access control, erosion control and non-native species eradication. Specific management measures should be coordinated through the CRMP. (Status: Not implemented. An oak woodland conservation area has not been designated.)
- Program B-2.2: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP. (Status: Not implemented.)

- The County, Seaside, Del Rey Oaks, Monterey and Marina have not adopted and implemented Recreation Policy C-1 which is applicable to the land each jurisdiction took at Fort Ord. Recreation Policy C-1 says this: The [jurisdiction] shall establish an oak tree protection program to ensure conservation of existing coastal live oak woodlands in large corridors within a comprehensive open space system.
- Regional Urban Design Guidelines were required by the Reuse Plan. Most of the jurisdictions' development approvals to date took place before the RUDG were adopted in approximately 2016. The RUDG have been ignored by the jurisdictions, which insisted that they were only advisory and not mandatory, and now the jurisdictions propose to abandon the RUDG when FORA dissolves, thus rendering the mitigation ineffective.

2.. FORA has failed to assign, and to ensure the assignees' acceptance of, the ongoing and incomplete duties and mitigations for approved FORA projects.

Since 1997, FORA has undertaken capital improvement projects resulting in enforceable project-specific CEQA mitigations and project-specific duties and obligations by FORA. FORA has not assigned the approved, incomplete and unimplemented CEQA mitigations for projects that FORA has approved and/or constructed such as the General Jim Moore widening and realignment, the Highway 218 intersection with North/South Road, and the South Boundary Road realignment and widening project, the Gigling Road widening, and more. FORA should assure that the obligations and duties are assigned and accepted by appropriate public agencies. FORA and the jurisdictions have failed to accomplish this to date and there is no evidence that have taken steps to do so by the FORA dissolution date.

Offer to meet.

KFOW offers to meet with FORA and the member jurisdictions in an effort to resolve these disputes. FORA controls the schedule. KFOW does not control the schedule. The matter is urgent due to FORA's delayed and dilatory actions regarding and frequent changing of its approach toward dissolution. There is no time to spare.

Request.

These are important issues made urgent due to the upcoming FORA dissolution. FORA has had years to act and has failed to do so. Thank you.

Very truly yours,

STAMP | ERICKSON

/s/ Molly Erickson

Molly Erickson