



Legislation Details (With Board Report)

File #: 19-0715 **Name:** FORA Dissolution
Type: General Agenda Item **Status:** Agenda Ready
File created: 9/9/2019 **In control:** Fort Ord Committee
On agenda: 9/12/2019 **Final action:**
Title: a. Discuss Monterey County's issues of concern related to the Fort Ord Reuse Authority's dissolution on June 30, 2020; and
b. Provide direction to staff on recommendations for the Board of Supervisors to consider.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attention 1 - Draft Transition Plan Implementation Agreement August 2019 version

Date	Ver.	Action By	Action	Result
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- a. Discuss Monterey County's issues of concern related to the Fort Ord Reuse Authority's dissolution on June 30, 2020; and
- b. Provide direction to staff on recommendations for the Board of Supervisors to consider.

RECOMMENDATION:

It is recommended that the Fort Ord Committee:

- a. Discuss Monterey County's issues of concern related to the Fort Ord Reuse Authority's dissolution on June 30, 2020; and
- b. Provide direction to staff on recommendations for the Board of Supervisors to consider.

SUMMARY/DISCUSSION

Senate Bill 189 (SB 189/Monning) was drafted to extend the Fort Ord Reuse Authority (FORA) two-years in a limited capacity. On August 30, 2019 the California Assembly Appropriations Committee considered SB189 and voted to hold the bill in committee, effectively killing it for this legislative session absent a bill overhaul. The County is not aware of any intended effort for the bill to be redrafted and is operating on the assumption that FORA will dissolve as legislatively mandated on June 30, 2020.

At the FORA Administrative Committee (FORA AC) meeting on September 4, 2019, FORA staff and consultant provided an update regarding timely issues and concerns to be addressed given FORA's dissolution on June 30, 2020. A Draft Transition Plan Implementing Agreement (TPIA) is developed and is currently being updated to integrate comments received to date and remove all reference to SB 189 (See Attachment 1) but is not yet available for review. At this time, County staff is evaluating the key issues related to FORA's dissolution and have identified several potential issues of concern for the County to be discussed with the Committee, and if recommended by the Committee, with the full Board of Supervisors. Solutions for some of these issues will likely involve agreements with other jurisdictions or entities, and County staff can actively work toward getting agreements in place where needed. However, the County cannot assume agreements will be reached prior to June 30, 2020 and will also need to plan for the County's needs upon dissolution where agreement may not be needed or achieved. Below is a summary of key issues identified by staff for consideration by the Committee.

Key issues of concern for discussion include, but are not limited to:

- *Replacement of FORA Community Facilities District Fees:* A top priority for the County is to ensure that replacement fees can be collected from the East Garrison development beginning July 1, 2020 to preserve the estimated \$11.5 million in additional revenues that would have been generated by the East Garrison development if the FORA and the FORA CFD were to have been extended. As a near future step, County Counsel will complete its review of the existing Development Agreement between the County and developer, Development and Disposition Agreement between Successor Agency and developer, and the conditions of approval of the East Garrison Combined Development Permit to analyze whether and the extent to which they provide authority for the County to continue collecting some development impact fees in an amount that may be less than or equivalent to the FORA CFD. Based on the outcome, staff will take necessary steps to work with the developer to agree upon a mechanism to collect the equivalent fees. The developer has verbally communicated to staff a willingness to continue to pay the FORA CFD-equivalent fees beyond June 30, 2020. As a last alternative, should efforts to secure the fees by current agreement or voluntary agreement with the developer fail, staff is exploring possible future legislative solutions for the Board's consideration, if needed.
- *Building Removal Bond* - FORA continues to advance the timeline for issuance of bonds to fund building removal. Monterey County has some buildings that could benefit from funding through a bond. However, the County needs to determine if the buildings have value to remain and also to fully evaluate possible financial impacts to the County from bonding and FORA dissolving. An update and discussion of the proposed bond issuance is being presented as a separate item on this same Fort Ord Committee agenda.
- *Environmental Services Cooperative Agreement Successor* - Progress is being made toward Seaside becoming the ESCA successor, and the County as well as other ESCA land recipients will need to review and agree to a Memorandum of Agreement (MOA) recognizing Seaside as the successor entity (currently being drafted). Seaside is anticipated to be in place as the successor to ESCA by the first quarter of 2020; however, the County may be asked to take on this role if Seaside is not approved by the Army and regulatory agencies. While the County has no reason to believe Seaside won't be accepted as the successor, the County would need to know by January, not later than February, to adequately prepare for the possibility of assuming this role on July 1, 2020. County staff is evaluating what that could mean if we are tasked to take on this program.
- *Transportation Projects - FY20 FORA Capital Improvement Program:*
 - Davis Road Widening - The County has a reimbursement agreement with FORA to fund a portion of the Davis Road widening south of Blanco Road so long as FORA is collecting fees; the Draft FY20 FORA CIP estimates that total amount to be \$12,562,850 with only \$750,000 programmed into this final fiscal year. The County's Davis Road Bridge Replacement and Road Widening Project (which includes the FORA CIP Davis Road project) is an estimated total cost of \$69million and is estimated to begin construction in 2021. Loss of over \$11 million in anticipated FORA CFD revenues post-June 30, 2020 would leave the project with a funding gap of approximately \$16 million.
 - Northeast-Southwest Connector (formerly Eastside Roadway) - Currently identified in the FORA CIP as an on-site improvement with FORA as the project lead, and as part of implementing the FORA 2018 Transition Plan. The draft TPIA identifies this Connector as being within the County's jurisdiction as post-FORA lead for inclusion in the County's CIP. As such, the County needs to determine whether or not to place the proposed Connector on the County's Capital Improvement Program and serve as lead agency for

the proposed project, subject to environmental review, discretionary approvals, need and funding. FORA is conducting a transportation study to inform the final year FORA CIP, and draft results of that study are being presented as a separate item on this same Fort Ord Committee agenda. The Draft FY20 FORA CIP includes no funding to complete the environmental review of this proposed project currently. If the County were to add this roadway to its CIP, staff finds that it would be desirable to have FORA complete the environmental review that is already underway for the project.

- *Habitat Management and the Fort Ord Habitat Conservation Plan*
 - Habitat Conservation Plan (HCP) - FORA has its consultant team actively working to advance the HCP, evaluating costs and potential revenue sources for implementation, as well as looking toward establishment of the Joint Powers Authority (JPA). At the upcoming September 18, 2019 FORA AC meeting, FORA staff will provide an update, steps and timeline to complete the HCP and associated environmental document (anticipated for public release fall 2019) for discussion and input. Through the FORA AC, County and other jurisdictions have urged FORA to keep the pace and pressure on for the HCP.
 - No HCP Alternative - It is possible that either the timeline of FORA's dissolution will be too short to complete all necessary steps to get the HCP and JPA in place, or the County and/or other proposed permittees may choose to *not* participate with the HCP. In either such instance, the County has existing obligations to satisfy as part of the existing *Habitat Management Plan (HMP)* and in connection with a conservation easement that was put in place in cooperation with the developer at East Garrison for California Tiger Salamander (CTS) mitigation. Contingency planning is needed if the HCP is still in progress, but not in place prior to June 30, 2020. County impact/interest depends largely on the amount of land to be developed in the unincorporated areas. The County will want to remain watchful as well if the County decides not to participate in the HCP, to ensure that FORA allocates enough funds of what has been collected to date via FORA CFD to the County to meet its habitat and mitigation obligations.
 - Oak Woodland Conservation Area and Policies - FORA has remaining funds and an active consultant contract to facilitate the County and City of Seaside to implement the Base Reuse Policies related to oak woodland protection. With the various moving pieces related to FORA's dissolution and other workload priorities, it is possible that these efforts will not have been completed by June 30, 2020. It is in the interest of the County and Seaside to ensure any remaining funding and contracted work do not go away upon FORA's dissolution.
- *Administrative Responsibilities -*
 - Pollution Legal Liability Coverage through 2024 - On December 2, 2014 the Board of Supervisors approved that the County succeed FORA as the first-named insured for the remainder of the PLL insurance policy following FORA dissolution, subject to negotiation with FORA staff regarding the terms upon which the County would succeed FORA. County should determine if it desires to assume this role and under what terms, whether the dollars set aside in the Transition Plan for this role are sufficient, and what action County may want to take to address this issue prior to FOR A dissolution.
 - Records Retention - The draft TPIA includes that all FORA records be transferred to the County of Monterey for retention and management. In preparation, staff has initiated steps to ensure the records are organized and catalogued sufficiently prior to coming to the County, and to prepare space and protocols for managing these records upon transfer.
 - Land Use Control Annual Reporting and Regulatory Liaison - The County had

previously agreed via a Board approved agreement to assume FORA's role to consolidate the regional LUC reporting annually for submittal to the regulatory agencies, and to serve as liaison with the agencies for the region. County Environmental Health, with support from RMA, is working with FORA staff to learn about and prepare to assume this role.

Staff is looking to discuss these issues with the Fort Ord Committee, and for the Committee to provide recommendation to the Board of Supervisors and direction to staff with respect to FORA's now imminent June 30, 2020 dissolution. This input will guide staff on next steps and resources necessary to advise the Board of Supervisors as to the County's interests and to ensure that those interests are protected.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel, Auditor-Controller, County Administrative Office, and Resource Management Agency have met with FORA staff and consultants regarding several of the above items.

FINANCIAL

The extent of potential financial impact to the County of FORA's dissolution is unknown at this time, however, staff is actively working to identify staffing and funding needs for the County to be able to assume certain responsibilities upon dissolution. Possible funding sources are also being considered and may include replacement CFD fees from East Garrison (and future development), County's share of FORA's statutory tax increment (that remains after any FORA debt payment), direct payment/resources from FORA, or other sources to be determined.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Ensuring a smooth transition after FORA's dissolution supports the Board's 2015 Strategic Initiative for Economic Development by continuing to support and facilitate the redevelopment of the former Fort Ord area and economic recovery to the region for the base closure.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by: Carl P. Holm, AICP, RMA Director

Attachments:

Attachment 1 - Draft Transition Plan Implementing Agreement (August 2019 Version)