

MONTEREY PENINSULA REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING

DATE: March 4, 2020
TO: Board of Directors
FROM: Rafael Payan, General Manager
SUBJECT: Consideration of MPRPD Membership in Proposed Joint Powers Agency to be Responsible for Habitat Management/Planning on Former Fort Ord Lands

RECOMMENDED ACTION

Staff recommends the Board receive this report and authorize Staff to send a letter to the Fort Ord Reuse Authority (FORA) and the proposed Cooperative Governing Board (Cooperative) agencies informing them that MPRPD will not be joining the Joint Powers Authority (JPA), but that MPRPD is open to any future proposals to assist the JPA or member agencies to explore a role for MPRPD in creation or management of potential park lands on the United States Army's former Fort Ord military installation (Fort Ord).

FISCAL IMPACT:

To be determined

FUNDING SOURCES:

Not applicable

FUNDING BALANCE:

Not applicable

DISCUSSION:

Fort Ord's Closure: In 1991, the United States Department of Defense Base Realignment and Closure Commission recommended the closure of Fort Ord. The 28,000-acre (44-square mile) fort was officially closed in 1994.

FORA's Creation, Responsibilities and Dissolution: *Title and Declaration of Policy 67650*, also known and cited as the *Fort Ord Reuse Authority Act (Act)*, became effective on May 9, 1994. The Act's goals include: (a) facilitating the transfer and reuse of the real and other property comprising the former fort with all practical speed; (b) minimizing the disruption caused by Fort Ord's closure on the civilian economy and the people of the Monterey Bay region; (c) providing for the reuse and development of the former fort in ways that enhance the economy and quality of life of the Monterey Bay region; and, (d) maintaining and protecting the former fort's unique environmental resources.

To support and implement the Act's goals, FORA was created. Its legislatively mandated mission is directed by the 1997 Fort Ord Base Reuse Plan. In 2012, FORA performed a

comprehensive Reuse Plan Reassessment to assess what it had accomplished and to identify those tasks and goals that remained. To date, live and spent munitions have been removed from portions of the former fort. This has facilitated public access to, and the repurposing of, portions of the property. These include, the creation of the Bureau of Land Management's (BLM) Fort Ord National Monument, the transfer of various parcels to the State of California to create the expansive CSUMB campus and Monterey Bay Education, Science and Technology Center, a shopping mall in Marina, and other proposed public and commercial uses.

FORA is on track to sunset on, or before, June 30, 2020. FORA was recently denied an extension to this dissolution date.

Proposed JPA: There is a dire need to promptly identify a "successor" to FORA. An option that has been proposed for several years is to form a JPA. FORA recently developed a Draft JPA Agreement (**ATTACHMENT 1**). The Draft JPA recommends the development of a fourteen (14) voting member Cooperative, in the following numbers: County (2); Marina (2); Seaside (2); Del Rey Oaks (1); Monterey (1); State Parks (1); UC (1); CSUMB (1); MPC (1); MCWD (1), and MPRPD (1). Each voting member shall have one (1) vote for each decision relating to the governance, budget, or administration of the subject property. BLM shall be the sole non-voting member, primarily serving in an advisory capacity.

The premise is that these fifteen (15) Parties have a common interest in creating an entity through which they may meet to investigate, discuss, and make decisions regarding:

- (a) Prospect of cooperatively managing the habitat and environmental resources located on the former fort;
- (b) Multispecies Habitat Conservation Plan (HCP) prepared by FORA for the subject property;
- (c) Multispecies Habitat Management Plan (HMP) issued by the U.S. Army Corps of Engineers in April 1997;
- (d) Any other plan that the Cooperative may prepare or agree upon for the management and monitoring of the habitat and environmental resources located on the subject property;
- (e) Managing the process of revising and updating the HCP, HMP or developing a New Management Plan, including any mandated or desirable environmental review;
- (f) Obtaining incidental take permits from the United States Fish and Wildlife Service pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 United States Code Section 1531 *et seq.*) and from the California Department of Fish and Wildlife under California Fish and Game Code Section 2081, and continuing dialog

and negotiation with these wildlife agencies, as mandated, for the property's improvement, development, and other uses and activities.

The Endangered Species Act (ESA) prohibits the "take" of a listed species through direct harm or habitat destruction. However, in 1982, Congress amended the ESA, thereby authorizing the U.S. Fish and Wildlife Service to issue permits for the "incidental take" of endangered and threatened wildlife species. Thus, permit holders can proceed with an activity that is legal in all other respects, but that results in the "incidental taking" of a listed species; and,

- (g) Establishing and managing the HCP and HMP administrative and monitoring budgets. FORA has developed an initial draft budget but warns that these costs are not official and very likely to change (**ATTACHMENT 2**). Per the unofficial Draft Budget, FORA has identified several costs that MPRPD would be responsible for:

(1) HCP Permit Term Average Annual Costs for Cooperative-managed HMAs (HCP – include. capital & operational costs)	\$10,741
(2) HCP Permit Term Average Annual Costs for Cooperative-managed HMAs (HMP – including monitoring costs)	\$224,711
(3) Summary of Management and Monitoring Costs by HMA (Start-Up costs)	\$109,479
(4) Summary of Management and Monitoring Costs by HMA (Average Annual Costs)	\$167,972
(5) Estimates of Program Administration Costs by Jurisdiction (Estimated Costs by Jurisdiction)	\$56,739

Although members may leave the JPA, they will continue to be responsible for those obligations related to tasks that were effectuated while the given member(s) was/were part of the JPA.

If MPRPD opted to operate portions of the subject property, the agency would incur substantial costs to staff, equip, improve, secure, maintain and operate the property in addition to the costs noted above. The best option for this site's administration as open space, conservation lands, or for environmental education and recreation may be to encourage and support larger organizations to place this

property under their jurisdiction. A possible example includes expanding the Fort Ord National Monument's boundary to include the subject property.

Recommendation: As reported, the option of developing a JPA has been around for many years, but FORA's dissolution on June 30, 2020 means action may happen quickly.

MPRPD does not presently have any shared programmatic, financial or other interest in participating in the JPA. Every JPA Cooperative member mentioned above, excluding MPRPD, has an extant or a proposed development project(s) on the former Fort Ord lands. MPRPD does not.

The primary purpose of JPA's envisioned HCP appears to be to facilitate the proposed JPA's Cooperative members' development projects on former Fort Ord's lands by obtaining take permits from federal and state wildlife agencies based upon creation of the HCP. MPRPD does not have any need for such permits to aid development, as it does not presently have any development plans on the former Fort Ord's lands.

Respectfully, Staff recommends that the Board authorize Staff to send a letter to FORA and the proposed Cooperative informing them that MPRPD will not be joining the Joint Powers Authority (JPA), but that MPRPD is open to any future proposals to assist the JPA Cooperative to explore a role for MPRPD in creation or management of potential park lands at Fort Ord.

ATTACHMENTS:

1. [Draft JPA Agreement issued by FORA](#)
2. [Unofficial Draft Budget issued by FORA](#)