

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	_____
CM	_____
CA	_____

DATE: FEBRUARY 6, 2007

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: CITY MANAGER

SUBJECT: DISSOLUTION OF EL TORO REUSE PLANNING AUTHORITY

RECOMMENDED ACTION:

That the City Council approve and adopt:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA TERMINATING THE EL TORO REUSE PLANNING AUTHORITY (ETRPA)

ISSUE:

Shall the ETRPA be dissolved and terminated by its member agencies now that its primary mission and purpose to plan and promote a non-aviation reuse of the Marine Corps Air Station in El Toro has been accomplished?

BACKGROUND:

After the Federal Government selected Marine Corps Air Station El Toro for closure in 1993, the El Toro Reuse Planning Authority (ETRPA) was formed to plan the reuse of the base. In a straightforward implementation of federal base closure legislation, ETRPA became the "reuse authority" of local entities that would decide the future of the base. The initial membership included the County of Orange and the cities of Irvine and Lake Forest.

In 1997, the odds were in favor of an airport reuse at El Toro. The County of Orange withdrew from the ETRPA. Powerful local interests who wanted a commercial airport at El Toro lobbied the passage of Measure A which mandated an airport reuse. The County of Orange, US Navy, Federal Aviation Administration, and powerful members of Congress expressed support for an airport reuse.

Subsequently, the membership of ETRPA changed. The cities of Irvine and Lake Forest took the lead to reorganize the ETRPA to plan and promote a non-aviation reuse of El Toro. Eventually, a Joint Powers Agreement was formed among the cities of Aliso Viejo, Dana Point, Irvine, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, and Rancho Santa Margarita. The County of Orange eventually rejoined the ETRPA as a full member. The cities of San Clemente and San Juan Capistrano also affiliated in supporting roles, as did many other individuals and organizations.

DISCUSSION:

Due to the extraordinary grass root efforts of thousands of citizen volunteers, and the leadership of ETRPA member agencies and their public officials, the Orange County citizens ultimately passed two anti-airport initiatives. It is now widely accepted that there are other means to satisfy Southern California's aviation needs and that there are better uses for this valuable piece of property situated in the middle of Orange County.

Now that ETRPA has accomplished its mission, on January 22, 2007 the ETRPA Board took action to adopt Resolution No. 2007-01 (**Supporting Document B**) indicating its intention to terminate the authority as well as the following:

1. Declares its gratitude to the hundreds of thousands of citizen volunteers who contributed their time, money, leadership, and inspiration to the successful effort to save Orange County from an unwanted, unneeded, unsafe airport.
2. Declares that the Authority's mission has been accomplished and the Authority is no longer needed.
3. Directs the staff to transfer all remaining public records to the Orange County Archives.
4. Asks the City of Laguna Hills to complete required final financial reporting to state and federal authorities.
5. Directs staff to pay all remaining financial obligations of the Authority and then to disburse remaining funds according to the following formula:

Aliso Viejo	10%
County of Orange	\$1
Dana Point	10%
Irvine	10%
Laguna Beach	\$1
Laguna Hills	10%
Laguna Niguel	10%
Laguna Woods	10%
Lake Forest	20%
Mission Viejo	10%
Rancho Santa Margarita	10%

6. Declares that March 31, 2007 will be the last day of business for the El Toro Reuse Planning Authority.
7. Asks all member agencies to adopt resolutions dissolving the El Toro Reuse Planning Authority no later than March 31, 2007.
8. Direct the Executive Assistant to prepare minutes of the final Board of Directors meeting for approval by the Chairman.

In order for this resolution to be effective, each member agency must also adopt a resolution terminating their participation in the Authority (**Action Document A**).

NOTIFICATION AND FOLLOW-UP:

ETRPA

STRATEGIC PLAN INITIATIVE:

Protect the health, safety and welfare of our residents, businesses and visitors.

Support to the fullest extent possible efforts to prevent or limit potential adverse impacts caused by outside circumstances that may negatively impact the community's quality of life.

FISCAL IMPACT:

The City of Dana Point has budgeted \$50,000 in each of the last two fiscal years for ETRPA costs.

ETRPA's principal source of revenue since it was formed has been contributions from its member cities and the County. The most recent formula for member agencies was an equal assessment for each member, except Lake Forest that paid two shares. That formula is prescribed in the ETRPA joint powers agreement, and is the basis for governing refunds or distributions of remaining funds to member agencies.

As of December 31, 2006 ETRPA's fund balance is \$162,136. The member cities have been advised that after paying its final expenses incurred through its March 31, 2007 dissolution date, approximately \$140,000 will be available for refunds and distributions to member agencies. The City of Dana Point will receive back 10% of this fund balance or approximately \$14,000.

ALTERNATIVE ACTIONS:

As deemed appropriate by the City Council.

ACTION DOCUMENTS: _____ **PAGE NO.**

[A. City of Dana Point Resolution.....5](#)

SUPPORTING DOCUMENTS: _____ **PAGE NO.**

[B. ETRPA Resolution No. 2007-1.....7](#)

[C. ETRPA Agenda Report re: dissolution.....10](#)

ACTION DOCUMENT A**RESOLUTION NO. _____****RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF DANA POINT, CALIFORNIA,
TERMINATING THE EL TORO REUSE PLANNING AUTHORITY**

WHEREAS, the El Toro Reuse Planning Authority was formed pursuant to a joint powers agreement among the cities of Aliso Viejo, Dana Point, Irvine, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, and Rancho Santa Margarita and the County of Orange; and

WHEREAS, the primary mission and purpose of the El Toro Reuse Planning Authority was to plan and promote a nonaviation reuse of the Marine Corps Air Station El Toro; and

WHEREAS, all of the property inside the boundaries of the MCAS El Toro has now been annexed to the City of Irvine; and

WHEREAS, the City of Irvine has planned a nonaviation reuse for the El Toro property; and

WHEREAS, a nonaviation reuse of El Toro is now assured; and

WHEREAS, the joint powers agreement would terminate and the El Toro Reuse Planning Authority would be dissolved upon withdrawal of the Authority's members; and

WHEREAS, the Board of Directors of the El Toro Reuse Planning Authority, by the adoption of Resolution No. 2007-01, on January 22, 2007, declared that the Authority's mission has been accomplished and the Authority is no longer needed and requested that all member agencies adopt a resolution dissolving the El Toro Reuse Planning Authority no later than March 31, 2007.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Dana Point takes the following actions:

1. Withdraws from the El Toro Reuse Planning Authority.
2. Agrees to the termination and dissolution of the El Toro Reuse Planning Authority.

3. Directs that the City Clerk convey a certified copy of this Resolution to the El Toro Reuse Planning Authority.

PASSED, APPROVED AND ADOPTED this 6th day of February, 2007.

DIANE HARKEY, MAYOR

ATTEST:

KATHY M. WARD, CITY CLERK

SUPPORTING DOCUMENT B**RESOLUTION NO. 2007-01
OF THE
EL TORO REUSE PLANNING AUTHORITY**

WHEREAS, the El Toro Reuse Planning Authority was formed pursuant to a joint powers agreement among the cities of Aliso Viejo, Dana Point, Irvine, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Mission Viejo, and Rancho Santa Margarita and the County of Orange; and

WHEREAS, the primary mission and purpose of the El Toro Reuse Planning Authority was to plan and promote a nonaviation reuse of the Marine Corps Air Station El Toro; and

WHEREAS, all of the property inside the boundaries of the MCAS El Toro has now been annexed to the City of Irvine; and

WHEREAS, the City of Irvine has planned a nonaviation reuse for the El Toro property; and

WHEREAS, a nonaviation reuse of El Toro is now assured; and

WHEREAS, the El Toro Reuse Planning Authority has had regular financial audits of its records and consistent financial oversight by the cities of Irvine and then Laguna Hills; and

WHEREAS the Orange County Clerk-Recorder operates the Orange County Archives; and

WHEREAS the Orange County Archives are a safe, secure and legally authorized depository for public records; and

WHEREAS none of the El Toro Reuse Planning Authority's efforts would have been successful without the contribution of hundreds of thousands of citizen volunteers who contributed their time, money, leadership and inspiration to the successful effort to save Orange County from an unwanted, unneeded, unsafe airport;

NOW THEREFORE BE IT RESOLVED that the Board of Directors of the El Toro Reuse Planning Authority takes the following actions:

9. Declares its gratitude to the hundreds of thousands of citizen volunteers who contributed their time, money, leadership, and inspiration to the successful effort to save Orange County from an unwanted, unneeded, unsafe airport.

NOES: 0

BOARD MEMBERS:

ABSENT: 1

BOARD MEMBERS: Adams

ETRPA Clerk of the Board

SUPPORTING DOCUMENT C**EL TORO REUSE PLANNING AUTHORITY**

DATE: January 22, 2007

TO: ETRPA Board of Directors

FROM: Paul D. Eckles, Executive Director

SUBJECT: Closing Down

The El Toro Reuse Planning Authority has served its purpose. The future of MCAS El Toro is no longer in doubt. Neither military nor commercial aircraft will ever fly at El Toro again. It is time to dispose of ETRPA's remaining assets and records and cease operations.

Background

After the Federal Government selected MCAS El Toro for closure in 1993, the El Toro Reuse Planning Authority was formed to plan the base reuse. The initial membership included the Orange County Government and the Cities of Irvine and Lake Forest. In a straightforward implementation of federal base closure legislation, ETRPA became the "reuse authority" of local entities that would decide the future of the base. As local residents know, nothing about El Toro was ever straightforward again.

Powerful local interests who wanted a commercial airport at El Toro took planning out of ETRPA's domain with an initiative called Measure A that mandated an airport reuse. The County withdrew from ETRPA, and the organization was left without a mission.

Subsequently, the Cities of Irvine and Lake Forest reorganized ETRPA to plan and promote a non-aviation reuse of El Toro. They invited other cities to join in the effort. What happened is a remarkable story. Ultimately, the Cities of Lake Forest and Irvine

were joined as full members of ETRPA by the cities of Aliso Viejo, Dana Point, Laguna Beach, Laguna Hills, Laguna Niguel, Laguna Woods, Mission Viejo, and Rancho Santa Margarita. The cities of San Clemente and San Juan Capistrano also affiliated in supporting roles, as did many other individuals and organizations.

In 1997, the odds were in favor of an airport at El Toro. Passage of Measure A gave an airport reuse plan the force of law. The County Government was pursuing a large commercial airport with a vigorous, well-financed effort. The US Navy was in charge of base reuse, and it was fully supportive of an airport. The Federal Aviation Administration was also supportive. Several airline or airfreight companies were openly supportive of an El Toro airport. The Southern California Association of Governments supported an airport at El Toro, as did the Los Angeles City Department of Airports. Powerful members of Congress supported the idea; not a single member of Congress openly opposed the idea. Only one member of the State Legislature openly opposed the airport plan. Nothing seemed likely to stop the airport. The County planned to begin airfreight flights immediately when the base closed in 1999.

To many peoples' surprise, what happened is quite different. Finally, in January of 2007 it seems safe to declare the airport idea dead for good. In an extraordinary grass roots effort, Orange County citizens have passed two anti-airport initiatives. Through ETRPA and the City of Irvine, South Orange County political leaders wrote those two initiatives, brought numerous lawsuits, and made many lobbying trips to Washington and Sacramento. ETRPA and its community allies were able to convince people in Orange County, Southern California, Sacramento, and Washington, DC that it would be unwise to put a commercial airport at El Toro. Indeed, the Orange County Government has now rejoined ETRPA as a full member. It is now widely accepted that there are better ways to satisfy Southern California's aviation needs and better uses for this beautiful piece of property situated in the middle of Orange County.

ETRPA was organized as a *joint powers authority* by its member governments. Government agencies are not often called upon to do this, but it is now time to formally declare that ETRPA's mission has been accomplished and to dissolve the authority. Because ETRPA is actually a government itself, there are a few formalities that will be required. The remainder of this report outlines the recommended steps.

ETRPA Records

By law, even though ETRPA may close its doors, it must continue to maintain some records for public inspection. At a minimum, the official minutes and agendas of ETRPA board meetings must be maintained indefinitely. In accordance with the records retention schedule established by the Board of Directors, other records must also be maintained for set periods. It should also be noted that ETRPA was involved at the center of one of the most hotly debated political controversies in the history of Orange County. As such, historians will be interested in the record of ETRPA's involvement. However, it would be expensive for ETRPA to maintain offices to respond to an occasional request for public records.

Fortunately, there is a ready solution for this problem. The Orange County Clerk-Recorder Department maintains the official Orange County Archives. The Archives are a treasure trove of historical records. There are, for example, Board of Supervisors minutes and marriage license indexes back to 1889 and subdivision records back to 1869. The Clerk-Recorder has offered to accept all of ETRPA's records and to assume full responsibility for indexing them and providing access to the public.

Finances

ETRPA's principal source of revenue since it was formed has been contributions from its member cities and now, once again, the County. The most recent formula for member agencies was an equal assessment for each member, except Lake Forest that paid two shares. That formula is prescribed in the ETRPA joint powers agreement, and, with two

exceptions, would be a good basis for governing refunds or distributions of remaining funds to member agencies. The current treasury balance is about \$160,000. After paying ETRPA's final expenses, about \$140,000 should be available for refunds or distributions to member agencies. The exceptions would apply to the County Government and to the City of Laguna Beach. The County rejoined ETRPA late in its final budget year and paid only a nominal assessment. A refund would be inappropriate. The City of Laguna Beach encountered some financial difficulties in that final budget year and was unable to pay its normal assessment. Symbolic \$1 refunds are recommended for the County and Laguna Beach. Accordingly, it is proposed that after ETRPA's final expenses are paid the remaining treasury be distributed as follows:

- Aliso Viejo 10%
- County of Orange \$1
- Dana Point 10%
- Irvine 10%
- Laguna Beach \$1
- Laguna Hills 10%
- Laguna Niguel 10%
- Laguna Woods 10%
- Lake Forest 20%
- Mission Viejo 10%
- Rancho Santa Margarita 10%

Even though ETRPA may close its doors in 2007, it will be required to submit final tax accounting reports to the state and federal authorities in early 2008. The City of Laguna Hills has provided financial oversight services to ETRPA in recent years, and the City has graciously agreed to complete those reports when they are due.

ETRPA has obtained regular audits of its financial records over the years. The most recent audit was for the two year period ending June 30, 2005, and there has been very little activity since then. As indicated above, the City of Laguna Hills has provided financial oversight in recent years as did the City of Irvine before that. A final audit has not been scheduled. If the Board of Directors wishes a final audit, the audit fee will be three to four thousand dollars. There will be some additional expenses to keep the organization active during the course of the audit and to receive and act upon the final audit report.

Terminating the Joint Powers Agreement and Agency

Adoption of the resolution accompanying this report would indicate the Board of Directors intention to terminate the El Toro Reuse Authority effective March 31, 2007. To make that resolution fully effective, each member agency should also adopt a resolution terminating their participation in the Authority.

Recommendation

It is recommended that the Board of Directors adopt the attached resolution taking the following actions:

1. Approve transfer of all ETRPA records to the Orange County Archives operated by the Orange County Clerk-Recorder Department.
2. Authorize staff to pay all remaining financial obligations of the Authority and then disburse remaining funds according to the following formula:

Aliso Viejo 10%

County of Orange \$1

Dana Point 10%

Irvine 10%

Laguna Beach \$1

Laguna Hills 10%

Laguna Niguel 10%

Laguna Woods 10%

Lake Forest 20%

Mission Viejo 10%

Rancho Santa Margarita 10%

3. Ask the City of Laguna Hills to complete required financial reporting to State and Federal authorities.
4. Direct the Executive Assistant to prepare minutes of the final Board of Directors meeting for approval by the Chairman.
5. Ask all member agencies to adopt resolutions before March 31, 2007 terminating participation in the El Toro Reuse Planning Authority.
6. Say "Hallelujah! We did it!"