

A REPORT BY
THE 2016-2017 CONTRA COSTA COUNTY GRAND JURY
725 Court Street
Martinez, California 94553

Report 1709

**Concord Naval Weapons Station
Reuse**

Management and Reporting

APPROVED BY THE GRAND JURY:

Date: 6/15/17



JIM MELLANDER
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 6/16/17



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1709

Concord Naval Weapons Station Reuse

Management and Reporting

TO: Concord City Council

SUMMARY

The Concord Naval Weapons Station was declared surplus by the federal government in 2005. The Concord City Council (City Council) sitting as the Local Reuse Authority (LRA) then began the lengthy procedure to redevelop the property.

The City Council selected Lennar Urban (Lennar) as the project's Master Developer, and negotiations are in progress to finalize a disposition and development agreement. Simultaneously, a plan that incorporates public comments for the development of the property is being prepared. A Community Advisory Committee (CAC) was formed to serve as an advisory body to provide input and encourage public participation during the process of creating a specific plan for development of the former weapons station.

Several actions and/or decisions made by the LRA during the award process resulted in critical press coverage and public concern about the selection process.

To increase transparency and public participation, the LRA should consider:

- Including annotated minutes and video of the LRA and CAC meetings in its website
- Issuing a written monthly report and posting it on the LRA website
- Holding the LRA's monthly meetings separately from the City Council meetings
- Shortening the final award sequencing of future phases of the project to reduce the possibility of developer / LRA / City Council wrongdoing

METHODOLOGY

The sources of information used in this report include:

- Reviews of City Council / LRA meeting agendas, minutes and video recordings
- Reviews of documents released by the City of Concord through public disclosure requests or available on the project website
- Website searches
- Interviews with project participants and the LRA consultants
- Attending or viewing CAC meetings
- Reviews of newspaper publications
- Reviews of professional project management organization publications
- Reviews of Defense Base Realignment and Closure (BRAC) Commission / Federal Base Closure guidelines

BACKGROUND

BRAC is a process used by the federal government to close excess military installations. More than 350 installations have been closed in five BRAC rounds: 1988, 1991, 1993, 1995, and 2005. The BRAC 2005 Commission recommended the operational closure of the Inland Area of the Concord Naval Weapons Station. The 5,205 acres of the Inland Area was declared surplus in March 2007 and was operationally closed in September 2008.

An the LRA is the entity recognized by the Secretary of Defense responsible for creating a redevelopment plan with respect to a closed installation. In 2006, the Department of Defense accepted the City Council to serve as the LRA for the Concord Naval Weapons Station base realignment effort. The City Council serves as the LRA executive board. It is supported by the LRA staff who, in turn, relies on supporting consulting experts and City staff as required.

The LRA launched a multi-year process to prepare a Reuse Plan for the base property, which was performed in four stages:

Stage I - Public Outreach (2006)

During the first stage, the LRA held a series of meetings and presentations to receive input from the public about development of the property.

Stage II - Preparation of the Reuse Plan (2007-2009)

Next, the LRA finalized a General Reuse Plan after conducting a site inventory, preparing an analysis and assessment, and considering alternative uses.

Stage III - Preparation of a Detailed Reuse Plan (2010-2011)

During the third phase, the LRA prepared a detailed reuse plan that included detailed infrastructure plans, subdivision of the parcels of land, the zoning, an implementation strategy, and related development agreements for specific land use and fiscal structures. At the completion of this phase, the LRA forwarded the Reuse Plan to the U.S. Navy and the Department of Housing and Urban Development, as required by federal regulations.

Stage IV – Preparation of the Concord Reuse Project Area Plan (2012)

During the final stage, the LRA staff prepared a detailed Area Plan in accordance with California land use law that sets the requirements for land use, transportation, environmental protection, labor agreements, affordable housing and public safety. The Area Plan was incorporated into Concord's General Plan, a requirement for further advancement of the planning process.

The Area Plan encompasses over 5,000 acres. Of this acreage, 2,700 acres will be deeded to East Bay Regional Parks for open space / park development. The remaining approximately 2,300 acres will be developed as residential, commercial and other public use development, with the LRA acting as the overall manager.

The LRA is proceeding with the land development in three phases. The first phase of the development encompasses just over 400 acres. The exact breakdown of the sizes of the remaining development areas is yet to be determined.

After the Concord Reuse Project Area Plan was completed, the City Council selected a Master Developer.

SELECTION OF A MASTER DEVELOPER

In January 2014, the City of Concord (the City) began the following three-part selection process to identify a Master Developer:

1. Qualification Review

This part resulted in submittals by 22 development companies. By March 2014, a selection team had reviewed these submittals. The LRA was then presented with the eight best qualifying bidders. A nine-member panel reduced this list to four qualified companies. These companies were Catellus Development Corporation (Catellus), Lennar, JF Shea Company (Shea) and SunCal Corporation (SunCal).

2. Request for Proposal (RFP)

The four selected companies were invited to submit a formal RFP. In November 2014, the LRA received three proposals, which were responsive to the RFP. Shea declined to submit a proposal.

During February and March of 2015, each of the selected companies provided the LRA and the public with a presentation concerning their vision for implementing the Area Plan.

Each company's proposal, along with supporting documentation, were provided to another nine-person evaluation panel which was charged with recommending two of these proposals to the LRA and the City Council.

After a detailed review of the proposals the evaluation panel recommended that Catellus and Lennar move to the negotiation stage of the master developer selection process. The City Council accepted this recommendation in April 2015.

3. Negotiation with Final Two Master Developers

Extended negotiations started with the two selected master developers in April 2015 regarding the content of a "Term Sheet." The Term Sheet details the amount of money the developer is willing to invest in the project, the rate of return the company expects and a formula to determine possible profit sharing with the City.

The LRA met in closed sessions during September 2015. During these meetings, the LRA staff were asked to prepare a recommendation for the selection of a master developer. The staff recommendation was included in the preliminary staff reports and was discussed in the LRA closed session. In preliminary reports, staff recommended Catellus as the preferred master developer.

In late September 2015, the City Manager instructed the LRA staff to remove the staff recommendation from the staff report, after meeting separately with three members of the City Council. The LRA staff followed her instruction and removed the recommendation.

Following accusations of misbehavior during the bidding process, the City of Concord commissioned an investigation that resulted in the Jenkins Report. This report provided findings and recommendations and was given to the City in February 2016. The Jenkins Report found that several questionable actions were taken by the City staff and the LRA, including:

- Acceptance of donations from an interested party to a political campaign, which were subsequently returned to the donor
- Unacceptable business relationships between the LRA consultants and the developers. The relationships were not close enough to impact decision making

- Removal of staff's recommendation of Catellus from the final staff report possibly violated the Brown Act

Catellus raised concerns over the selection process and sought financial changes to the term sheet. The financial changes were not allowed by the LRA.

Catellus offered to withdraw from consideration as the master developer. The City Council approved their withdrawal in March 2016 and refunded their \$250,000 deposit.

The LRA selected Lennar as the Master Developer in May 2016. Prior to this selection, further negotiations were held to amend the Lennar Term Sheet to include certain elements of the Catellus Term Sheet. Negotiations are continuing between the LRA and Lennar to incorporate all data in the Term Sheet into a Disposition and Development Agreement (DDA).

Lennar has agreed to initiate and fund the Specific Plan and environmental studies while the DDA is being finalized.

DISCUSSION

BUDGETING, COST CONTROL AND COST FORECASTING

The City maintains budgetary controls of the project through a two-year budget and semi-annual budget reviews. Cost control procedures are in place for both budget transfers and over-runs of accepted budgeted costs.

The LRA staff monitors costs and commitments for all consultants and continually compares these costs to approved budgets and funding sources. It does not appear that the LRA performs cost forecasting.

OVERALL PROJECT SCHEDULING

Projects of this size require a project execution plan. According to the Project Management Institute, the project execution plan is used to:

- Guide the execution of the project
- Document the assumptions, constraints, and alternatives
- Provide a tool to communicate with stakeholders
- Establish project milestones and deliverables
- Set scope, cost and schedule baselines for progress measurement and control

A project execution plan could not be located. Integral to a project execution plan is the preparation of a project schedule. As of March 2017, the LRA staff issued a preliminary copy of a project schedule. This schedule shows summary tasks for most of the work required to enable start of construction.

ESTABLISHING PROJECT WEBSITE CONTENT

There is a public website that informs the community of the status of the Concord Weapons Station Reuse project (<http://concordreuseproject.org>). The website does not display all the information that is available to provide full public transparency (i.e., City Council / the LRA / CAC meeting videos, budget / actual cost information, project schedules).

REPORTING TO THE LRA AND THE PUBLIC

The LRA formed the CAC to advise the LRA staff and involve the public on matters concerning the preparation of the Specific Plan. The CAC does not review any project efforts outside the preparation of the Specific Plan.

The CAC meets monthly in open session to receive information from other project participants and to discuss the Specific Plan contents. Also, the CAC holds outreach sessions and meetings with the public to both inform and receive input. Public interest in the project remains high with over 300 people attending the April 2017 outreach session.

The LRA Executive Manager reports to the City Council (acting as the LRA) approximately every quarter. The LRA report is presented, usually orally, during City Council meetings. Agendas and written reports about the LRA actions and outcomes are not always available to the public.

FINDINGS

- F1. The LRA does not make all costs, schedules or contract issues easily accessible to the public.
- F2. The LRA is using the City's existing budgeting cost system which lacks information about forecasted costs.
- F3. The LRA website does not provide all relevant information that the LRA has available about the reuse process.
- F4. The LRA staff provides an oral report to the LRA and/or the City Council on average once a quarter.
- F5. During the extended, simultaneous negotiations with two master developer finalists in 2015, the city manager removed the recommendation for a master developer from the LRA staff's report.
- F6. The City Council sometimes conducts LRA business without publicly announcing that it is acting as the LRA.

F7. No comprehensive plan exists that encompasses all Concord Naval Weapon Station Reuse project activities.

RECOMMENDATIONS

- R1. The LRA should consider holding regular LRA meetings, separate from the City Council meetings.
- R2. To increase transparency, the LRA should consider posting agendas, minutes and video of the LRA (including the CAC meetings) on its website.
- R3. The LRA should consider instructing staff to issue regular written periodic projects reports containing relevant information and current status, and to post the report on the LRA website to increase public awareness.
- R4. The LRA should consider creating a project execution plan in accordance with accepted program management standards as soon as possible, but no later than at the completion of the specific plan.
- R5. The LRA should consider selecting a master developer prior to negotiating a Term Sheet in future phases of the project.
- R6. The LRA should consider using a project management software system which would include project cost forecasting capabilities.

REQUIRED RESPONSES

	Findings	Recommendations
Concord City Council	F1 to F7	R1 to R6
Local Reuse Authority	F1 to F7	R1 to R6

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091