

City of Watsonville: Fastest Growing City Looking for Leadership and a Fire Truck

Summary

The effectiveness of all local governments (cities and counties) depends on internal rules, charters, ordinances, and applicable state and federal laws, all of which lay out policies and procedures that guide government officials for the collective good of the citizens. Perhaps the most important of these legal requirements are those that promote transparency and public accountability.

Santa Cruz County has four cities: Scotts Valley, Santa Cruz, Capitola, and Watsonville. Of these four municipalities, Watsonville has experienced the largest population growth. As of 2010 Watsonville had reached a population of 51,199 which represents a growth rate of nearly 6 times that of the rest of the county.^[1]

The Santa Cruz County Grand Jury has found that the City of Watsonville has not been conducting its business in a professional way; one that is transparent in all its dealings, and one that gives all relevant information needed by elected officials to be able to make informed decisions. After looking at concerns brought to its attention, the Grand Jury decided to focus on five issues that are illustrative of a laxity of process and controls in the Watsonville City Government:

- Issuance of a check for \$225,000, in April 2008, for the purchase of a fire truck, which has yet to be delivered to the City of Watsonville.
- Issues concerning the granting of permits at known hazardous materials sites.
- Continuing costs of litigation over future land use planning issues concerning the airport.
- Inability to determine how the City of Watsonville has spent its Redevelopment dollars with respect to eliminating blight and creating jobs.
- Approval of the Manabe-Ow project based on misleading information.

The debate over these issues is ongoing. In some cases the debate has lasted more than a decade. The resolution of these controversial and divisive issues is vital to the future of the City. The Grand Jury believes the Watsonville City Manager should implement processes to ensure transparency, completeness, and accuracy of the information provided to the City Council, City Commissions and the public.

Definitions

- **Aerial Ladder Truck:** (also Truck, Ladder Truck, Tiller Ladder Truck, Tractor Drawn Aerial, TDA). A specialized firefighting vehicle with a large telescoping ladder, used to provide access to upper stories of buildings.
- **Airport:** Watsonville Municipal Airport.
- **Arsenic:** A naturally occurring metallic element, which is also a byproduct of the coal gasification process. Arsenic is toxic if ingested or inhaled in sufficient quantity.

- **Best Practices:** Commercial or professional procedures that are accepted or prescribed as being correct or most effective.
- **California Environmental Protection Agency: (CEPA).** A State cabinet-level agency within the government of California responsible for environmental research, regulating and administering the state's environmental protection programs, and fulfilling hazardous waste cleanup.
- **Carcinogen:** Any substance or agent that produces cancer or increases the risk of developing cancer in humans or animals.
- **CDBG:** Community Development Block Grant. Entitlement grant from the U.S. Department of Housing and Urban Development to fund City projects, particularly those without other available funding.
- **City Council:** Refers to Watsonville City Council. The seven elected City Council Members of the City of Watsonville, acting as the elected governing body, which meets twice monthly.
- **City Government:** Refers to Watsonville City Government. The Watsonville City Council and Watsonville City Staff, operating under the city charter, which specifies the City Manager form of government.
- **City Manager:** Refers to the Watsonville City Manager. The City Manager, appointed by the City Council, supervises all heads of City departments, all activities and operations of the City, and makes recommendations to the City Council.
- **City Staff:** Refers to Watsonville City Staff. All employees of the City of Watsonville.
- **Coal Gasification:** Manufactured gas historically produced in urbanized areas. The gas was made by roasting organic matter to drive off volatiles in the form of useful gases. Gas production also resulted in harmful waste byproducts such as toxic tar residue. Most of these tar residuals are highly resistant to natural degradation in the environment and as such may exist centuries to thousands of years.
- **Community Development Department:** The City of Watsonville department responsible for the review of development and building activity to ensure compliance with zoning and building codes, General Plan policies, the California Environmental Quality Act (CEQA) and community values.
- **Covenant:** A legal agreement between parties to engage in or refrain from a specified action.
- **CUPA:** Certified Unified Program Agency. An agency certified by the California Department of Toxic Substances Control to conduct the Unified Program, which consists of hazardous waste generator and onsite treatment programs; aboveground and underground storage tank programs; Hazardous Materials Management, and Business Plans and Inventory Statements; and the Risk Management and Prevention Program.
- **DOT:** California Department of Transportation.
- **DTSC:** The California Department of Toxic Substances Control. DTSC programs include dealing with the aftermath of improper hazardous waste management by overseeing site cleanups; preventing the releases of hazardous waste, by ensuring that those who generate, handle, transport, store and dispose of wastes do so properly; and taking enforcement actions against those who fail to manage hazardous wastes appropriately.

- **EHS:** Santa Cruz County Environmental Health Services.
- **EnviroStor:** The California Department of Toxic Substances Control's (DTSC's) online database search and Geographic Information System (GIS) tool for identifying sites where extensive investigation and/or cleanup actions are planned or have been completed at permitted facilities and cleanup sites. It also identifies facilities that are authorized to treat, store, dispose of or transfer hazardous waste. Users can conduct searches using various criteria, including facility/site name, address, city, and county. Results can be displayed in a list format or on an interactive map. The EnviroStor database can also be downloaded.
- **Fortis:** A comprehensive software suite for document management used by some departments of the County of Santa Cruz, including Environmental Health Services.
- **General Plan:** A document containing a statement of development policies, including a diagram and text setting forth the objectives of the plan. The general plan must include certain state mandated elements related to land use, circulation, housing, conservation, open-space, noise and safety.
- **Geotracker:** The California State Water Resources Control Board's online database system, developed primarily to give users the ability to assess potential threats to drinking water sources. This system consists of a relational database, online compliance reporting features, a GIS interface and other features, used by the State Board, regional boards, local agencies, regulated industry and the public, to track and archive compliance data from authorized or unauthorized discharges of waste to land, or unauthorized releases of hazardous substances from underground storage tanks.
- **Hexavalent Chromium:** A toxic, carcinogenic form of the element chromium. It is also a byproduct of the coal gasification process.
- **Institute for Local Government:** The research and education affiliate of the California State Association of Counties and the League of California Cities. Their mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities.
- **MOSP:** Manabe-Ow Specific Plan. A policy statement and implementation tool that will be used to guide development of the Manabe-Ow Business Park. The MOSP contains concrete standards and development criteria that supplement those of the general plan.
- **NFPA:** National Fire Protection Association. An authoritative source on public safety. NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks.
- **Petroleum Hydrocarbons:** Petroleum hydrocarbons are the primary constituents in oil, gasoline, diesel, and a variety of solvents and penetrating oils. As such, petroleum hydrocarbons are a primary focus of many contaminated site assessments.
- **Plaintiff:** The party or persons who initiate a lawsuit.
- **Polynuclear Aromatic Hydrocarbons:** Toxic petroleum substances that accumulate in the food chain. They are often found at former manufactured gas plants that use coal.
- **RDA:** Refers to Watsonville Redevelopment Agency.
- **Senior Staff:** Refers to Watsonville City Senior Staff. Watsonville City employees who report directly to the City Manager.

- **Staff Report:** A report presented to the City Council or City Commissions by a member of the City Staff which presents the details concerning an item on the City Council or Commissions' agendas. This is typically in the form of a memorandum to the City Manager with attachments as appropriate. The City Manager's approval typically appears on the copy of the memorandum given to the City Council Members.
- **TAC:** Refers to Manabe-Ow Technical Advisory Committee.
- **UL:** Underwriters Laboratory. A non-profit safety testing and certification organization.
- **Watsonville 2005 General Plan:** The general plan adopted by the City in May 1994.
- **Watsonville VISTA 2030:** The general plan adopted by the City in June 2006, sections of which have been invalidated by action of the California Superior Court.
- **Writ of Mandate:** A court order to a government agency, including another court, to follow the law by correcting its prior actions or ceasing illegal acts.
- **WRDA, or RDA:** Watsonville Redevelopment Agency, whose goal is the elimination of structural and economic blight in the central commercial and industrial area through the Redevelopment Agency powers and funding.

Background

This investigation stems from a July 2010 op-ed article in the Santa Cruz Sentinel, titled "Watsonville 'sweetheart' loan puzzling."^[2] The article highlighted a questionable RDA loan, permits at a hazardous materials site, and preferential treatment of some business owners over others in the City of Watsonville. A cursory records check by the Grand Jury revealed that the Watsonville City Planning Commission and the Watsonville City Council, through systemic failure, permitted the use of an outdoor patio at a restaurant, over an identified and unmitigated hazardous materials site.^{[27][30][31][36]}

Scope

The Grand Jury investigated the practices, policies and procedures of the City of Watsonville with a focus upon the accuracy and completeness of Staff reports. We initially investigated decisions by the Planning Commission, but soon expanded to multiple areas of City Government, focusing on issues that were brought before the City Council.

The factual basis for the investigation was established through research of public records and multiple interviews of elected officials, City Staff, appointed officials, concerned citizens, business leaders, and journalists. The investigation was conducted to determine the transparency, completeness, and accuracy of information provided by City Staff to the City Council, City Commissions, and the public.

The investigation revealed many cases of inaccurate or incomplete information in staff reports. Multiple explanations were given for these lapses. They will be described in each of the following investigative sections.

Fire Truck Investigation

In April 2008, The City of Watsonville issued a check for \$225,000 for the purchase of a Pierce Lance aerial ladder truck from a broker. The funding for the truck came from a Federal Community Development Block Grant.^[3] The City was already aware of a KME truck owned by the City of Pasadena, which was a better fit for Watsonville but unfortunately was not for sale at that time. A complicated series of events has occurred over the past three years and now the City is pursuing the KME, which is now available, instead of the Pierce; however, as of the date of submission of this report, the City has paid in full, and has no truck.

This fire truck has been the subject of numerous newspaper articles and inquiries at City Council meetings. It appears that the vehicle will be a good value and is well suited to the needs of the City when it is delivered and placed into service. The aerial ladder truck would certainly have been beneficial in fighting the recent major fire at the Apple Growers Warehouse. The Grand Jury does not question the decision made by the Fire Chief or Staff in selecting the vehicle. However, the Grand Jury's investigation surrounding the purchase demonstrates a lack of transparency, completeness, and accuracy in the information provided to the City Council and the public. These procedural irregularities undermine public confidence in the City's financial practices.

The Grand Jury reviewed documents provided by the Fire Chief, the City Clerk, City Staff, and the City of Pasadena. They are frequently confusing and contradictory. Specific concerns include:

1. Two different trucks are referenced throughout the documents.
 - 1992 Pierce Lance 105' Tractor Drawn Aerial
 - 1999 KME Tractor 100' Aerialcat Tractor Drawn Aerial

2. Three different invoices were provided.
 - Fire Trucks Plus, Inc. Invoice No. 42208, dated April 22, 2008^[4]
 - 1992 Pierce Lance 105' Tractor Drawn Aerial
 - Unit Price \$100,000
 - Refurbish aerial \$117,000
 - 8% Sales Tax \$8,000
 - Total \$225,000
 - Fire Trucks Plus, Inc. Invoice No. 42208, dated April 29, 2008^[5]
 - 1992 Pierce Lance 105' Tractor Drawn Aerial
 - Unit Price \$85,000
 - Training, delivery, pump test, UL test, lettering, inspection trip \$15,987.50
 - Refurbish aerial \$117,000
 - 8.25% Sales Tax \$7012.50
 - Total \$225,000
 - Fire Trucks Plus, Inc. Invoice No. 9372010, dated December 8, 2010^[6]
 - KME Tractor 100' Aerialcat Tractor Drawn Aerial
 - Unit Price \$85,000
 - Training, delivery, lettering, 2nd inspection trip \$15,987.50

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- Refurbish aerial \$117,000
 - Sales Tax \$7012.50
 - Total \$225,000
3. Fire Trucks Plus, Inc. Statement, dated December 8, 2010^[7]
 - KME 100' Aerialcat Tractor Drawn Aerial
 - Unit Price \$225,000
 - Marked "Paid in Full Check No. 157619"
 4. City of Watsonville Purchase Requisition, dated April 29, 2008^[8]
 - 1992 Pierce Lance 105' Tractor Drawn Aerial
 - Approved by Council Resolution #61-08 (CM), attached to requisition
 - Memorandum from the Fire Chief to the City Manager, included as a staff report to the City Council for approval of the purchase, dated April 22, 2008, and "Attachment 1: Aerial Ladder Truck Specifications," referring to the KME,^[10] attached to the requisition
 - Fire Trucks Plus, Inc. Invoice No. 42208, dated April 22, 2008, attached to requisition
 - Marked "Material or Services Received, Invoice Attached for Payment" (The truck was not received)
 5. City of Watsonville Check No. 157619, dated April 29, 2008, for \$225,000^[9]
 - 1992 Pierce Lance 105' Tractor Drawn Aerial Ladder truck
 - Invoice No. 42208
 6. Two different sets of specifications for the vehicle were provided to the Grand Jury as attachments to a memorandum from the Fire Chief to the City Manager, included as a staff report to the City Council for approval of the purchase, dated April 22, 2008.^{[10][11][12]}
 - The memorandum describes the truck to be purchased as a "sister unit to our existing truck" (which is a 2001 KME Tractor Drawn Aerial).
 - "Attachment 1: Aerial Ladder Truck Specifications" consists of three pages referring to the KME and includes the statement, "Vehicle is in excellent condition."^[10]
 - "Attachment 1: Aerial Ladder Truck Specifications (Revised)" consists of three pages, two referring to the Pierce Lance and one referring to the KME, and includes the statements, "Aerial is in excellent condition" and "Vehicle is in excellent condition."^[11]
 7. There was no written contractual agreement between the parties; therefore, the \$225,000 is at risk.
 8. There are no detailed written contractual specifications for the \$117,000 refurbishment.
 9. There are no written contractual documents describing the change from the Pierce to the KME.
 10. Different condition reports and value assessments are reported for the KME.

- From a City of Pasadena Agenda Report to the Mayor and City Council, dated December 14, 2009, to authorize a contract with Fire Trucks Plus, Inc. to exchange a 1999 KME for a 1992 Seagrave Ladder Truck (a three-way trade to make the KME available to Watsonville), referring to the KME.^[13]

In the last five years, maintenance and repairs have resulted in the vehicle being out of service 37% of the time. In comparison, over the same period, the City's other ladder trucks have been out of service only 15% of the time, even though they are older vehicles. This has forced the City to place the KME in reserve status and use the reserve ladder truck for front line duty. Due to safety issues, reliability, out of service time, unit size, and the issue of major component failure, the KME has not met the needs of the Pasadena Fire Department.

*The KME cannot be resold at auction for reuse by a municipal Fire Department because it does not meet current NFPA standards. **It is estimated that it will only bring approximately \$20,000** (bold and underlined for emphasis) *at a public bid. Parties interested in obtaining the KME through a sealed bid sale are limited and would likely result in a low ball offer due to the work and cost needed to upgrade and repair the unit for resale.**

- The staff reports described in Item 6 (above) from the Watsonville Fire Chief to the City Manager state the “vehicle is in excellent condition.”^{[10][11]}
- The Watsonville Fire Chief, in an April 2010 newspaper article, states the appraised value of the vehicle is \$265,000 to \$379,000.^[15]

11. Conflicting documents were provided showing transfer of ownership by Fire Trucks Plus, Inc. to the City of Watsonville before the release of ownership by the City of Pasadena.

- Transfer **from Fire Trucks Plus, Inc.** to City of Watsonville on **December 8, 2010**^{[17][18]}
- Transfer from City Of Pasadena **to Fire Trucks Plus, Inc.** on **December 16, 2010**,^{[14][16]} (approved by Pasadena City Council on December 14, 2009)

12. It is unknown if the procurement process followed by the City is in compliance with Federal requirements for the use of Community Development Block Grants.

13. No firm delivery date has ever been provided by Fire Trucks Plus, Inc.

14. Two E-mails from the Fire Chief to Council Member Martinez with differing information regarding delivery.^{[22][23]}

In summary:

- The City paid \$225,000, without a contract, in April 2008 for a truck they preferred not to buy.
- The truck they hoped to buy was not in the possession of the broker who accepted payment.

- The truck they hoped to buy was not available for purchase until December 2010, more than two and one-half years after they paid the \$225,000.
- The City did not take title to the truck they hoped to buy until December 2010, more than two and one-half years after they paid the \$225,000.
- The City has not taken delivery of the truck more than three years after they paid the \$225,000.

It appears the City does not follow a “best practices” purchasing procedure. The documents described above do not demonstrate that the City processes conform to the “Purchasing and Contracting Practices” section of “Financial Management for Elected Officials: Questions to Ask,” published by the Institute for Local Government,^[26] and resource documents at the California Society of Municipal Finance Officers website.^[25]

The Grand Jury believes the procedure followed by the City fails to demonstrate responsible use of public funds. None of the nine present or former City Council member interviewees had any knowledge of the current delivery status of the truck. Several said they asked Staff for updates at City Council meetings, but have not received adequate information.

Finally, on February 8, 2011, the Fire Chief wrote a memorandum to the City Manager that gave his account of the complete transaction.^[24] The Grand Jury does not understand why this information was not fully disclosed at the start of the transaction, or why there were three years of smoke and mirrors.

Findings

- F1.** The purchasing procedure used by the City to buy the fire truck appears ad hoc and incomplete. It bypasses commonly used financial controls that would protect the buyer and provide accountability of public officials.
- F2.** The fire truck transaction appears suspect due to contradictory documents.
- F3.** The City Manager has not provided the City Council with regular updates that reflect changes in the fire truck transaction in the three years since the issuance of the payment.

Recommendations

In order to ensure transparency, completeness and accuracy in the information provided to the City Council, City Commissions and the public, the Grand Jury recommends:

- R1.** The City Manager should make regular reports to the City Council, in open session, regarding the performance of significant contracts, i.e., \$50,000 or greater.
- R2.** The City should adopt a “best practices” government procurement policy. The California Society of Municipal Finance Officers is a particularly useful resource for the development of such a policy.^[25]
- R3.** City Staff with purchasing authority and responsibility should receive adequate training to successfully execute contracts and process transactions.

Environmental Health Investigation

The Grand Jury discovered that the City of Watsonville has no policies or procedures in place to check for environmental hazards for any given development site prior to the issuance of land use or building permits.

Most of the pertinent documents related to this investigation may be reviewed in various locations throughout the EnviroStor web page for “PG&E, WATSONVILLE #1 MGP (44490007).”^[36]

The site investigated is located at 618 Main Street in Watsonville. Extensive past environmental investigations have identified hazardous residues in the soil resulting from historical operations at the site. The contaminants identified in the reports are known to cause cancer or birth defects and include polynuclear aromatic hydrocarbons, petroleum hydrocarbons, arsenic, and hexavalent chromium. It was also determined that, as a result of the contamination, the “groundwater presents an unacceptable threat to human health and safety.”^{[27][36]}

The site is located within the historic footprint of the Watsonville-1 Manufactured Gas Plant, which operated from 1871 until 1906. The plant used coal and oil to produce gas for lighting, heating and cooking. Some of the hazardous byproducts from the manufacturing process remain at the site. Pacific Gas and Electric Company (PG&E) eventually took over ownership of the site and used it as a customer service facility until 1989, when it was leased to its present owner and converted into a restaurant (Jalisco).^[36]

The site was purchased by its present owner from PG&E on February 27, 2001, subject to a recorded “Covenant to Restrict Use Of Property, Environmental Restriction,” which was found to be “reasonably necessary to protect present or future human health or safety or protect the environment as a result of the presence on the land of hazardous materials as defined in Health & Safety Code section 25260.” The ongoing environmental investigation at the site is under the supervision and authority of the California Department of Toxic Substances Control (DTSC) (Department).^{[27][28][36]}

The restrictions described in the Covenant include prohibited uses (residence, hospital, school or day care), prohibited activities (raising of food or extraction of groundwater for consumption) and requirements for soil management:

4.02 (a) “No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed on the property without a Soil Management Plan and a Health and Safety Plan approved by the Department.”

4.02 (b) “Any contaminated soils brought to the surface by grading, excavation, trenching or back-filling shall be managed in accordance with all applicable provisions of state and federal law.”

The Covenant further mandates an interim remedial measure to prevent the release of hazardous substances from the contaminated soil. This includes maintaining the current asphalt parking lot, commercial building and other structures on the property, which are referred to as the “Cap.”

4.04 (a) "Activities that may disturb the Cap (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall not be permitted on the Capped Property without prior review and approval by the Department."

Furthermore, sections 3.01 and 3.02 of the Covenant stipulate that the restrictions "run with the land," and are "binding upon owners/occupants." All owners and future owners of the property are required to adhere to the provisions of the Covenant.^{[27][36]}

The Grand Jury found that on two specific occasions, the Watsonville City Government failed to discover or provide information highlighting the fact that there are hazardous materials present on the site.

On June 18, 2007, the City of Watsonville issued a "Correction Notice," due to the start of construction, without a permit, of a courtyard seating area at the site.^{[29][36]} After the city issued the correction notice, all required applications and plans were submitted, permits were obtained, and building inspections were performed.^[30] **However, NO assessment of the land use restriction or presence of hazardous materials was considered.**

On March 4, 2008, the Watsonville Planning Commission approved a Special Use Permit allowing liquor sales and special events on an outdoor patio at the site. The staff report included the finding that "Jalisco's Restaurant has operated in its present location for 19 years. An 800 square foot patio was added to the restaurant for food service in the summer of 2007." The staff report failed to provide any information concerning the environmental hazards and risks on the site.^[31]

In 1996 the California Environmental Protection Agency designated Santa Cruz County Environmental Health Services (EHS) as the "Certified Unified Program Agency" (CUPA) within the geographic boundaries of the County (including all four Cities). As the CUPA, EHS is responsible for enforcing State and Federal statutes and regulations as well as any applicable local ordinance.^[32] However, since the City of Watsonville failed to discover the hazard or the land use restriction, EHS was not notified, and was unable to act in its capacity as the CUPA. EHS staff who were interviewed also stated that Watsonville City staff rarely contact them for advice or assistance.

There are various databases available to the public online, that identify sites with known or suspected hazardous materials contamination. The Grand Jury easily found the site located at 618 Main Street listed on "EnviroStor,"^[36] and "GeoTracker."^[38] EHS maintains a website with a link to known contaminated county sites, titled "Santa Cruz County 'Site' List."^[37] Nearly 700 county sites are identified on the list, including approximately 100 in the City of Watsonville alone. The site at 618 Main Street appears on the list and was also found in the "Fortis" document file maintained at EHS.

The Watsonville Community Development Department staff first became aware the site was contaminated when they were interviewed by the Grand Jury. They were unaware of the land use restriction and the presence of hazardous materials on the site. They do not routinely make inquiries regarding these issues when processing permits.

There was disagreement amongst the interviewees from different departments, commissions and the City Council as to whether the permit process needed to be revised to include a routine check of soil and groundwater contamination databases prior to issuance of a permit.

It appears that the site construction activities permitted by the City of Watsonville caused an unauthorized release of hazardous materials. The Grand Jury notified EHS of a potential release; EHS subsequently referred the notification to the DTSC, the lead cleanup oversight agency.^{[33][34][36]} The DTSC replied, “the disturbance of the soil...did not likely have any impacts on the public, workers who performed the construction, or the environment,” and that it would take no enforcement action at this time. However, it did direct that any future activities on the site that cause soil disturbance must be performed in accordance with the requirements of the Covenant.^{[35][36]}

Nevertheless, the Grand Jury maintains that the City of Watsonville permit procedures fail to recognize existing documented soil and groundwater contamination hazards that pose potential risks to public health and safety.

Findings

- F4.** The City of Watsonville Community Development Department issues land use and building permits without consideration of the presence of hazardous materials or recorded land use restrictions.
- F5.** No permit application review procedure exists at the Community Development Department to identify known documented hazardous materials sites.

Recommendations

- R4.** In collaboration with EHS, the City of Watsonville Community Development Department should develop a procedure to alert staff to the presence of hazardous materials on a site prior to the issuance of land use or building permits.

Airport Investigation

The Watsonville Municipal Airport is a lightning rod issue and is very divisive in the Watsonville community. Many Watsonville residents, including several members of the City Council, see no value in the Airport and would like it converted to affordable housing. On the other side are business leaders, the Watsonville Pilots Association, the Farm Bureau, and others, who support retaining the full capabilities of the Airport.

The divisiveness of this issue is even underscored internally within the City. In direct contrast to the City Council majority opinion, the Airport’s benefits to the community, including economic, are touted and well documented on the City’s Economic Development Website “Watsonville Municipal Airport.”^[39]

Over the past five years, costly litigation over land use issues in areas surrounding the Airport has exceeded \$1.2 million of limited City funds. The City is now embarking on a project to re-adopt its 2030 General Plan^[40] to address deficiencies found by the California Superior Court.^[41]

With the City facing a pending budget deficit of \$1.9 million, the Grand Jury believes the City Council should have a full public discussion of the airport issues and potential costs, solutions, and compromises, before proceeding down the path of another round of costly litigation.

The Grand Jury has found that on matters concerning the Airport, the City Government has failed to act in a manner that is transparent, and failed to make decisions based on complete and accurate information.

A chronology of events relating to the Airport over the past six years is as follows:

1. A 2005-2006 Santa Cruz County Grand Jury Investigation was prompted by the City Council's adoption of Resolution 74-05^[42] on April 12, 2005, which amended the City's Airport Master Plan 2001-2020, in anticipation of the adoption of the Watsonville VISTA 2030 General Plan^[40]

The Grand Jury report titled, "Watsonville Municipal Airport: Headed for a Crash,"^[43] is informative and mostly still pertinent today. The following paragraphs are from this report (bolds and underlines added for emphasis):

*Watsonville Municipal Airport is a valuable asset to the City of Watsonville and to the entire County of Santa Cruz. While land-use planning around most airports is monitored by regional commissions specializing in airport issues, a unique loophole in California State law permits the Watsonville City Council to serve in this capacity for the airport. **The airport's existence is now threatened because the city is meeting its mandated housing goals by planning housing developments in airport safety zones, which could lead to increased noise complaints and untold liability in the event of an accident.***

*The airport is economically valuable to the city, providing steady employment, business opportunities, a substantial tax base, and drawing business and recreational visitors. Strategically, the Airport is a key asset in low frequency but high impact disaster relief efforts, as was demonstrated following the Loma Prieta earthquake. **Before any irrevocable decisions are made, the benefits of the airport to the entire region must be carefully evaluated through the formation of an independent Airport Land Use Commission. Such a commission will provide an opportunity for community input and to make impartial land use decisions more frequently to protect this critical regional resource.***

The Watsonville Municipal Airport was constructed by the Navy during World War II on land purchased by, and incorporated into, the City of Watsonville. In 1947 the airport was transferred back to the city for \$1 provided the land would be used as an airport in perpetuity. Initial construction consisted of two runways, both built to military specifications that make them suitable for use by heavy aircraft such as C-130s and business jets. Two runways are needed to accommodate weather variations. The primary runway, Runway 2-20, is the longest and can be

*used ninety-four percent of the time. The shorter runway, **Runway 8-26, can be used ninety-eight percent of the time and is necessary not only for wind variations, but particularly in summer fog conditions.***

2. During the Santa Cruz County Grand Jury's 2005-2006 term, several additional airport actions occurred, which were not included in the report.
 - An April 21, 2006, letter to the City of Watsonville from the California Department of Transportation (DOT),^[44] included the following statements: "**It is our position that Resolution 74-05 should be invalidated.**" (bold and underlined for emphasis) and "If the City of Watsonville does not intend to implement the State's request in complying with the State Aeronautics Act, please consider the subject letter as a request for an administrative appeal." **The City took no action on this letter.**
 - On May 23, 2006, the City Council adopted Resolution 114-06 (CM),^[45] certifying the final Environmental Impact Report (EIR) for the Watsonville VISTA 2030 General Plan, and Resolution 115-06 (CM),^[46] adopting the Watsonville VISTA 2030 General Plan and Findings. These resolutions incorporated the disputed Resolution 74-05^[42] into the General Plan, despite the DOT's position.

3. Since the Grand Jury Report was issued in June of 2006, additional activities concerning the airport have taken place.
 - Two cases were filed and litigated: "Santa Cruz County Superior Court CV 154571, Watsonville Pilots Association et al., v. City of Watsonville, et al.,"^[47] and "Santa Cruz County Superior Court CV 154572, Friends of Buena Vista, et al., v. the City of Watsonville et al.,"^[48]
 - On March 21, 2008, the Court "issued a statement of decision," signed by Superior Court Judge Paul P. Burdick, in favor of the plaintiffs in both cases.
 - On May 2, 2008, the Santa Cruz County Superior Court "entered judgment" for the plaintiffs, and issued a Peremptory Writ of Mandate,^[49] "YOU ARE HEREBY COMMANDED...to set aside the certification of the Environmental Impact Report...and all your decisions, approvals and findings for the Watsonville Vista 2030 General Plan." A key provision of the Writ is,

3. You are prohibited from implementing the Watsonville Vista 2030 General Plan or Resolution 74-05 (bold and underlined for emphasis) *or basing any action on or engaging in any activity pursuant to the Watsonville Vista 2030 General Plan or Resolution 74-05, unless and until the environmental review and the Watsonville Vista 2030 General Plan and Resolution 74-05 are revised to comply with the Court's Statement of Decision, and California law, including but not limited to its statutes and regulations known as the California Aeronautics Act, the California Environmental Quality Act ("CEQA") and the CEQA Guidelines and the Court is satisfied that you have complied with this peremptory writ of mandamus by way of a return to the writ.*^[49]
 - The City of Watsonville appealed the ruling to the Court of Appeal of the State of California Sixth Appellate District on June 26, 2008.

- On March 15, 2010, the Court of Appeal of the State of California Sixth Appellate District denied the City's appeal,^[50] required it to follow the trial court's Peremptory Writ of Mandate, and further required the City to develop a Compliant Airport Land Use Compatibility Plan (ALUCP) consistent with the California Airport Land Use Planning Handbook.
 - From interviews and documents provided by the City,^[51] the Grand Jury discovered the City was required by the Court to pay \$691,837.84 to the plaintiffs for their legal fees. The City also paid \$442,346.10 to its own attorneys for the defense of the suit, for a total expenditure of \$1,134,183.94.
4. While these legal actions were underway, the Planning Commission received an application for a permit for a commercial building to be located next to the airport. On August 4, 2008, the Planning Commission approved a special use permit for a 43,389 square foot light industrial building on Jennings Drive. The project became known as "Lawton." The approval followed discussion and review of the information in the form of a Memorandum provided by City Staff.

However, the City Staff failed to provide the following information to the Planning Commission:

- The Memorandum to the Planning Commission^[52] makes no mention of the Writ of Mandate^[49] affecting the property, which states, "**You are prohibited from implementing the Watsonville Vista 2030 General Plan or Resolution 74-05.**" (bold and underlined for emphasis)
- The Memorandum mentions "A Mitigated Negative Declaration," but does not include the original negative declaration letter from the DOT,^[53] which cites the Superior Court decision, and includes the statement, "Portions of the project site appear to be within the Safety Zones 1, 2, 3, and 6 for the Watsonville Municipal Airport."
- A City letter attempted to mitigate the negative declaration,^[54] but their letter had not been accepted by the DOT by the date of the meeting. This fact was not communicated to the Planning Commission by the City staff. Subsequent to this meeting, the DOT issued a letter^[55] which includes the statement, "We further request that the Negative Declaration not be approved."
- The Minutes of the Planning Commission meeting^[56] include the statements, "Commissioner Martinez..." (Planning Commissioner at that time) "...noted the close proximity of the Airport to the project," and "Principal Planner Boyle stated the proposed use is allowable in Zone 6 and is consistent in both General Plans." Planner Boyle's statements fail to inform the Commission of the DOT claims that the project is in Zones 1, 2, 3 and 6, or of the Writ of Mandate which prohibits the implementation of the Watsonville VISTA 2030 General Plan.

It is not possible to know how the Planning Commission would have acted if they had received full information. They may have elected to approve the permit, they may have denied it, or they may have continued the matter and requested further information.

The Watsonville Pilots Association and others subsequently filed suit^[57] to stop the project, since it was in direct violation of the Peremptory Writ of Mandate issued on May 2, 2008. The Lawton

Project was eventually dropped by the applicant due to the suit, and the City of Watsonville and the Watsonville Pilots Association negotiated a settlement to the suit. From interviews and documents provided by the City,^[51] the Grand Jury discovered the City paid \$48,000 to the plaintiffs for their legal fees. The City also paid \$12,048.78 to its own attorneys for the defense of the suit for a total expenditure of \$60,048.78.

To summarize,

- In the first lawsuit, the city ended up paying \$1.134 million in legal fees
- In the second lawsuit, the City settled and ended up paying another \$60 thousand in legal fees.

Findings

- F6.** The full costs of litigation to justify future development surrounding the airport have not been disclosed to the public.
- F7.** The City has spent over \$1 million in scarce funds on litigation resulting from attempts to increase development around the airport.
- F8.** City Staff has repeatedly failed to provide complete and accurate information to the City Council, Planning Commission, and the public.

Recommendations

- R5.** The City Council should have a public discussion regarding future development surrounding the airport, including full disclosure by City Staff of all issues and potential costs, solutions, and compromises, to avoid another round of costly litigation. This public discussion should be held prior to development of the revised City General Plan 2030.

Redevelopment Agency Investigation

The City Manager, the recently retired Director of Redevelopment and Housing, and other senior city executives, both elected and staff, have made many public statements^{[58][59][60]} concerning the importance of redevelopment funds to the City of Watsonville. Their statements emphasize how damaging the elimination of the Watsonville Redevelopment Agency (WRDA) would be to the city. There has been much discussion of Redevelopment Agencies (RDAs) since California Governor Brown's recent proposal to eliminate them.

The Grand Jury attempted to investigate the history of the WRDA to find quantifiable measures to evaluate its effectiveness, such as a list of projects undertaken; project costs and status; WRDA annual revenues and expenses; and bond obligations. The Grand Jury was never able to find this information.

As of the start of our investigation, there was no publicly available information on the effectiveness of the WRDA. The Grand Jury reviewed the Watsonville "Redevelopment Housing Economic Development" website^[61] and found none of the information we were attempting to obtain. Additional City websites were investigated for information concerning the WRDA.

Several reports were found that contain partial information.^{[61][62][63][64][65]} City Staff interviewees informed the Grand Jury there was no simple way to obtain this information. Interviewees were able to name only five or six WRDA completed projects over the nearly thirty-year life of the agency. We were also told that it would take an effort by staff to look through “paper files” to provide us with a list of WRDA projects over the past five years. In addition, some City Staff members were dismissive and contemptuous of the Grand Jury’s attempt to obtain such information.

We investigated neighboring county and city governments’ RDA websites to see if the type of information we had requested of the City was available online. We found that the websites of the County of Santa Cruz,^[66] the City of Santa Cruz^[67] and the City of Morgan Hill^[68] all contain excellent and easy-to-understand information that helps the public to understand the effectiveness of their RDAs.

Findings

- F9.** It was not possible to evaluate the effectiveness of the WRDA because adequate information is not provided to the public.
- F10.** The City of Watsonville does not provide a publicly available summary of WRDA activities, revenues, or expenses.

Recommendations

- R6.** The City of Watsonville should publish on its website, a current record of activities of the WRDA, including projects proposed, approved, in progress, and completed, along with related revenue, bond obligations and expense information.

Manabe-Ow Investigation

On October 26, 2010, the City Council passed resolution 174-10^[69] approving the Manabe-Ow Specific Plan (MOSP)^[70] amid a sea of sign-waving young citizens chanting, “We Need Jobs.”^[71] The City considers the Manabe-Ow Project key to its strategy for employment, because it projects over 2,000 new jobs over the next twenty years. The project consists of the development of a 95-acre industrial area in the southern part of the City. “The MOSP represents the culmination of the City’s extensive efforts to create a new job base for the community. The City of Watsonville has been actively pursuing a new industrial area to provide new jobs for the residents of the City for the past 15 years.”^[72]

The Grand Jury supports the City and citizens of Watsonville in their political processes, and does not have an opinion concerning the appropriateness of the Manabe-Ow Business Park project. The Grand Jury is concerned with the completeness and accuracy of background information regarding project financing that was provided by City Staff to the public, the Planning Commission and the City Council, prior to the passage of Resolution 174-10.

At the October 26, 2010, City Council Meeting,^[71] the Interim Community Development Director presented the Manabe-Ow Staff report.^[72] Financing was not discussed at the

meeting;^[69] however, the report included several references to financing and financing alternatives:

*The buildout of the Specific Plan for the site is anticipated over a 20 to 25 year time frame, **with initial phases not occurring until the economic conditions improve**^[72] (bold and underline added for emphasis)*

***The City desires to obtain infrastructure grant funding** in order to pursue the first phasing option in the Plan^[72] (bold and underline added for emphasis)*

***The Plan identifies options for financial vehicles** for public and private partnerships necessary to help move the project forward^[72] (bold and underline added for emphasis)*

A Development Agreement is also under review but will take additional time to determine potential financial impacts that can only be determined as more detailed tentative map plans are prepared for the project if the Specific Plan is approved, and grant funding options become more clear.^[72]

*There is an unknown financial impact of adopting this Plan at this time. **The City will be pursuing grant funding** to help with the implementation of infrastructure identified in the Plan.^[72] (bold and underline added for emphasis)*

At the December 14, 2010, City Council Meeting,^[73] the Redevelopment and Housing Department Director presented a staff report^[74] which painted a significantly different picture from the October 26 report, concerning Manabe-Ow financing. This report and the City Council discussion were dedicated entirely to project financing. The report contained the following highlights on financing:

Construction of the business park requires significant infrastructure investment^[74]

Infrastructure costs alone are expected to be approximately \$31 million.^[74]

As a result of the need for major up-front investment in infrastructure, the Property is too expensive for a private party to develop on its own, and a public-private partnership is necessary.^[74]

Redevelopment assistance is essential to bring this project to fruition.^[74]

Under current redevelopment law, the Property does not meet the strict definition of blight, despite its presence in the flood plain, as it is undeveloped agricultural land. As the condition of the Property does not fall within the definition of blight, a legislative amendment is presently the City's only option for including the property in the Redevelopment Project Area.^[74]

It is unlikely that the Manabe-Ow Business Park will be built without assistance from the Redevelopment Agency.^[74]

The potential cost of not pursuing a legislative amendment in terms of lost economic opportunity is substantially greater than the cost of making the effort.^[74]

The above staff report^[74] suggests City Staff had long known and planned to use the WRDA as the primary and preferred financing mechanism for the Manabe-Ow project, ignoring the other seven alternatives described in the MOSP. This information was not specifically provided to the City Council at the October 26, 2010, meeting. It is not possible to know how the City Council would have acted if they had received full information.

When the Grand Jury asked some City and Staff interviewees about the omission of financing options and the need for legislative action, their response was contemptuous and dismissive. The Grand Jury was told that the need for redevelopment funds, combined with the need for special legislative action, was well known by **all stakeholders** and had been fully vetted in public documents and hearings.

The Grand Jury attempted to verify the veracity of the statement by City and Staff by interviewing seven of the listed Council Members and five of the listed Planning Commission Members, who were listed as stakeholders in the MOSP.^[70] When directly asked, **none of these participants** interviewed were aware of the needs discussed in the staff report on financing.^[74]

The Grand Jury also reviewed available public documents^{[70][75][76][77][78][79]} regarding this project. None of the documents describes the need for Redevelopment Funds, combined with the need for special legislative action, as specified in the staff report on financing,^[74] and as asserted by City Staff.

As of the date of submission of this report, the financing of the Manabe-Ow project is still in flux due to the uncertainty of the availability of RDA funding.

Findings

- F11.** The City Council failed to fully consider project costs prior to Manabe-Ow project approval.
- F12.** The City Staff misrepresented the plans to finance the Manabe-Ow project prior to the City Council's approval in 2010.
- F13.** The City Staff favored securing WRDA funding to finance the project but withheld this information from the City Council and the public prior to project approval.
- F14.** City Staff withheld information regarding the requirement for legislative action to include the Manabe-Ow property in the WRDA prior to project approval.

Recommendations

- R7.** The City Manager should implement a process to ensure transparency, completeness and accuracy in the information provided to the City Council, City Commissions and the Public.

- R8.** The City Council should exercise due diligence and demand that it receives adequate information to make informed decisions. “Financial Management for Elected Officials: Questions to Ask,” published by the Institute for Local Governments is a useful resource.^[26]
- R9.** The City Council should have a public discussion of the Manabe-Ow project with full disclosure of all funding options.

Commendations

With a population nearly equal to that of the City of Santa Cruz (51,000 versus 58,000), the City of Watsonville has an annual budget of only \$39 million, compared to \$100 million for the City of Santa Cruz. The City of Watsonville justifiably prides itself for the level of services they provide on a very low budget. City employees have accepted salary reductions, reductions in hours, and furloughs, and many have assumed additional duties without additional compensation.

Responses Required

Respondent	Findings	Recommendations	Respond Within/ Respond By
City of Watsonville City Manager	F1-F8, F10, F12- F14	R1-R7	60 Days September 1, 2011
City of Watsonville Redevelopment Agency Executive Director	F9, F10	R6	60 Days September 1, 2011
City of Watsonville City Council	F4-F6, F10-F11	R2-R6, R8, R9	90 Days October 1, 2011
City of Watsonville Redevelopment Agency Board of Directors	F9, F10	R6	90 Days October 1, 2011

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City of Watsonville City Administrative Offices
City of Watsonville City Council Meetings
City of Watsonville Fire Department Administrative Office
County of Santa Cruz Environmental Health Services
County of Santa Cruz Planning Department