

PROCEEDINGS OF THE
LOCAL AGENCY FORMATION COMMISSION
SANTA CRUZ COUNTY

Wednesday, June 4, 2008
9:30 a.m.

701 Ocean Street,
Room 525,
Santa Cruz,
California

The June 4, 2008 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Chairperson, Jim Rapoza.

ROLL CALL

Present and Voting: Commissioners Jim Anderson, Reilly, Coonerty, Campos,
Begun, and Chairperson Rapoza
Absent: R. Anderson, * Barrett, Pirie
Alternates Present: None
Alternates Absent: Bell, Estrada
Staff: Patrick M. McCormick, Executive Officer
Chris Cheleden, LAFCO Counsel
Debra Means, Secretary-Clerk

MINUTES
May 7, 2008

MOTION AND ACTION

Motion: Bell Second: J. Anderson	To approve the May 7 th minutes. Motion carries with Commissioner Reilly abstaining.
-------------------------------------	--

PUBLIC HEARINGS

TIME EXTENSION FOR LAFCO NO. 903 EXTRATERRITORIAL WATER SERVICE BY
DAVENPORT COUNTY SANITATION DISTRICT TO CEMEX PLANT

Mr. McCormick says this is a proposed extension for a previous approval the Commission made. The water service would be provided to the cement plant in Davenport. It has taken the community and the Sanitation District a long time to put together a financing package that the community can afford. The water district is operating under a boil order. The district has filed a letter with LAFCO, dated May 6, 2008, requesting an approval extension to February 10, 2010 for extraterritorial water service to the Cemex plant. The district believes they have a project they can carry out. The physical connection to the

plant for water service would occur before February 10, 2010. Staff recommends approval for this extension.

MOTION AND ACTION

Motion: Coonerty Second: Barrett	To approve the extension to February 10, 2010, as recommended by staff. Motion is carried with a unanimous voice vote.
-------------------------------------	--

POSSIBLE MOTEL USES IN WATSONVILLE INDUSTRIAL PARKS

Mr. McCormick says this item comes from the last meeting based upon oral communications. There is a Pajaronian article titled “City Council Clears Path for Motels Along Highway 1.” The citizen’s concern was that the City of Watsonville is looking at rezoning industrial areas for potential conditional uses of hotels and motels. He is concerned that this would eat away at the community’s economic base of industrial land.

In the late 1990s, the City was looking for additional industrial land because their existing industrial base had substantially been developed. In Watsonville, any growth is growth onto agricultural land, and this Commission is careful about development of agricultural lands. In the late 1990s, this Commission denied an industrial annexation of the Manabe-Ow properties along the Ohlone Parkway.

The City came back in the early 2000s with an application to annex the same property again. One of the key issues of the approved subsequent application was a covenant that was offered by the property owners. It was a real estate document that was recorded against the properties. The covenant was a guarantee that the properties would be used for industrial-type uses for a fixed time. Once the properties are annexed to the City, LAFCO does not have any supervisory control over the zoning. The City can rezone the lands.

Industrial parks take a long time to build out such as Harvey West Park in Santa Cruz and Westridge in Watsonville. The idea was that if the City needs additional land for industrial and economic development, what sort of commitment could be made. The covenant supercedes the zoning and it would apply for a long time. The property owners and the City were willing to agree to the covenant’s restrictions.

He thinks the City is continuing to honor the covenant. The City is developing a Specific Plan for the Manabe-Ow properties. Conceptually, the Manabe-Ow property is zoned Industrial Park which motels are considered conditional uses. The City’s Specific Plan will be more detailed and binding and it does not include any motel or hotel uses in it. The covenant will still be superior to all other plans and it is specific on these issues.

The remainder of the portions of the City that are zoned Industrial Park are not covered by the Manabe-Ow property covenant. Most of these parcels are located on Airport Boulevard near the airport and the hospital. A small amount of land could be utilized for

motels. Motels generally do not take much acreage. This issue is not within this Commission's purview in reviewing the City's planning program.

Commissioner Barrett asks if there is any time limit on the Manabe-Ow covenant.

Counsel Cheleden answers that he will look it up.

Commissioner Campos says that this motel is not in the Manabe area.

Mr. McCormick adds that the site the newspaper references is on Airport Boulevard. It was going to be a major parking area for the Seagate plant which never occurred. It is a large parking area near the hospital which is not needed for parking.

Commissioner Campos comments that the agreement for the Manabe property does not cover this property near the hospital. Seagate has a lease on this property for about 30 years. The property owner receives money for the lease and he has not been willing to sell. Bill Watkins is paying the monthly bill. He does not know if this site would be good for a motel. He thinks there is a better site across Highway 1.

Counsel Cheleden says the covenant expires December 31, 2030.

Commissioner Coonerty asks if this issue will affect the Manabe property.

Mr. McCormick answers no. It would conceivably affect other areas but not Manabe. It is not likely to deplete the industrial land supply in Watsonville. There may be a site or two lost. There is enough industrial land waiting for redevelopment. The market is such that it will not eat up a big chunk of the non-Manabe industrial land like the site on Airport Boulevard.

Commissioner Begun asks what the crux of the issue is.

Mr. McCormick answers that the citizen who spoke during last meeting's oral communications is concerned that the City was not making a wise land use decision by allowing motels in industrial lands. Industrial lands are the economic core of the community. Motels have a broader range of places where they can go. He was questioning the wisdom of the City's land use decision. LAFCO has an interest to make sure the covenant is followed on Manabe's properties.

Commissioner Campos says it only pertains to the Manabe property.

Mr. McCormick is satisfied that the City is honoring the covenant on Manabe and that greatly limits the interest the Commission might have in following up on this issue.

Commissioner Begun asks if there is a conflict between the ordinance that the City of Watsonville passed and the covenant.

Mr. McCormick answers no.

Commissioner Barrett asks if the covenant is good for another 22 years.

Counsel Cheleden replies yes.

Ilia Bulaich, who resides in Watsonville, addressed the Commission about this issue at the last meeting. He thinks the Commission does not understand what his concerns are. He says Mr. McCormick thinks Watsonville is trying to rezone industrial land. He thinks that is categorically false. The City is not rezoning industrial land. They are leaving the zoning industrial and adulterating the district regulations to say that a motel is an industrial use, thus the City does not give up industrial land.

He says that Commissioner Campos describes how the owner of the parking lot by Seagate is not eager to sell for development. That owner addressed the City Council during the approval of the last General Plan process. The owner petitioned for a rezoning because he wanted to get out of the Seagate lease even though it was lucrative for him. He wanted to see the City do something with the property, but the industrial zoning was not drawing investor interest to get it developed. He was eager to get the higher value use. The City Council approved a tentative zoning change in the new General Plan.

He adds to Commissioner Begun and Commissioner Coonerty's comments about IP zoning. He thinks the concept that IP zoning does not pertain to Manabe-Ow properties is false. He asks if a motel is a personal or retail service that is ancillary to the proposed business park uses in the Manabe-Ow properties. The covenant says it is not. If someone interprets that it is, there is a problem. There is no way that a motel can draw its primary activity of customer base from the business park on Manabe-Ow. The only way a motel could work on Manabe-Ow is if it is a regional destination drawing clients from a wide area. He asks if a motel is an industrial use. The text of the covenant that describes what a business park is does not include a motel as an industrial use. This issue is what prompted him to come before the Commission.

The Specific Plan for the Manabe-Ow properties does not show a motel as a permitted use or as an ancillary, retail, or personal. He thinks this text amendment of IP zoning is all about getting motels in the Manabe-Ow properties.

There were about 100 people who showed up in support of industrial land during the Manabe-Ow annexation hearing. When the Planning Commission heard about this issue in May, he was the only Watsonville resident to show up and question that. The Specific Plan has yet to be approved by the Watsonville City Council. He thinks the plan will be amended by the City Council to allow motels. He wants to establish a historical reference to the Commission. This Commission went through an elaborate conceptual struggle in deliberations to allow the entire 94 acres to be annexed despite staff's recommendation to be a partial annexation.

On May 27th, Watsonville City Council approved the adulteration of industrial parks' district regulations. Anywhere that there is IP zoning in Watsonville, a motel can be built without rezoning. He is opposed to this approval. He attended an Action Pajaro Valley meeting when this issue was discussed. He thinks it is a bad idea.

He asks if the Commissioners feel that motels are principally permitted in industrial use in the Manabe-Ow properties as the text of the land covenant states. He asks if motels are a proper ancillary, personal, or retail use as described in the text of the land covenant.

Commissioner Begun asks Mr. Buliach what he wants the Commission to do.

Mr. Buliach answers that if the Commission desires, they can state whether they think that a motel is an industrial and business park use in regards to the text of the covenants of the Manabe-Ow properties. It was brought up at the City Council, Planning Commission, and Action Pajaro Valley meetings that Watsonville city officials have adopted the stance that a motel is an industrial/business park use. He requests that the Commission express their comments or reservations.

Commissioner Begun summarizes that the proposed motel is not in the Manabe-Ow area. The City Council passed an ordinance that could include all industrial land, but if they tried to approve a non-conforming use onto Manabe-Ow, they have to get permission from the two trustees and LAFCO. He asks if this is correct.

Counsel Cheleden responds that LAFCO would have to decide as a third-party beneficiary under the covenant whether to try to enforce the covenant. It is up to Watsonville what they want to do with the land. The issue would be whether LAFCO would want to authorize a legal action to enforce the terms of the covenant because LAFCO felt that the terms of the covenant were being violated by development inconsistent with the covenant.

Commissioner Begun asks if the ordinance passed by the City of Watsonville is considered an amendment to the covenant.

Counsel Cheleden answers no. The covenant was voluntarily provided by the property owners. LAFCO specifically, because of its limitations in terms of regulating land use, accepted it as a voluntary covenant by the property owners.

Commissioner Begun asks if the covenant has any teeth in it.

Counsel Cheleden answers yes. The covenant has teeth in it as it relates to running with the land as a covenant between the two private property owners. Its enforcement would be in court by LAFCO as a third party beneficiary. Whatever Watsonville chooses to do as a land use authority is a totally separate process.

Commissioner Campos says that the property to the north of Manabe-Ow used to be called Landmark and it was an industrial park. Monterey Engineering was there, but they had to move out because of the truck noise. This agreement was set up so that does not happen again. Lots of housing now borders Landmark which is now called Ohlone. That whole area was supposed to be industrial but it was converted to housing.

Commissioner Coonerty asks if LAFCO's position is that the covenant does not allow motel use on the Manabe property.

Counsel Cheleden says his reading of the covenant is that motels are not a permitted use on the Manabe property. He understands that Watsonville did not rezone specific pieces of property. It was citywide and they added hotels and motels as a conditionally permitted use in their code. Individual properties that want to take advantage of that would have to get a conditional use permit in the IP zone.

Commissioner Coonerty asks if Manabe came forward, could the Commission defend the covenant.

Counsel Cheleden answers that the Specific Plan would be superior to the zoning because the Specific Plan is an amendment to their General Plan. If the City decided to take action to amend the Specific Plan that was inconsistent with the covenant, at that point, LAFCO would probably go into closed session to decide whether to assert its rights to challenge it.

Commissioner Jim Anderson asks if the Commission is going to say that a motel is not applicable use for that area.

Counsel Cheleden says that the issue is whether or not motel use is considered to be an ancillary, retail, or a personal service. It says that ancillary, retail, and personal services mean uses that provide retail or personal services that primarily serve the needs of those employed in the business park. Examples include restaurants, delicatessens, pastry shops, coffee shops, bank centers, ATM machines, accounting or legal services. A motel would not appear to be a retail or personal service that would serve the needs of the business park. Someone else could make a different interpretation, but this would be LAFCO's interpretation. The business park definition is even stronger and it would not include a hotel or motel.

Mr. McCormick says that Watsonville is currently working on a Specific Plan that would be above the General Plan and below the covenant in the level of hierarchy. Watsonville is totally consistent with the covenant. The Draft Specific Plan's permitted uses as shown on page 74 of the LAFCO agenda, do not list hotels and motels as permissible, even with a special use permit. Within the Manabe-Ow Specific Plan area, the City is consistent with the covenant.

He has been following the process and will inform the Commission if he thinks the City amends the Draft Specific Plan in a way that is not consistent with the covenant.

Commissioner Reilly asks if the Commission wants to be on the record. LAFCO members come and go and it is possible that this issue could fall through the cracks in the future.

Commissioner Campos does not think it makes a difference because it is recorded on the property. It will not get past LAFCO because there is a signed and approved agreement by all the parties involved, including the Board of Supervisors.

Commissioner Begun asks if it would be appropriate to send a letter to the City of Watsonville asking if the ordinance they passed has the intent of putting a motel on Manabe property.

Mr. McCormick says that the relationship between LAFCO and Watsonville has gone through many tough times. He thinks the Commission should be careful to not look over Watsonville's shoulders any more than they already are. Any communication the Commission makes to the City would have to be extremely diplomatic. He thinks the Commission should wait a month or two to see what evolves. Counsel Cheleden is clear about what is in the covenant. The covenant is enforceable by the Board of Supervisors, the Wetlands Watch, and by LAFCO. A letter to the City may be counter productive at this point since the City is continuing to act in good faith.

Commissioner Begun comments that Mr. McCormick is most diplomatic. He suggests that this item be continued to the next meeting.

Commissioner Barrett is not in favor of sending a letter to the City of Watsonville. He represents a city and he understands what the City of Watsonville is trying to do. They want to have more flexibility with land use in older industrial areas. Often times, land will lay fallow for years, waiting to be developed. He thinks the Commission would be meddling in the City's affairs if the Commission wrote them a letter. He understands Mr. Bulaich's concerns, but it is in the City's jurisdiction. It is up to the City residents to speak up to the City Council.

Chairperson Rapoza thinks the City is aware of how this Commission feels. Through this discussion, if LAFCO felt that the City violated the covenant, LAFCO would go into closed session and decide whether or not to go to court to enforce that covenant.

Mr. Bulaich adds that Commissioner Campos brought up the example of the Red Roof Inn. He was present at the council meeting that approved the rezoning of an industrial zoned parcel to Commercial Visitor designation. That issue was highly debated with conceptual disagreements. By a split vote, the City Council approved to rezone the parcel. That area of Beach Road is not an industrial park and does not have IP zoning. He thinks Watsonville is trying to leave the parcel designated industrial and sneak a motel in without having to do a public process of rezoning it.

NOMINATION TO CALAFCO BOARD

Chairperson Rapoza says that Commissioner Roger Anderson's seat is up and he has expressed interest in continuing on the board.

MOTION AND ACTION

Motion: Campos Second: Jim Anderson	To nominate Roger Anderson for another term as a public member on the CALAFCO board. Motion is carried with a unanimous voice vote.
--	---

LEGISLATION

Mr. McCormick reports that the bill SB 1617 has been significantly amended. The bill would apply a \$50 per parcel State assessment to every parcel in the State that is within CAL FIRE's State Responsibility Area in an effort to increase statewide fire protection. The governor's first proposal was to put a surcharge on insurance policies statewide.

STATUS OF PROPOSALS

Mr. McCormick says the California American Water Company finally sold their Felton unit to the community of Felton who will turn the system over to the San Lorenzo Valley Water District, contingent upon the water district agreeing to the deal.

Chairperson Rapoza adds that hopefully within 60 days this sale will be final.

MOTION AND ACTION

Motion: Barrett Second: Campos	To adjourn. Motion carries with a unanimous voice vote.
-----------------------------------	--

Meeting adjourns at 10:12 a.m. The next meeting is scheduled for Wednesday, August 6, 2008.

CHAIRPERSON, JAMES W. RAPOZA

Attest:

Patrick M. McCormick, Executive Officer