

## **WATSONVILLE PILOTS ASSOCIATION HISTORY FROM 1987 TO 2021**

by Sarah Chauvet and Marjorie Bachman

### **1942 WATSONVILLE AIRPORT CONSTRUCTION BEGINS**

The Civil Aeronautics Administration, precursor to the FAA, agreed to construct an airport for Watsonville on the condition that the city provide the land and agree to maintain it as an airport in perpetuity. Construction began in 1942.

### **1943 NAVY AUXILIARY AIRFIELD STATION WATSONVILLE**

During World War II, the War Department leased the 288 acre Watsonville Airport for \$1, the Navy purchased an additional 35 acres and established the Naval Air Auxiliary Station (NAAS) Watsonville, a satellite base to Naval Air Station Alameda. After construction of support buildings and concrete ramps, combat aircraft lined the ramps, including Avengers, Corsairs, Dauntless' and Hellcats.

### **1948 THE WATSONVILLE AIRPORT RETURNS TO CITY CONTROL**

After the war, the City acquired the land and improvements to the Airport at no cost. The actual transfer of the Airport back to the City was accomplished through a document called The Instrument of Transfer signed on July 13, 1948. The Instrument of Transfer placed restrictions on the use of the Airport land for "public airport purposes, and only for such purposes". The City has governed the Airport ever since. The Airport has received Airport Improvement Program (AIP) Federal Grants to make improvements over the years, restricting the Airport to remain an airport by federal law. In 2021, the total acreage of the Watsonville Municipal Airport (KWVI) is 344 acres.

### **1987 FOUNDING OF WATSONVILLE PILOTS ASSOCIATION**

Founded in 1987, the Watsonville Pilots Association (WPA), also registered as the Watsonville Airport Pilots Association, serves to protect and promote general aviation at the [Watsonville Municipal Airport \(KWVI\)](#) and across Santa Cruz County.

The Watsonville Pilots Association (WPA) was founded on September 15, 1987 after the City demanded that the Airport Manager raise hangar rents and other issues. The founding members were Mike McIntyre (President), Steve Knudson (Vice President), Theresa Levandowski (Secretary), and Richard Peterson (Treasurer). The WPA filed their 501.(c)(3) documents through the California Aviation Counsel, the precursor to Cal Pilots.

### **1989 LOMA PRIETA EARTHQUAKE**

On October 17, 1989, the 6.9 Loma Prieta earthquake devastated central California. KWVI served as the county's major conduit for incoming supplies and the most functional transportation route into or out of Santa Cruz County. Local pilots joined with other Cal Pilot members to provide disaster relief supplies to the community.

### **1990 POTENTIAL AIRPORT CLOSURE**

After the 1989 earthquake, Frank Bardache, a local teacher, Jerry Thomas, an organic farmer, and Bernie Feldman, a supposed inventor, started a movement to encourage the city to close the airport and build affordable housing on the airport property. Destruction of substandard housing in Watsonville prompted the Watsonville political leaders to start looking at the airport's 344 acres as a source of land for new housing. This began decades of conflict for the Watsonville pilots and Airport supporters to protect KWVI.

### **1990-2018 DIVERSION OF FUNDS**

Beginning in 1990, proponents of the Airport closure claimed that the City totally supported the Airport financially and that the Airport was not self-sustaining. In the mid 1980s, the City set up the Airport Enterprise Fund but never credited the fund with Airport hangar rents or fuel sales or other Airport revenue. The City directed all Airport revenue into the City General Fund, with no differentiation or accounting for the Airport monies. All Airport expenses came out of the City General Fund and the City never disclosed how much money they took in from Airport operations. Federal Aviation Administration (FAA) regulations state that revenue generated on airport property must go to support that airport. This prompted the WPA to start investigating the diversion of funds and started asking, "Where are all the rental and fuel fees going?"

The WPA made three discoveries:

- (1) All KWVI revenue was diverted into the City General Fund.
- (2) All KWVI expenses were documented but KWVI revenue was never accounted for.
- (3) The City did not allow any money to remain in the Airport Enterprise Fund.

The City freely spent the Airport revenue and did not maintain good accounting of the Airport finances.

### **1992 `AIRPORT MANAGER POSITION TERMINATED**

Claiming the Airport and the City were broke, the City terminated the Airport manager position in 1992. A few months later, Don French was hired as an interim Airport manager to work part time. He had just retired from the Watsonville Fire Department and was also a pilot. Don oversaw the Airport operations under this arrangement until 2011.

## **1994 CITY ADOPTS THE 2005 GENERAL PLAN**

### **HISTORY OF SANTA CRUZ COUNTY HAVING NO ALUC**

In 1994, State Senator Henry Mello succeeded in exempting Santa Cruz County from the state mandated requirement for the county to create an Airport Land Use Commission (ALUC). Santa Cruz County did not want to create an ALUC because they would have to fund it. No complaints had been made regarding the airport (no problem clause) so the City retained control over development decisions surrounding the Airport within the City limits. In 1994, the City passed Resolution 176-94 to support Mr. Mello's proposed exemption of SCC from creating an ALUC.

### **1996 WPA REQUESTS AUDIT OF AIRPORT REVENUES**

The WPA filed a request to audit Airport finances to determine where the revenue from the Airport was going. The WPA attempted to force the City to deposit the Airport revenue into the Airport Enterprise Fund. Don French and Dan Chauvet presented the City with the FAA rules prohibiting Airport revenue from being diverted to the City.

### **1965 – 2007 “SAGE PROPERTY” DIVERSION OF FUNDS**

In 1965, the City leased a parcel of Airport land to Linear Systems, Inc., who subsequently constructed two 9,600 S.F. concrete buildings. In 1973, SBE, a citizen band radio (CB) manufacturer constructed a permitted 19,200 S.F. building on Airport land. The land where these buildings are located is northeast of Airport Blvd, known as the “Sage Property”, and has always been owned by the Airport. Both Linear Systems, Inc. and SBE drew up arrangements with the City that after so many years, the City would own the buildings. As CB radio popularity declined, SBE struggled and later declared bankruptcy. The City purchased the buildings, even though they were part of the Airport property, well below market value in 1975 and the loans were paid off in 1978 with rent revenue collected from the buildings. The WPA acquired lease information on the Sage property from the City clerk indicating the City collected well over \$4.2 million dollars on leases from 1965 until 2006 which went into the City General Fund. City records confirm that the City provided no construction financing for the above buildings. The diversion of funds from the Sage property ended in December 2007.

### **1998 PAJARO VALLEY UNIFIED SCHOOL DISTRICT PROPOSES NEW HIGH SCHOOL**

In 1998 the Pajaro Valley Unified School District (PVUSD) decided they needed to build a new high school and considered eight sites for the construction of the Pajaro Valley High School (PVHS). PVUSD chose to build just south of Runway 02. The WPA did not object because of the State and City assurances that (1) Runway 2/20 would be lengthened by 800' to move the safety zones further southwest, away from the school and (2) an Instrument Landing System (ILS) would be added to

KWVI. The purpose of the runway extension was for the safety of the students and pilots, not to attract additional planes and larger aircraft models into KWVI. The new 2001 Watsonville Airport Master Plan, adopted by the City, included a diagram of the Runway 02/20 extension and the installation of an ILS to make the Airport safer and more accessible in instrument flying conditions and to attract more corporate aviation to KWVI.

## **2000 PVHS / RUNWAY EXTENSION PLANS SENT TO CALTRANS**

In July of 2000, CA Department of Education sent the proposed site plans with the Runway 2/20 extension to CDOA for review. In August of 2000, CDOA approved the site plan B while acknowledging the potential runway extension.

## **2000 THE NEW GENERAL PLAN & MEASURE "U"**

In 2000, the City decided to revise their General Plan (GP) to incorporate future growth in the Watsonville community. The proposed GP contemplated the development of 5,700 additional units of housing, with 40% of these units constructed in the Buena Vista area. While drafting the 2030 GP, Measure "U" was proposed on the 2002 ballot to restrict the City from developing prime farmland and redrawing the "Urban Limit Line". Measure "U" promised to "protect the airport, protect prime farmland, prevent urban sprawl" but it was a lie, a ploy to allow the city to expand its boundaries into the Buena Vista area, resulting in high density development just north and west of the airport which could pressure the City to close runway 08/26 and potentially shutdown the entire airfield. Measure "U" passed overwhelmingly in 2002 and guided the City's plans for the Buena Vista Future Growth Area in the 2030 GP. The provisions of Measure "U" involving the Airport Influence Area expires in 2022.

In July of 2021 the Committee for Planned Growth and Farmland Protection filed a petition to extend Measure "U" through 2040. At the July 6, 2021 City Council meeting, a report was requested to describe the impact Measure U's extension would have on the City.

## **2002 PVHS OPENS**

Pajaro Valley High School opens but no runway lengthening or ILS addition occurs. Airport and City applied for funding to extend the runway but CDOA claimed no funding was available in their budget.

### **2003 THE CITY PRESENTS THE 2030 GENERAL PLAN TO THE COMMUNITY**

The City presented the 2030 General Plan Update information at “stakeholder” meetings in the City, at the Airport and at Calabasas School. The plan authorized 2,250 new dwelling units in the Buena Vista area and annexed three adjacent areas (Buena Vista I, II, & III) to the city boundaries to comply with the mandatory housing goals. The proposed GP included the closure of Runway 08/26 (see 2003 GP Draft, page 3-21). While the 2030 GP acknowledged that there were Safety issues regarding compatibility between airport operations and the surrounding environment including noise impacts, ground safety, and flight hazards, they asserted these issues would be addressed by the “Airport Safety Committee” (today the Watsonville Airport Advisory Committee, WAAC) and updates to the 2001 Watsonville Airport Master Plan.

**"Action Pajaro Valley"** was founded by a group of civic minded citizens concerned about affordable housing in the Pajaro Valley. The Watsonville City Manager, Carlos Palacios, was the president of this organization. The organization wanted low-income housing development in the Buena Vista area and was willing to sacrifice KWVI and/or Runway 08/26 to achieve their goals.

### **2005 CITY DESIGNATES RUNWAY 08 AS “LOW ACTIVITY RUNWAY”**

In April 2005, the city adopted a resolution (Resolution No. 74-05) for the City to modify the 2003 Watsonville Airport Master Plan to designate the Runway 08 end of Runway 08/26 as a “Low Activity Runway” in order to amend the Airport Safety Compatibility Zones by eliminating Zone 3 and eliminating the avoidance of schools, day care centers, nursing homes and hospitals in Zone 6. Basically, the resolution deviated from the criteria set forth in the California Airport Land Use Planning Handbook (hereafter called the Handbook)

### **2005 WPA GATHERS DIVERSION OF FUND DOCUMENTS**

The WPA starts gathering documents regarding the diversion of income from the Airport to the City.

### **2006 CITY ADOPTS 2030 GENERAL PLAN**

While the City was developing the 2030 General Plan in April 2006, the acting chief of the California Department of Transportation, Division of Aeronautics (CDOA) wrote to the City in response to the proposed 2030 GP, warning the City that Resolution No. 74-05 (modifying the Airport Master Plan) violated the State’s interpretation of the Handbook (January 2002) and the City was required to incorporate height, use, noise, safety, and density criteria, that are compatible with airport operations, as prescribed by the Handbook into their GP. CDOA advised the City of the State’s disapproval of the new GP and their intention to seek a judicial remedy.

## **CDOA ROLE IN AIRPORTS/PUBLIC UTILITIES CODES**

The aviation functions of the California Department of Transportation, Division of Aeronautics (CDOA) are designated in the Public Utilities Code and are cited as the California State Aeronautics Act (SAA) (PUC§ 21001.) The SAA authorizes the CDOA to assist in the development of an air transportation system that is consistent with the needs and desires of the public and in which airports are compatible in location with, and provide services, meeting statewide and regional goals and objectives. The CDOA publishes the California Airport Land Use Planning Handbook (referred to as the Handbook) to provide guidance for conducting airport land use compatibility planning.

## **2006 CITY ADOPTS 2030 GENERAL PLAN**

In May 2006, the City certified the Final Environmental Impact Report (FEIR) and found there were three significant unavoidable environmental impacts that could not be mitigated:

- (1) increased population and housing
- (2) the loss of prime farmland
- (3) the potential to impact groundwater supply by potential increased water usage

The City concluded that the benefits of the 2030 GP outweighed these impacts and adopted a “Statement of Overriding Consideration” (SOC). The SOC identified reasons the 2030 GP was necessary, including:

- (1) To add new goals and policies based “on voter approved Measure U”.
- (2) To confirm growth projections with current population projections.
- (3) To promote more efficient land development within the voter approved ULL’s (Urban Limit Lines).
- (4) To implement the long-term planning strategy for the Pajaro Valley initiated by Action Pajaro Valley (APV) and implemented by voter approved Measure U.

**On May 23, 2006, the City adopted the “Watsonville Vista 2030 General Plan” (2030 GP), despite the warnings from CDOA. The WPA retained Wittwer/Parkin Law Firm as their attorneys.**

With the adoption of the 2030 GP, the WPA slowed down their work on the Diversion of Funds to devote their energies and fund raising to the General Plan issue. WPA filed a lawsuit to halt the implementation of the 2030 GP, CV 154571, joined by the Friends of Buena Vista, the Sierra Club, and the CDOA. Before the CDOA could join the lawsuit, a state technicality required the WPA to take legal action against the CDOA, which then allowed the CDOA to file suit against the City. The lawsuit addressed the issues of the potential closure of runway 08/26 and building 2,250 houses in the Buena Vista area.

## **2007 WPA LAWSUIT GOES TO COURT**

On Nov 16, 2007, the WPA found itself in the Superior Court of California, County of Santa Cruz.

## **2008 MARCH COURT RULES IN FAVOR OF WPA**

On Mar 21, 2008, the Superior Court ruled in favor of the WPA, issuing a Statement of Decision ordering the City to rescind the 2030 GP, the 2030 GP FEIR, SOC and the adoption of Resolution No. 74-05. The Court found the City had violated the State Aeronautics Act (SAA) by failing to adopt the safety and density criteria established in the Airport Land Use Planning Handbook and violating the California Environmental Quality Act (CEQA) because the FEIR failed to adequately address the airport safety concerns, traffic impacts and a reasonable range of alternatives. The City paid the WPA legal fees.

## **2008 JUNE CITY APPEALS SUPERIOR COURT DECISION**

In June of 2008, the City appealed the CV154571 decision based on the following arguments:

- (1) The trial court erred in concluding that the 2030 GP violated the SAA and erred in finding that the City violated CEQA by certifying the FEIR, which failed to adequately analyze impacts on aviation and failed to analyze a reasonable range of alternatives.
- (2) The Handbook criteria are discretionary.
- (3) In the 2030 GP, the City designated Runway 08 as a “Low-Activity Runway” as defined by the Handbook, allowing them to alter the KWVI safety zones.
- (4) The trial court could preclude invalidating the 2030 GP if they ordered Santa Cruz County to establish an Airport Land Use Commission (ALUC).

In 2006, the City requested to remain exempt from proposed legislation mandating the establishment of an ALUC in Santa Cruz County. The City objected to the formation of an ALUC for three principal reasons:

- (1) City & County have acted responsibly to protect the airport and the public.
- (2) Formation of ALUC would add unnecessary expense with little to no benefit to airport.
- (3) Result in undesirable shift in responsibilities to County and community members who have no ties to the Pajaro Valley or the City of Watsonville.

## **2008 STATE HIRES MEAD HUNT TO CREATE AN ALUCP FOR WATSONVILLE**

After the 2008 CV154571 lawsuit decision, the State of California hired Mead Hunt to create a Watsonville Municipal Airport Land Use Compatibility Plan (ALUCP) for the City. The City declined to accept the Mead Hunt ALUCP because they had filed an appeal to the 2008 GP CV154571 Lawsuit Decision. (Maranda Thompson was the Mead Hunt Representative who corresponded with the City and WPA.)

## **2008 AUGUST CITY APPROVES PERMIT FOR LAWTON/JENNINGS DRIVE**

On August 5, 2008, the City approved a Special Use Permit for a 43,389 square foot flexible use, light industrial building with 113 parking spaces on a 6.59 acre site adjacent to KWVI on Jennings Drive to owner, Steve Lawton (Lawton-King LLC) (APN 015-211-09). The proposed structure would be located 475' from Runway 08, and be used for cabinet manufacturing and other light industrial use, with the possibility of later being converted to industrial condominiums. The entirety of the structure would lie within KWVI Safety Zones 2 & 3. On April 14, 2008, CDOA wrote a letter to the City, explicitly telling them the project was "a direct violation of the court decision." (CV154571). The state filed an injunction to prevent the City from issuing permits based on the court decision. The City disregarded the CDOA notification because they had filed an appeal to the 2008 GP CV154571 decision. On August 5, 2008 the City issued Lawton a Special Use Permit (PP2008-39) to build, despite the fact that no permits should have been allowed under the court order.

On September 8, 2008, WPA filed a lawsuit, CV161350, against the City of Watsonville, Steve Lawton, and Lawton-King LLC.

[NOTE: This lawsuit document contains a great deal of information about the Jennings Business Park which may be valuable in the future.]

The City rescinded the permit and alerted the state and court. The City paid the court legal and WPA attorney fees for the lawsuit. The case closed on July 22, 2009.

## **HISTORY ON THE BERGSTROM/LAWTON/JENNINGS CONNECTIONS**

Jennings was the original owner of all the property to the northwest of KWVI. Bergstrom purchased a portion of the property in this area from Jennings. Bergstrom later subdivided the land and offered long term leases with the agreement that he would retain ownership of the land and the lessees could build on the property. Development was allowed within the "Jennings Business Park". Before the 2008 Superior Court decision, Bergstrom arranged an agreement with the City to provide building permits on his land.

## **LAWTON**

In 2007, Bergstrom sold the 6.59 acre parcel of land to Lawton-King LLC. Lawton purchased the property with the intent of building while the GP lawsuit was in court and he was unaware of the pending problems with development. Bergstrom had paved the way for the City to issue a permit on his properties. The 6.59 acre parcel remains as undeveloped property and it appears that Lawton-King LLC still owns the property.

## **NORDIC NATURALS**

The Nordic Naturals (NN) permit was approved in 2008 before the 2008 court decision. Because the Nordic Naturals structure lies within Safety Zone 6, no matter what the court had decided, the structure would have been allowed to be developed. The WPA had no legal standing to fight the project. The NN headquarters building was completed in February of 2011. Lawton and Nordic Naturals have no connection.

## **2010 APPELLATE COURT DENIED THE CITY'S APPEAL**

On March 15, 2010, the Appellate Court upheld the Superior Court ruling of 2008 & certified the "Published Decision" as requested by CDOA, who applied the decision to all airports in the state of CA. The appellate decision established the term "No Procedure" county to indicate a county which did not have an ALUC nor an adopted alternative procedure. Every "No Procedure" county and each affected city have "No Discretion" when applying the criteria of the Handbook and must incorporate the most stringent rules of the Handbook. This means when a Safety Zone Criteria "Limits" or "Awards" various developments, a "No Discretion" county must "Prohibit" those developments.

## **THE FOLLOWING DESCRIBES THE CITY'S APPEAL TO THE SUPERIOR COURT WITH THEIR ARGUMENTS AND THE COURT'S CORRESPONDING DECISION/CONSEQUENCE FOR THE CITY:**

### **(1) The City claimed they did not violate SAA or CEQA.**

CEQA regulations apply to the adoption of a general plan; therefore, the City must comply with CEQA before GP adoption. A FEIR was required for the 2030 GP because there was substantial evidence that the 2030 GP might have a significant effect on the environment. The FEIR for the 2030 GP utilized data from the EIR for the 2003 Watsonville Airport Master Plan (WAMP) which relied on the City's 2005 GP. The 2003 WAMP had been amended by the City's 2005 resolution and contained virtually no discussion of safety concerns for land use adjacent to the Airport. Neither the 2003 WAMP nor its EIR contained a discussion regarding airport-related impacts of the 2030 GP, nor did they address the Handbook's safety criteria or mention that the development of the Buena Vista area conflicted with the Handbook.

A city's General Plan and an Airport Master Plan have very different objectives. A General Plan discusses the city's goals, policies, and implementation actions regarding future development and

forms the foundation of local land use planning. A General Plan covers topics such as land use, transportation, housing, open space, natural resources, and public services and uses a time horizon of about 20 years. An Airport Master Plan addresses the long-term development strategy on an airport to ensure the development maintains an acceptable level of risk for the airport and its surroundings. An Airport Master Plan belongs to the City but must follow FAA guidance and regulations, also using a 20-year horizon but requires regular updates.

The Court determined the City violated the SAA by failing to adopt the safety and density criteria established in the Airport Land Use Planning Handbook and not incorporating an ALUCP into the 2030 GP.

**(2) The City claimed they had discretion when applying the Handbook criteria.**

The Court presumed the Legislature intended different meanings to describe how the Handbook's criteria should be utilized in the different types of counties. The Court determined that the wording of the legislature granted discretion in "ALUC" counties, limited discretion in "Alternative-Procedure" counties, and no discretion in "No-Procedure" counties. "ALUC" Counties should be "influenced" by the Handbook's criteria, a fairly mild mandate. "Alternate-Procedure" Counties should be "dependent" on the Handbook's criteria, a stronger mandate. "No-Procedure" Counties must "adopt the elements" that "incorporate" the "criteria" in the Handbook, a very strong mandate. (H033097 Appellate Court Decision)

**(3) The City designated Runway 08 as a "Low-Activity" runway.** The City's designation of Runway 08 as a "Low-Activity" runway was not supported by the City's factual findings. To qualify as a "Low-Activity" runway under the 2002 Handbook, a runway must be less than 4,000 feet long and have fewer than 2,000 takeoffs and landings on a runway end. The 2003 WAMP found that the Runway 08 end of Runway 08-26 accounted for 5% and Runway 26 end accounted for 7% of airport usage. The WAMP found that the 2000 usage at KWVI was 122,890 aircraft operations, projected to increase to 130,190 by 2010 and 144,503 by 2020. The 2003 WAMP calculations equated to greater than 6,000 operations on Runway 08 in 2000, far outside the definition of a low-activity runway in the 2002-Handbook.

In 2005, the City amended the 2003 WAMP to change the usage percentages to 2% & 10% for the Runway 08 end and Runway 26 end, respectively, with no reasoning for these changes and altered average demand in 2004-5 to be approximately 100,000.

**(4) The City claimed the Court could resolve the issue by requiring the county to install an ALUC.** The Court could not order the county to form an ALUC because the Court was not litigating with the county.

After the Court Decision, the City paid the WPA legal fees. The City was ordered to revert to the 2005 General Plan. The 2010 Appellate Court decision required more stringent restrictions on the City

compared to the requirements if the City had just complied with the 2008 judgement, in designating Santa Cruz County as a “No Procedure” county in 2010..

## **BACKGROUND INFORMATION ON “ALUC” COUNTIES, “ALTERNATE-PROCEDURE” & “NO PROCEDURE” COUNTIES**

In 1967 California State Legislature enacted a law requiring all counties which incorporated an airport that “operated for the benefit of the general public” be required to create an Airport Land Use Commission (ALUC) to protect the “public, safety, and welfare”. The law required each county’s ALUC to prepare an Airport Land Use Compatibility Plan (ALUCP) with a twenty-year planning horizon, broadly focusing on noise and safety impacts. The ALUCP looked at the area two-miles around an airport, called the “Airport Influence Area”. Two provisions allowed counties to be exempt from creating an ALUC:

### **1<sup>st</sup> Exemption: “ALTERNATE-PROCEDURE” COUNTIES**

If no ALUC has been established, but a county’s board of supervisors adopts a resolution finding “that there are no noise, public safety or land use issues affecting any airport”, that county can establish an alternative procedure for airport planning which must rely on the height, use, noise, safety and density criteria established in the Handbook. These counties are referred to as “Alternate-Procedure” counties.

### **2<sup>nd</sup> Exemption: “NO PROCEDURE” COUNTIES**

The second exemption is applied to Santa Cruz County and refers to “No-Procedure” Counties. An ALUC need not be formed in a county if all the following conditions are met:

- (1) The county has only one public use airport that is owned by a city.
- (2) The county and affected city incorporate the height, use, noise, safety, and density criteria that are compatible with airport operations as established by the Handbook and any applicable federal aviation regulations as part of the general and specific plans for the county and affected city.
- (3) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics (CDOA).

These counties are referred to as “No Procedure” counties, a term not in the Handbook vocabulary until 2010 with the mandate of the H033097 Appellate Court Decision. Santa Cruz county is a “No Procedure” county.

The 2011 CDOA Handbook lists the following statutory exception specifically for Santa Cruz County:

### **Santa Cruz County**

Santa Cruz County uses exception (Section 21670.1(e)) as they are a County which “has only one public use airport that is owned by a (single) city.” The City of Watsonville is identified as owning the airport. The City of Watsonville is required to include all applicable federal regulations and the *Handbook’s* compatibility criteria noted in PUC Section 21670.1(d)(2) as part of its general and specific plans. The original statutory exception did not specify the preparation of an ALUCP, however, the City of Watsonville must submit its general and specific plans to the Division of Aeronautics (21670.1(e)(1)(B)(ii)) for review.

### **2012 CITY CONDUCTS PUBLIC REVIEWS OF REVISED 2030 GP**

The City circulated a public review of a “Re-Circulated Draft Environmental Impact Review” and conducted a public hearing on the revised 2030 GP.

### **2013 CITY CLAIMS AIRPORT OWES THE CITY \$4.7 MILLION**

In May 2013, the City announced that the Airport Enterprise Fund owed the City General Fund \$4.7 million. The Airport had borrowed approximately \$400,000.00 from the City to pay the costs to repair the fuel island, renovate the terminal restrooms, restaurant, counter and Unicom facility. That left a supposed debt of \$4.3 million in dispute. On October 19, 2013, the Watsonville Register-Pajaronian ran an article claiming the City owed \$4.6 million to the State of California. The City was facing bankruptcy and did not have the funds to repay any loans or debts. Conveniently, the sudden emergence of the \$4.7 million debt of the Airport Enterprise Fund to the City General Fund would alleviate the City’s financial problems.

### **2013 CITY ADOPTS A REVISED 2030 GP / WPA FILES LAWSUIT**

On January 22, 2013, the City Council certified a Final EIR (FEIR) with the circulated revisions and adopted another 2030 General Plan with the same violations of the State laws and numerous unauthorized latitudes.. The City produced an Airport Land Use chapter to go into their 2030 General Plan but the document contained many of the previous errors and was rejected by the WPA legal team. The latest version of the 2030 GP did not comply with the court decisions.

On March 8, 2013, WPA, Friends of Buena Vista and the Sierra Club filed CV176416 lawsuit against the City.

### **2014 COURT RULES IN FAVOR OF WPA (CV176416 GP CASE)**

The Superior Court of CA ruled that the City had violated the California Environmental Quality Act (CEQA) and State Aeronautics Act (SAA) again. The Court further concluded that the Watsonville Airport Master Plan (WAMP) is a document for land use planning on the airport, not the proper document for airport land use compatibility planning. The Handbook shall be incorporated as part of the City's general plan, and not in other documents, such as the WAMP.

Finally, the Court ordered the City to rescind its approval of the Watsonville Vista 2030 General Plan., the certification of the revised FEIR, the adoption of the Statement of Overriding Considerations (SOC) and all related approvals. The City was ordered to pay the WPA legal fees.

## **2014 DIVERSION OF FUNDS**

On June 14, 2014, the Watsonville City Council passed a resolution authorizing the City to "loan" the Airport \$5M for 15 years, at 3% interest, for past expenses. At that meeting, WPA representatives claimed the Airport did not owe the City that much, presenting inter-city memos, a spreadsheet describing diversion of on-airport revenues to the General Fund, and pertinent laws and regulations. Disregarding the WPA documents, the City Council passed the resolution.

On September 8, 2014 the WPA filed a lawsuit, CV179942, for the "Unlawful Diversion of Airport Revenues". The WPA argued that the City accounted for all transfers of funds from the City General Fund to the Airport Enterprise Fund but no accounting occurred for past transfers from the Airport Enterprise Fund to the City General Fund. Looking at past city financial information, the WPA argued that the City owed the Airport Enterprise Fund \$1.2M for lease revenues not credited to the Airport. A 1996 Congressional law mandated a six-year limitation on all claims on contributions or expenditures. Financial documents disclosed that the City collected approximately \$450,000 per year from the Airport during the previous six years.

WPA acknowledged that the airport had borrowed City funds to rebuild the fuel island, rebuild the restaurant, and do other KWVI improvements.

## **2014 PVHS AUDITORIUM AND PLAYING FIELDS**

PVUSD requested permission to build a football stadium and auditorium adjacent to the PVHS which were prohibited by the original agreement permitting the high school to be built in an airport safety zone. The WPA did not file a lawsuit due to the strong support of the Watsonville community for the school district requests. The WPA and PVUSD approached CDOA and all parties agreed to build the football stadium/auditorium on the originally approved site, as far away from the airport as possible. In return, PVUSD agreed to never again attempt to build anything closer to the airport than the existing buildings, to support removing existing safety hazards near the airport, and to pressure the City to settle the Diversion of Funds issue [CV179942]. PVSD paid the WPA legal fees & established a \$100,000 safety fund in an escrow account to be used "to remove vertical obstructions (trees, poles and other similar objects) or to install approach lighting, or any other purpose which

would enhance the lowering the current minimums toward the goal of 250' AGL for approach to the Watsonville Airport as contemplated in the Settlement Agreement." As per the agreement, the WPA must authorize the use of the funds by KWVI (City). Also, the Watsonville Airport Advisory Committee (WAAC) and the CDOA must be given 20 days advanced written notice of the City's request for distribution.

## **2015 DIVERSION OF FUNDS**

On August 26, 2015, Dan Chauvet, John Randolph and Ken Adelman, all representing the WPA, participated in a court mandated mediation brief regarding the Diversion of Funds with the City. The City didn't want to mediate, they only wanted to get the \$4.7M from the Airport. The WPA acknowledged that the Airport may have spent \$3M and offered to settle for that amount but the City declined the offer.

## **2016 CHANGES IN THE WPA LEADERSHIP**

WPA leadership changed drastically with the 2016 death of Dan Chauvet, secretary of legal affairs, and Mike & Charlene McIntyre, president & secretary, respectively, moving out of the area. John Randolph, assistant secretary of legal affairs continued Dan's work and John Cowan, vice president became the president. Sarah Chauvet remained as the treasurer and continued working on behalf of Dan Chauvet.

## **2017 WPA & PVUSD SETTLEMENT AGREEMENT ON AUDITORIUM/FIELDS**

On September 13, 2017, the WPA and PVUSD came to an agreement regarding the auditorium and playing fields.

## **2018 WPA & CITY SETTLE ON DIVERSION OF FUNDS**

On July 10, 2018 the City and the WPA came to a final settlement on the Diversion of Funds. In the end, the City did not receive the \$4.7 million, the \$1.8 million airport improvement expenses were absorbed, and the City paid the WPA legal fees. The Airport did not owe the City any money and if funds were borrowed by the Airport in the future, they would be recorded as a loan with a repayment schedule. At the conclusion of the negotiations, no monies were exchanged between the Airport and the City of Watsonville. The WPA agreed not to file any complaints to recover any Airport revenue collected by the City. The City agreed that the Airport nor the Airport Enterprise Fund were indebted to the City. The City paid the WPA legal fees.

In 2018, the Airport Enterprise Fund ended with money in the account for the first time.

## **2018 CITY ASKS WPA TO WORK WITH THEM TO ADD HANDBOOK TO 2005 GP**

The 2005 GP was adopted in 1994, is very out of date and does not comply with current California Airport Land Use Compatibility Plan regulations. Court orders require that the City continue utilizing the 2005 GP and incorporate the Handbook into the 2005 GP. The City claims they do not have the funding to create a new General Plan. The WPA has reviewed the 2005 General Plan for references to the Airport but little mention exists.

**NOTE:** The most current CDOA Handbook, which governs all airport land use planning, was published in 2011. After the 2010 Appellate Decision, the CDOA adopted the term “**No Procedures**” county/city which has “**No Discretion**”, into the **2011 Handbook**.

## **THE PROCESS TO INCORPORATE THE HANDBOOK AND GET FINAL APPROVAL**

In November of 2018, the City asked if the WPA would work with the City to prepare the KWVI Compatibility Planning to incorporate into the 2005 General Plan, which will be added as Chapter 13. Sarah Chauvet agreed to work with the head of City Development Director, Suzi Merriam, to incorporate the work completed by Dan Chauvet, John Randolph and the WPA’s lawyers. Once Chapter 13 incorporates the Handbook, the City will send the document to Mead Hunt who will be responsible to write the actual KWVI Compatibility Planning. Mead Hunt will forward the completed KWVI Compatibility Planning to the City to incorporate into the General Plan. Upon adoption, the document will be sent to the CDOA for their approval. With CDOA approval, the document will go to the WPA attorneys and to the Courts, who are the final approving authority because they retain jurisdiction over the city of Watsonville General Plan. With Courts approval, the KWVI Compatibility Planning will become Chapter 13 of the Watsonville 2005 General Plan. Chapter 13/KWVI Compatibility Planning will override any other reference in the General Plan regarding the Airport because the KWVI Compatibility Planning utilizes the current rules and regulations of the 2012 Handbook. Once the KWVI Compatibility Planning is incorporated into the 2005 General Plan, the City will no longer be under the jurisdiction of the courts but they must follow the General Plan and the KWVI Compatibility Plan. The KWVI Compatibility Plan will incorporate the California Airport Land Use Planning Handbook (2011) and the three WPA vs. City General Plan decisions. Once completed, the lawsuit decisions concerning the General Plan will have been complied with. [This process is our most accurate educated guess of the approval process of incorporating the Handbook into the General Plan.]

The “**July 14, 2015 General Plan Details and Specifics**” document was created by Dan Chauvet and John Randolph and presented to the City before Mead Hunt was hired by the City and WPA in 2015. The document specifies the compatibility planning to be incorporated into the City General Plan, following the California Airport Land Use Planning Handbook (2011). The City did not respond to this document. The document is a culmination of all previous attempts to get legitimate Airport Land Use Planning into the GP and should be used for future reference.

**THERE HAVE BEEN 4 WPA LAWSUITS ASSOCIATED WITH THE CITY GENERAL PLAN (GP):**

**(1) Case No. CV154571      WPA vs. City of Watsonville**

- March 21, 2008 Statement of Decision

**(2) Case No. CV161350      Lawton/Jennings Business Park**

- City Rescinded Permit/Case was resolved on July 22, 2009

**(3) Case No. H033097      WPA vs. City of Watsonville**

- March 15, 2010 Appellate Court Decision

**(4) Case No. CV176416      WPA vs. City of Watsonville**

- September 12, 2014 Statement of Decision

**ALL FOUR LAWSUITS CONFIRMED THE CITY'S VIOLATIONS OF THE SAA AND CEQA BY ADOPTING THE 2030 GENERAL PLAN.**

Until the KWVI Compatibility Planning is incorporated into the 2005 General Plan as Chapter 13, no permits or any other land use approvals shall be allowed in the Airport Influence Area in compliance with PUC§ 21674.7: "It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to the granting of permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of legislation that local agencies shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook published by the division..." (PUC§ 21674.7)

On numerous occasions, the WPA lawyers have reminded the City and County of their prohibition on approving permits for development within the Airport Influence Area until a KWVI Land Use Compatibility Plan is incorporated into the City and County General Plans as mandated by the Court. In a May 4, 2012 letter to the County of Santa Cruz Planning Department, WPA's attorney, Jonathan Wittwer, made the following statement: "Further, the County is prohibited from approving any permit or issuing virtually any other approval or decision that affects land and development in the airport land use planning area while the General Plan is inadequate for failing to incorporate CDOA Handbook criteria." In a May 29, 2018 letter to the Local Agency Formation Commission (LAFCO) of Santa Cruz

County, Jonathan Wittwer made the following statement: "Case law makes it clear that because the General Plan is inadequate, no permits or any other land use approvals relevant to this inadequacy may be authorized by the City in the Airport Influence Area at this time." In the most recent letter dated June 18, 2021, William Parkin, WPA attorney, reminds the City that "without a valid general plan, the City must take the position that it will not issue permits or otherwise make new land use decisions."

At the July 28, 2021 WAAC meeting, Justin Meek, a Principal Planner with the Watsonville Community Development Department, admitted that the City has been approving building permits since 2016 and they plan to continue approving permits without a valid General Plan.

## **2021 AUGUST**

As we complete this history project, the WPA must continue to actively monitor and encourage the City to comply with the court mandates to correct the 2005 General Plan and stop approving land use development applications. Currently the City is attempting to swap 3 acres of prime Airport land with Nordic Naturals, approve a self-storage facility application in safety zones 2, 5 and 6 at 70 Neilson Drive, and consider a townhouse complex at 547 Airport Boulevard, while their General Plan lacks the Airport Land Use Compatibility Planning mandated by the Superior and Appellate Courts. We hope this project documenting the dedication and determination of WPA members over the years will assist those involved today to continue the challenges with knowledge.

## **GLOSSARY OF ABBREVIATIONS & TERMS**

**AIA - AIRPORT INFLUENCE AREA** – the two miles surrounding an airport boundary; consists of the land designated as the Safety Zones 1 through 6 surrounding the runways.

**ALUCP - Airport Land Use Compatibility Plan** which applies to the Airport Influence Area

**ALUC – Airport Land Use Commission** (reference SB-1141)

**CDOA or CALTRANS – California Department of Transportation, Division of Aeronautics**

**CEQA – California Environmental Quality Act**

**CEQA guidelines describe a 3-step process for implementation:**

- 1. Is the project subject to CEQA or exempted? [An ALUCP is a project.]**
- 2. Prepare an Initial Study to determine the environmental effects of the project:**
  - a. If no substantial evidence exists that the project will have significant adverse effects on the environment, a Negative Declaration shall be prepared.**
  - b. If potential significant effects exist but revisions can avoid or reduce effects, a Mitigated Negative Declaration can be prepared.**
  - c. If significant effects on the environment exist, an Environmental Impact Report (EIR) shall be prepared.**
- 3. Prepare the EIR**

**EIR - Environmental Impact Report** – a detailed informational document that describes and analyzes the significant effects a project may have on the environment, and discusses the mitigation measures or alternatives that would avoid or substantially reduce those effects.

**ENTERPRISE FUND** - each city department has an enterprise fund

**HANDBOOK – California Airport Land Use Planning Handbook** (published by the CDOA)

**LAFCO** – Local Agency Formation Commission

**NEGATIVE DECLARATION** – a written statement that briefly describes the reasons that a project, not exempt from CEQA, will not have a significant effect on the environment.

**PUC – Public Utilities Code** in which the aviation functions of Caltrans are designated

**SAA – State Aeronautics Act** – governs the creation and operation of airports in California; provides for the establishment of county airport land use commissions; and authorizes the CDOA to assist in the development of an air transportation system

**[The SAA mandates that the City establish Airport Safety Zones around KWVI and adopt “Nondiscretionary” land use standards within these Safety Zones consistent with the CDOA Airport Land Use Planning Handbook]**