

The Power and Privilege of Transparency

Access to information is the cornerstone to good governance, meaningful participation, and increasing transparency, and is recognized as a fundamental human right.

Democracy depends on a knowledgeable citizenry whose access to a range of information enables them to participate more fully in public life, help determine priorities for public spending, receive equal access to justice, and hold their public officials accountable. Inadequate access to public information allows corruption to flourish, and back-room deals to determine spending in the interests of the few rather than many.^[1]

–The Carter Center

Summary

The 2010-2011 Santa Cruz County Grand Jury Report found that,

...the City of Watsonville had 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.^[2]

After reviewing that report, the 2011-2012 Grand Jury decided to investigate issues that are “illustrative of a laxity of process and controls”^[2] in the Watsonville City Government, both those identified by the prior Grand Jury and new relevant concerns:

- Issuance of a \$225,000 check in April 2008 for a fire truck, more than three years prior to its delivery. Nearly a year after its delivery, its operational status remains unclear.
- Continuing concerns about the process by which Community Development Block Grant (CDBG) funds were used to purchase the fire truck
- Cash handling procedures for the Strawberry Festival
- Citywide cash handling policy and procedures
- Difficulties obtaining complete, accurate, and timely information, which suggests a lack of transparency

The citizens of Watsonville deserve a clear understanding of where, why, and how their tax dollars are being spent.

Background

After reviewing the City of Watsonville's responses^[3] to the 2010-2011 Santa Cruz County Grand Jury Report, "City of Watsonville: Fastest Growing City Looking for Leadership and a Fire Truck,"^[2] the 2011-2012 Grand Jury believes issues remain related to transparency, communication, controls, policies, and procedures.

While the prior Grand Jury's report offered constructive recommendations, the City did not view them as such. Many of their responses were notably lengthy, bureaucratic, and failed to substantively address the material in the report.^[3] The 2011-2012 Grand Jury feels several of these issues warrant further examination. The confusion surrounding financial procedures and transactions, as communicated by many staff and Council interviewees, was of primary concern. Specific examples are Strawberry Festival cash handling, the fire truck purchase, and CDBG funding.

Scope

Incomplete, inaccurate and inaccessible information, and lack of transparency, continue to be issues for the City of Watsonville. The Grand Jury focused on investigating policies and procedures in the City related to purchasing, cash handling, and internal controls. We reviewed city, county, state and federal documents, and conducted interviews with city staff, senior staff, the City Manager and City Council members; county, state, and federal officials; the District Attorney; and members of other Grand Juries.

Investigation

Strawberry Festival and Cash Handling

The City of Watsonville assumed the operation of the annual Strawberry Festival in 2009, after a disagreement with the former festival operator. The following events occurred after the conclusion of the third festival operated by the City in 2011:

- Members of the 2011-2012 Grand Jury attended the August 23, 2011, City Council meeting, at which a council member asked for an explanation of three separate expenditures coded "Petty Cash," totaling \$22,950. Administrative Services Director Pimentel said "...he would follow up with the Council at a later date regarding payments made to Petty cash..."^[4] ^[5]
- At the November 8, 2011, City Council meeting, Department of Parks and Community Services staff Sr. Administrative Analyst Mattos and Parks & Community Services Director Espinoza presented the staff report on the 2011 Strawberry Festival.^[6] ^[7] Council member Bilicich asked for an explanation of the large petty cash disbursement, and was told,

In regards to cash, there are certain contractors that we do pay in cash and that is (sic) includes some of the performers,

the bands...and so we follow city protocols in obtaining the petty cash and accounting for it...and actually making payment once the performance is completed.^[6]

- At the December 13, 2011, City Council meeting, it was noted,

Administrative Services Director Pimentel at the request of Member Martinez explained the procedure for requesting petty cash, including the difference between incidental petty cash transactions and formal vendor payments using cash. Member Martinez asked additional questions regarding why entertainment bands were paid in petty cash to perform at the Strawberry Festival. Administrative Services Director Pimentel and City Manager Palacios clarified that the money used to pay the bands was not petty cash but rather a vendor payment in accordance with established purchasing procedures. Mayor Montesino asked Administrative Services Director Pimentel to provide a written report to the Council with answers to Member Martinez's questions.^[8]

- In a memorandum dated January 5, 2012, "REPORT ON STRAWBERRY FESTIVAL SPECIFIC PAYMENTS,"^{[9] [10]} Administrative Services Director Marc Pimentel provided a formal summary describing, in greater detail,

...the processes involving a Strawberry Festival related check #182454 for \$18,650 (dated 7/27/11) that was used for stage acts/band vendor payments and to set up starting cash boxes for the City's parking/sales/soda activities.

The memorandum also explains,

When such infrequent cash transactions as these are approved, there are multiple layers of controls in place to protect the City's assets...reviewed and confirmed as part of the annual, independent, financial audit that includes a highly scrutinized review of the City's "financial internal controls."

It should be noted that during this almost five-month period, the petty cash issue, and the length of time it took to resolve it, was a source of considerable media discussion.

The events described above raised additional questions, and led us to investigate the City's overall cash-handling policies and procedures.

The Grand Jury conducted fact-checking interviews with Watsonville staff and City Council members, and reviewed numerous city documents. We attended the majority of City Council meetings during the 2011-2012 fiscal year, and reviewed audio and video

recordings of City Council meetings, minutes, and other City documents. We believe the following points from our investigation, taken together, demonstrate a laxity of process and controls:

A. August 4, 2011. Check #182454 for \$18,650,^[11] one of the checks made out to petty cash, was cashed. The proceeds were used to pay three bands in cash (\$10,450 total) on the following Saturday and Sunday. The balance of \$8,200 in cash was used for vendor cash drawers.^[9] [\[10\]](#)

B. August 6-7, 2011. The 2011 Strawberry Festival was held in Watsonville. The City reported 75,000 attendees,^[7] with festival revenues of \$117,158.47, and expenses of \$106,685.57, for a profit of \$10,472.90.^[8]

C. The Grand Jury initially asked Senior Staff if they prepared any Festival planning documents, such as meeting minutes, budgets, financial statements, policies, or procedures, including those involving cash-handling. At that time, staff advised there were budgets, but no other documents, and that all related financial practices were in accordance with City Finance Department procedures. In response to our request to confirm this information, other staff later revealed that the City did have records from prior festivals, and made them available for our inspection.

March 8, 2012. During a site visit to Watsonville, city staff produced numerous boxes and binders of documents, including three years (2009-2011) of contracts, vendor records, revenue receipts from booths, payments, and 1099 forms. However, they did not produce any of the planning documents or policies, nor the cash handling protocol that was mentioned at the November 8, 2011, City Council meeting.

March 24, 2012. Following the review of the Festival documents, the Grand Jury interviewed the Parks and Community Services Department staff member charged with planning and operating the Festival, and asked if there were any additional documents pertaining to the event. This staff member said there was one document being prepared, and later provided an undated document, "Cash handling - Annual Watsonville Strawberry Festival (DRAFT – subject to change)"^[12] to the Grand Jury on April 4, 2012. The document is a two-page draft that fails to address adequate safeguards for cash handling.

D. We wondered if there were any citywide cash handling policies that could be adapted to the Strawberry Festival.

March 21, 2012. We requested *any and all* city documents related to *citywide* cash-handling policies and procedures.

April 2, 2012. We were provided a one-page memorandum to Finance staff, dated March 14, 2003, "Summary of Major Cash and Check Controls

(Revised 8/29/03),”^[13] which contained only one paragraph of cash control guidelines.

E. Wondering if our inquiry was misunderstood, we engaged in a lengthy exchange of e-mails with city officials, culminating with the following:

On April 9, 2012, we asked additional questions regarding cash handling, and received a response on April 23, 2012. Our questions and the responses included the following:

1. Can you confirm that the Finance Department memorandum that you previously provided is the only other policy or procedures document used by the City, regarding cash handling/controls?

“Yes. All other written policies are included in the City's Administrative Rules.” (Note: We reviewed the City Administrative Rules and Regulations. “Chapter VI. Finance” consists of three Sections—Tuition Reimbursement, Travel and Meal Reimbursement, and Petty Cash Procedures—but does not include any other cash handling/controls policies or procedures.)

2. Is there a separate Finance Department Administrative manual?

“No.”

3. Are there any specific written policies for staff, such as those receiving utility payments?

“Yes. There is a Utilities Desk Front Counter Manual that stipulates various procedures for processing payments.”

If there are any other documents, such as described above, can you please provide them?

“There is also a transfer log for daily deposits and an Oasis User's Manual for our utility billing system. Information about our cash handling process was discussed with members of the Grand Jury during their site visit on Monday, April 16, 2012, at 10:30am. Both Grand Jury members (names withheld) reviewed the Front Desk Front Counter Manual and the Transfer Log for Daily Deposit during their site visit. In addition, Grand Jury members (names withheld) reviewed our Brinks Signature Log and Cash Deposit Slip. Please advise if you still require a copy of the manuals.”

F. April 16, 2012. While waiting for responses to the above questions, we made a site visit to the payment counter at City Hall, where staff produced binders with comprehensive procedures for handling all payments made at that location.

Those payments include: utilities payments, accounts receivable, fines, permit fees, license fees, and monies received by other departments. The procedures in place at the payment counters included steps to insure that incoming monies are recorded and deposited accurately. This confirmed the existence of some site-specific procedures, but no overall cash-handling policy or procedure for the City of Watsonville.

We reviewed the cash-handling policies and procedures of other cities and local governments. Though varying widely in detail, most cities had adopted some form of policy. A City of Watsonville senior staff interviewee characterized the City of San Luis Obispo policies and procedures as outstanding. “Best Practices—Accountability for Public Money,” also describes the City of San Luis Obispo policies as notable:^[14]

Of the cash-handling policies reviewed, the city of San Luis Obispo’s policies and procedures on cash management are the most thorough and comprehensive. They are divided into the following sections: General Information, Public Service, Cash Handling, Daily Cashier Operations and Security and Loss and Prevention.

In an interview, a senior city staff member referred to Watsonville’s policies and procedures by saying,

There’s very few policies and procedures from a day-to-day operations standpoint in the whole city—for anything.

The repeated efforts required to get basic information; and the surprising disparity between information asked for, initially provided, and ultimately discovered, painted a disturbing picture.

Fire Truck Purchase

In April 2008, the City of Watsonville issued a check for \$225,000 for the purchase of a used aerial ladder truck. The truck was finally delivered in June 2011.

After our review of the 2010-2011 Grand Jury report, we had questions regarding the process by which the fire truck was purchased, using CDBG funds from a Housing and Urban Development (HUD) program.

Our preliminary review of HUD documents suggested that Watsonville could be in violation of the requirements of the CDBG program that funded the purchase of the fire truck. A senior HUD staff member stated, and HUD regulations confirm, that CDBG grant recipients must meet specific criteria, including: (a) the expenditure must be for an allowable activity; and (b), the project must be completed in a timely manner.

The purchase of a fire truck appears to be an allowable activity; however, almost four years after receiving the grant, and one year after taking delivery, the operational status of the fire truck remains unclear. We reviewed the CDBG Activity Summary Report for

Program Year 2007,^[15] prepared by the City, that stated the activity “purchase of used aerial ladder fire truck” was completed on June 30, 2008. It remains unclear if the CDBG program requirement was met, given the extended delivery date and unknown operational status of the truck.

Issues of Transparency and Adequacy of Information

The Grand Jury attended numerous City Council meetings during which council members asked questions of staff, including questions regarding disbursements, that could not be answered. Members were advised they would be provided answers at a later date. Often, those answers had not been provided by the next meeting.

Council members were often unable to cast informed votes to approve expenses, because details were not provided in time for adequate review.

One reason for information not being available in a timely manner was alluded to by the City Administrative Services Director, who publicly described problems with the city’s accounting system, suggesting that it hindered the city’s ability to compile reports requested by Council members.^[16]

Marc Pimentel, administrative services director, said Watsonville uses software first created in 1978 and last updated in 1996, which makes compiling the requested reports more labor intensive than it would be with more up-to-date programs.

During our investigation of the Strawberry Festival, we noted that the petty cash issue was first raised at the August 23, 2011, City Council meeting, but it was not until December 13, 2011, that it was explained that the check had been incorrectly coded, and that it should have been listed as “vendor payment.” It is troubling that it took nearly four months to clarify an entry into the financial accounting system, and to answer Council Members’ repeated questions.

As previously noted, the Strawberry Festival investigation revealed extensive time delays in obtaining cash handling documents after repeated requests. This was representative of our numerous formal requests for information from the City. At times, the information was provided promptly and completely. At other times, it was not.

The number of repeated requests needed to receive the specific information; the length of time required for an appropriate response; and the failure to provide complete information was perplexing.

Findings

F1. It appears the City of Watsonville does not have a comprehensive, citywide cash handling policy.

F2. In the absence of an overall cash-handling procedure, the handling of large amounts of cash paid out and received during the Strawberry Festival creates an unacceptable risk for misappropriation of funds.

F3. The City of Watsonville may have failed to meet U.S. Department of Housing and Urban Development Community Development Block Grant program objectives for the purchase of the fire truck.

F4. With regards to the Grand Jury investigations reported on here, city staff responses to requests for information from the City Council or the public were too often incomplete, inaccurate, or not provided in a timely manner.

Recommendations

R1. The City of Watsonville should develop comprehensive citywide cash handling policies and procedures. (The City of San Luis Obispo Cash Handling Policy is an excellent resource.^[17])

R2. The City of Watsonville should immediately implement interim procedures, in writing, for the handling and tracking of cash, prior to the 2012 Strawberry Festival.

R3. The City of Watsonville should comply with U.S. Department of Housing and Urban Development requirements for the use of Community Development Block Grants.

R4. The City of Watsonville should improve the accuracy, completeness, and timeliness of information provided to the City Council and the public.

R5. The City Council should stipulate date specific response deadlines on requests to City staff for information.

Responses Required

Respondent	Findings	Recommendations	Respond Within/ Respond By
City of Watsonville - City Council	F1-F4	R1-R5	90 Days October 1, 2012
City of Watsonville - City Manager	F1-F4	R1-R4	60 Days September 1, 2012

Definitions

- **Aerial Ladder Truck:** A specialized firefighting vehicle with a large telescoping ladder, used to provide access to upper stories of buildings.
- **CAPER:** *Consolidated Annual Performance and Evaluation Report* - Required of grant recipients, by the Department of Housing and Urban Development (HUD). At the end of each fiscal year, the CAPER report details accomplishments toward meeting the goals outlined in a grant recipient's Consolidated Plan.
- **CDBG:** *Community Development Block Grant* - A grant from HUD to be used for specific city projects.
- **CDBG Activity Summary Report:** An element of the CAPER report, which grant recipients must complete on an annual basis.
- **City Council:** Refers to Watsonville City Council. The seven elected City Council Members of the City of Watsonville, acting as the governing body.
- **City Government:** Refers to Watsonville City Government. The Watsonville City Council and Watsonville City Staff, operating under the city charter.
- **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:** All employees of the City of Watsonville.
- **Consolidated Plan:** A five-year plan required by HUD for CDBG recipients. The five-year plan must include an analysis of low-income housing needs, the needs of homeless persons and special needs populations, and the local housing market.
- **HUD:** *U.S. Department of Housing and Urban Development* - HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all.
- **Policy:** The formal guidance needed to coordinate and execute activity throughout the city. When effectively deployed, policy statements help focus attention and resources on high priority issues—aligning and merging efforts to achieve the city's vision. Policy provides the operational framework within which the city functions.
- **Procedures:** The operational processes required to implement city policy. Operating procedures can be formal or informal, specific to a department, or applicable across the entire city.

- **Senior Staff:** 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.
- **Watsonville Department of Parks and Community Services:** The city department responsible for managing the Strawberry Festival.

Sources

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3. Santa Cruz County Grand Jury. 2012. "Responses to Santa Cruz County Grand Jury Final Report 2010-2011." Accessed June 8, 2012. <http://www.co.santa-cruz.ca.us/LinkClick.aspx?fileticket=nHDrhLI3fl4%3d&tabid=895>
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7. City of Watsonville. 2011. "City of Watsonville City Council meeting. City Council and Redevelopment Agency Meeting Packet, November 8, 2011." Page 123. Accessed May 31, 2012. http://www.ci.watsonville.ca.us/agendas/city_council_redevelopment/110811/110811_packet.pdf
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10. City of Watsonville. 2012. "City of Watsonville City Council Meeting. City Council and Redevelopment Agency Meeting Packet. January 10, 2012." Page 98. Accessed May 30, 2012.

http://www.ci.watsonville.ca.us/agendas/city_council_redevelopment/011012/racc_011012_packet.pdf

11. City of Watsonville. 2011. "Check No. 182454 dated July 27, 2011."

12. City of Watsonville document. "Cash handling – Annual Watsonville Strawberry Festival (DRAFT - subject to change)."

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14. Ohio Auditor of State. 2007. "Best Practices—Accountability for Public Money." Volume 4, Issue 3, Fall 2007. Accessed May 30, 2012.

http://www.auditor.state.oh.us/publications/bestpractices/BestPractices_Vol4Issue2_Fall2007.pdf

15. City of Watsonville. 2008. "Community Development Block Grant - Consolidated Annual Performance Report - Program Year 2007," dated September 26, 2008.

16. Jones, Donna. 2009. "Pay records show 27 Watsonville managers top \$100,000." *Mercury News.com*, May 27. Accessed May 24, 2012.

http://www.mercurynews.com/centralcoast/ci_12456395?nclick_check=1

17. California Society of Municipal Finance Officers. 2007. "Cash Handling Policy - San Luis Obispo." Accessed May 30, 2012.

<http://media.csmfo.org/archives/resources/1816.pdf>

Resources

City of Watsonville - <http://www.ci.watsonville.ca.us/index.html>

Charter of the City of Watsonville - <http://www.bixby.org/charter/charters/Watsonville.pdf>

Watsonville Municipal Code - <http://www.codepublishing.com/ca/Watsonville/>

Santa Cruz County Grand Jury - <http://www.co.santa-cruz.ca.us/default.aspx?tabid=895>

Known Soil Contamination and Building Permit Applications

Who Asks? Who Should Ask? Who Knows?

Summary

The Grand Jury is concerned that land use and building permits are being issued for activities/construction on sites without prior consideration for existing soil contamination. Further, we are concerned that not all permit applicants are informed, prior to issuance of the permits, that there is easily accessible information on existing contaminated soil sites. In Santa Cruz County permitting agencies do not ask land use or building permit applicants whether they are aware of existing soil contamination on the property. Environmental Health Services (EHS), a division of the Public Health program of the County Health Services Agency, is responsible for monitoring known contaminated sites and for advising the county's various jurisdictions as to the locations. EHS also directs soil contamination mitigation work mandated by state law prior to approval of a land use and/or building permit. However, not all permit applications are referred to EHS for review.

Background

The 2010/2011 Grand Jury reported that the City of Watsonville does not usually check for environmental hazards at a proposed development site prior to the issuance of land use or building permits.^[1] The Grand Jury recommended that the City of Watsonville collaborate with EHS to develop a procedure that alerts staff to the presence of hazardous materials before issuing land use or building permits.^[1]

The City of Watsonville did not implement this recommendation, on the grounds that they would be assuming a new liability that should rightfully stay with the property owner or developer, who are required to notify the City "of potential or known contamination on the site for proposed development."^[2] This response sidesteps the finding that 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."^[1]

The current Grand Jury investigation was triggered by this response and by the discovery of inconsistent collaboration between local permitting agencies and EHS. This may increase the likelihood that the public will unwittingly be exposed to soil contaminants.

The Grand Jury subsequently examined the permit application procedures that have been implemented by the various building departments within the County of Santa Cruz for identifying known contaminated soil sites. We found no routine communications