

PROCEEDINGS OF THE
LOCAL AGENCY FORMATION COMMISSION
SANTA CRUZ COUNTY

Wednesday, August 5, 2009
9:30 a.m.

701 Ocean Street,
Room 525,
Santa Cruz, California

The August 5, 2009 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Chairperson, Roger Anderson.

ROLL CALL

Present and Voting: Commissioners J. Anderson, Lind, Rapoza, Campos, Leopold, Begun,
and Chairperson R. Anderson
Absent: None
Alternates Present: Bell, Coonerty, Lane
Alternates Absent: Estrada
Staff: Patrick M. McCormick, Executive Officer
Christopher Cheleden, LAFCO Counsel
Debra Means, Secretary-Clerk

MINUTES

MOTION AND ACTION

Motion: J. Anderson Second: Rapoza	To approve the June 3 rd minutes. Motion carries with a unanimous voice vote.
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ORAL COMMUNICATIONS

Vic Marani, an Aptos resident, is an elected member of the County Board of Education. He is not speaking in that capacity. He is concerned about the library board. Most of the people on the library board live north of Capitola. There have been significant cuts and changes that have affected people living south of Capitola.

He looks at the list of people on LAFCO. He realizes there is a rotation system, but with the exception of one member and one alternate, everyone on the LAFCO board lives in Capitola and north. He thought this issue was addressed in the 1990's when there were changes to the way LAFCO was represented. He does not think it is a comforting feeling if one owns property or their livelihood is from Aptos to South County. There has been a long history and tradition of people in South County not feeling very well represented.

The federal government is conducting a regular ten year census. At the end of this census, he does not think it will surprise most people that Watsonville will be the most populated city in the County, replacing the City of Santa Cruz. He recommends that the special district representatives and some others keep a balance in mind between North and South. There is a significant portion of people that feel unheard about some of the issues coming up, including the one today, and they come from the middle and southern part of this County. He knows the LAFCO board is fair-minded and they are independently selected to be on this board.

EXTRATERRITORIAL SEWER SERVICE FROM COUNTY SERVICE AREA 10 TO BROOK KNOLL SCHOOL – LAFCO No. 930

Mr. McCormick says this proposal is from the Scotts Valley Unified School District concerning Brook Knoll Elementary School, which is located between Scotts Valley and Santa Cruz. There is access to the school from Sims Road. Brook Knoll Drive continues past the school, turns into Treetop Lane, and comes out at Graham Hill Road.

The school has a failed septic system that has a leach field underneath the playing fields. The district is looking at options to correct the situation. County Service Area 10, the Rolling Woods sewer, is adjacent to Brook Knoll School where there is a small treatment plant. The County has been running the system with rubber bands and duct tape. An assessment district was recently approved to abandon that treatment plant and construct a main along Graham Hill Road down to Sims Road to connect to the existing sanitary sewer that flows down Graham Hill Road and into Santa Cruz. It is treated at the City of Santa Cruz plant.

There is an option for the school to abandon their septic system and hook up to the sanitary sewer. It would be a convenient downhill connection from the school. The school is asking for extraterritorial service pursuant to Government Code Section 56133. The school district is working to determine the costs of the Rolling Woods sewer connection as well as their onsite options.

There is adequate transmission and treatment capacity all the way downstream from the school. There are letters of support on record. The City of Santa Cruz and County Service Area 10 have submitted will serve letters. There is an urgent letter of support from the County's Environmental Health Department.

Commissioner Begun asks what the alternatives are if the Commission turns the applicants down.

Mr. McCormick replies that they would have to make a major upgrade on their septic system similar to what an individual homeowner would have to do.

Commissioner Leopold asks if the Commission approves this connection, would they pay the necessary fees to close their septic system. He wonders if they will pay the same \$28,000 plus to enter the system or would they pay more.

Mr. McCormick replies that County Service Area 10 has approved an assessment for upgrading their system to connect to the other existing sewer systems. They have not yet passed an ordinance to establish the cost for outside parties to connect to the system.

The standard practice is that the school would be assigned a single-family dwelling equivalent and they would pay their share. The Board of Supervisors would have to hear a separate ordinance that would establish the connection fees.

Commissioner Leopold asks if there is a chance that this will lower the household costs for the other people in Rolling Woods.

Mr. McCormick does not think it will necessarily lower the household costs, but it might retire the bonds early and that would equally benefit everyone who has already voted for the individual home assessments.

Commissioner Campos clarifies that this is why cities have sewers. This is an opportunity to extend it to the houses. It makes sense to hook up to the school. It is an environmental health problem and there are kids there. He supports the proposal.

Mr. McCormick says the school has indicated they have no plans to expand the school. This proposal is not part of a school expansion project. It is being done under a categorical exemption under the California Environmental Quality Act (CEQA). There was careful review under the CEQA Act for this proposal.

Chairperson Roger Anderson wonders about the timing. It is clear that CSA 10's plant is probably on its last legs. He asks if that plant will have capacity to service the school. He also wants to know what the timing is to do the intertie with the Santa Cruz system.

Mr. McCormick answers that the sanitation district is proceeding with the construction of the sewer. The bonds have passed. The new main will not be done by the beginning of the school year. The plan is to continue to operate the plant for a few more months.

Commissioner Campos wonders if this issue should be continued so the Commission can get more information.

Mr. McCormick encourages the Commission not to continue the matter. The Board of Supervisors is the board for CSA 10. There will be another item before that board to consider the connection and fees. They will be able to ask the sanitation engineers how they see the connection working as well as the payment into the assessment district.

Today's action is an authorization, not a requirement that the CSA serve the school. It is just an authorization that this is the best alternative. He can bring the Commission a subsequent report about what CSA 10 has negotiated with the school district in terms of payment and timing of the connection if that is the final solution that the school district chooses.

John Waite, the maintenance manager for the Scotts Valley Unified School District, says he has been working with Mr. McCormick and Public Works on this project. They have been talking to the contractor who will be doing the project for CSA 10. He thinks that by the time they get through the process and get the money together, they would not be hooking up to the Rolling Woods collection system before it is hooked up to the Graham Hill main. In the meantime, they have to pump septic tanks regularly to keep the school in action. He wants the Commission to pass this so they can move forward. It will not happen before school starts at this point.

MOTION AND ACTION

Motion: Campos Second: Leopold	To approve staff's recommendation. Motion passes with a unanimous voice vote.
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LEGISLATION

Mr. McCormick reports on the bills in the legislature that LAFCO staff is tracking. The Commission may take a position on any bill that is being tracked.

The bill that has the greatest interest and activity is Senate Bill 211. This is a bill from Senator Simitian to authorize the Board of Supervisors to conduct formation proceedings for an open space district in Santa Cruz County. This would be done without LAFCO review. The bill does limit the power of eminent domain in the proposed district, and this is not the case for districts that are formed through the standard LAFCO process.

At the March 4th meeting, LAFCO heard a presentation from the Executive Director of the Land Trust. The Commission took no position on the bill. Staff has given the Commission monthly reports since then and the Commission still has not taken any position on the bill.

The bill has cleared the Senate and the Assembly Local Government Committee. It will be available for the final reading when the Assembly reconvenes in mid-August.

The City of Watsonville sent a letter from Mayor Rivas expressing their opposition and concerns. They have continued to work with the sponsors of the bill over the last few months. They have gotten two amendments added to the bill that were important to the City. One is expanding the governance structure of the proposed district to include representation on an advisory committee of both city representatives and general interest groups which will hopefully include some South County representation.

The other amendment assures that any acquisition activity of the proposed district does not conflict with the City's growth policies that were adopted in Measure U. Measure U is the initiative that was passed after several years of collaboration through the non-profit Action Pajaro Valley.

There is a nine-member advisory committee that includes one representative of each city council, one Board of Supervisors representative, and four interest group representatives. It is a standing committee of the open space district if it is formed.

Some of the amendments have caused the environmental groups that strongly supported the bill in earlier hearings to either withdraw their support or oppose the bill.

Commissioner Lind has concerns about SB 211. She is concerned about the lack of funding. The local cities and the county are having difficulty balancing their budgets. With the funds being taken from the cities and the county by the state, she is really concerned about forming a new district that would require an additional tax for a program when there is difficulty supporting seniors, schools, and public services.

Commissioner Begun says there is a system now that enables the same thing to happen. He asks how many districts or open districts have been formed over the last ten years.

Mr. McCormick answers that he does not know how many regional open space districts have been formed in the last ten years. The standard process that is in the open space district law is for the proponents to gather 5,000 signatures and submit the proposal to LAFCO. However, almost all of the formations that have occurred in the last twenty years have occurred through special acts of the legislature. Over the last twenty years, about half of the districts that the legislature has authorized have formed and the other half have not formed. That means that either the Board of Supervisors considered the proposal and decided not to put it on the ballot, or it was put on the ballot in the respective county and the voters did not approve it.

Counsel Cheleden says the Senate bill analysis explains that since 1972, a series of special bills have allowed County Supervisors to start formation proceedings in the counties of Los Angeles, Marin, Napa, Riverside, Sacramento, San Bernardino, Santa Barbara, Sonoma and Ventura. However, even after getting authorization, five of these districts were never formed at the local level.

Commissioner Begun asks if anyone understands the reason for introducing a new body, a new advisory board, and another layer of bureaucracy rather than keep the present system.

Commissioner Bell asks if LAFCO has not approved an application, can the open space district advocates go through this other process if this bill is passed.

Mr. McCormick answers yes. The bill contains a provision exempting LAFCO review for this proposal.

Jody McGraw is a consultant working with the Land Trust of Santa Cruz County, Senator Simitian, Assembly Member Monning, and Assembly Member Caballero on this bill. As Counsel Cheleden stated, the LAFCO exemption has been sought and received by several other jurisdictions. The rationale for an exemption from LAFCO is that these jurisdictions are counties seeking to establish countywide districts. The boundary issues that concern LAFCO are not present. In this case, the boundaries of a district proposed under SB 211 are 99% coterminous with the County of Santa Cruz. The small exception is an 800-acre area in the northern tip of the County, which is currently in the jurisdiction of the Mid-Peninsula Regional Open Space District. Given that the boundaries are largely coterminous with the County, the exemption from LAFCO proceedings for the formation of the district were sought. If a ballot measure were to be put to the voters and the voters approved that formation of the district with a majority, the district's activities and any kind of expansions would still be subject to LAFCO's review.

Commissioner Begun asks why the bill is needed.

Ms. McGraw answers one of the key reasons to seek special enabling legislation is to cater the formation of the district and the district itself to local circumstances. The Land Trust has been doing outreach for over three years throughout the community to try to understand if there is a desire to form an open space district, and if so, what special circumstances might lead to a successful formation and the implementation of its work.

Some of the issues raised by the community included eminent domain and how eminent domain was very unpopular. One of the key amendments this special act for Santa Cruz County contains is eliminating the power of eminent domain except for when it is requested by a landowner for acquisition to benefit that landowner.

Commissioner Begun asks that if using existing law, a district was formed, who would pay for that.

Mr. McCormick asks if the question has to do with the formation process or the operations of the district.

Commissioner Begun replies that he is asking about both.

Mr. McCormick answers that the formation would have to be paid by whatever party came to LAFCO with an application such as the Land Trust. They would pay the LAFCO costs for processing a district formation application. Those costs are relatively minor compared to the big picture.

The district itself does not have any funding built in. It does not have the ability to tap into any existing revenue source. Once the district was formed, either at the formation election or a subsequent election, there would have to be a ballot measure to the public pursuant to Proposition 218 to ask the voters of the County to approve some funding source that includes taxes that are not currently charged.

Commissioner Begun asks if the entire County would pay for that open space.

Mr. McCormick replies yes.

Commissioner Leopold adds only if the voters decide.

Ms. McGraw says that SB 211 contains a provision that provides the Board of Supervisors with the option of deciding whether the funding measure, which would be subject to two-thirds majority approval by the voters, would go with the formation measure or separately. There were concerns raised about there being an empty shell, that this district would not have funding. There is an option to ensure that no district will be formed without funding. The Supervisors have that provision in the bill.

Commissioner Leopold clarifies that this bill would allow the Board of Supervisors to put something on the ballot that would ask the people of Santa Cruz whether they wanted to have this open space district and additionally, whether they wanted to fund it. LAFCO is not the last word and neither is the Board of Supervisors.

Ms. McGraw says this bill works with a general act that was written decades ago to make some modifications that were deemed appropriate for Santa Cruz County. Yet ultimately, it is the beginning of a very long process. The Land Trust and the bill's authors will continue to work with the community to identify the elements of a ballot measure. They will continue to work with the Board of Supervisors to decide whether a ballot measure would be put to the voters. It is ultimately up to the voters to approve the district formation and its funding.

Commissioner Rapoza confirms with Mr. McCormick that if this went through the normal LAFCO process of an applicant coming in and submitting documents, would they be required to submit a budget and a funding mechanism prior to any LAFCO decision. Ultimately, even if it went through LAFCO, he asks if it would still go back for a vote from the community.

Mr. McCormick says that is correct.

Commissioner Campos endorsed this bill five or six months ago after he talked to Senator Simitian. He still thinks the bill is a good idea. But because of Watsonville's concern and putting a tax measure on the ballot for people to vote on, there are competing interests in a couple areas.

He had a meeting with the City Manager of Watsonville. The main concern is coming up with \$20+ million to pay for their share of the Pajaro River to rebuild the levees. If that gets on the ballot, it will compete with the open space bill. There are people who are against any more taxes. The Pajaro Valley Water Management Agency will also be trying to get more money from the community.

The main concern comes from Action Pajaro Valley. He and another Supervisor participated in the Action Pajaro Valley (APV) process for about four years. After many discussions with the Farm Bureau among many other groups, they all came together with a proposal that was passed by the voters. APV served a great purpose of bringing people together. He would hate to see any kind of erosion of group efforts such as what happened 20 years ago. These groups have come a long way in the last four or five years.

Chairperson Roger Anderson says that there are several possible outcomes concerning SB 211. One is to do nothing. Another is to express a position of opposition unless the bill is further amended. The last is to have an opposed position on the bill. This is all Santa Cruz LAFCO can do at this meeting.

He sits on the CALAFCO board. He is opposed to SB 211 because he believes LAFCO should not be circumvented. It is up to this Commission to decide whether they want to take a position on this bill.

Stephen Slade is the Deputy Director of the Land Trust of Santa Cruz County. The current version of SB 211 includes an amendment granting the City of Watsonville control over its Measure U boundaries. That amendment exists because they recognize the importance of that process and want to honor it. Mr. McCormick referred to some opposition that the Land Trust received within the conservation community because of making that exemption. The conservation community is split. Some groups recognize that to successfully form open space districts, it requires these types of special circumstances. That is why they are going through the state legislature.

He wants to address Commissioner Lind's concerns about funding and taxes. They realize that any increase in taxes during these economic times sounds insane. They feel that SB 211 is enabling legislation that will allow something to possibly happen later if the Board of Supervisors thinks that is the route to take after public hearings and if polling clearly indicates there is two-thirds support. Two-thirds support is a very high bar. There will be no new taxes at any time unless the public wants it. They are sensitive to the levee issues and the Pajaro Valley Water Management Agency as Commissioner Campos mentioned.

When the Land Trust first started thinking about SB 211, there was a possible tax looming about Highway 1 widening. There will not be two-thirds support for any issue if there is a lot on the ballot. Their goal is success. They do not want to hurt any other agency.

This is enabling legislation. It does not form a district or impose a tax. It enables the County to go through the first step of a process. The next steps involve public hearings, going to the Board of Supervisors, and crafting ballot measures. Then the ultimate public process is an election. This legislation does not say it has to happen this year or next year.

An open space district could save farmland, forestlands, water quality, and water supply. It could provide funds for stewardship of lands that have already been protected and funds for urban parks. It is about local funding and local control over what happens in this County in terms of conservation. There are many State Parks in this County, and it is about local control and local vision.

He lives south of Capitola. Due to the suggestion from the City of Watsonville, they are talking to the bill's authors about expanding the board to seven members, similar to the Cabrillo College board, which gives the potential of a wider geographic representation. They are talking to everyone interested in this measure. He hopes the Commission supports this process.

Antonio Rivas, the mayor of Watsonville, sent a letter to this Commission regarding this bill. He thinks there are a lot of loopholes in this legislation. Watsonville's City Council is concerned that this legislation did not take into consideration issues about their local control, land use, Measure U, and their general plan. He thinks that the agricultural community is also against this bill. He thinks this bill does not have to do with local control like some say. This will just form another layer of bureaucracy.

He thinks the community cannot afford this legislation. This bill should be dropped. Maybe this issue can be addressed again in five years or when the economy has recovered. He knows the Land Trust had good intentions, but he was still disappointed that the Land Trust never came to the City of Watsonville or to the City Council. They found out about the bill third hand. Many of the community leaders were very angry and disappointed because there was no public input. He does not think LAFCO has been part of this process either.

He wonders why anyone would want another tax. Watsonville has other priorities to ask for more revenue within their city. The Pajaro Valley Water Management Agency will also be asking for more money. Bringing this legislation to the table now is a no-win situation.

The demographics in Watsonville and this County are so different compared to Napa Valley. Watsonville has different needs. He wants LAFCO to strongly oppose this bill. Maybe they can work with Senator Simitian to come up with some amendments in the future, but not now. It is crazy to ask the taxpayers to fund this type of district.

Commissioner Leopold appreciates Mayor Rivas' perspective and his letter. He asks if it is Watsonville's intention to negotiate at all with the Land Trust, Senator Simitian, and Assembly Member Monning at this point.

Mayor Rivas answers that they are willing to see if there is something they can work out. Maybe the issue can be postponed. They want assurances that the amendments are put into the bill.

Commissioner Leopold understands his perspective and concerns that the Land Trust did not reach out at the early stages of the bill. There have been a few amendments and suggestions to the bill already. Before anything went on the ballot, it would have to go to the Board of Supervisors. He asks if there is interest in negotiating to find common ground. Maybe it would be premature for the board to endorse legislation until those negotiations take place. He asks where the City is in terms of working with the Land Trust and the other supporters of this bill.

Mayor Rivas says there have been some amendments as a result of the discussions, but still it is not the way they want it. They want assurances and he thinks the County wants assurances as well. Taxpayers also want assurances because that would cost a lot of money. It does not seem like a wise choice now due to economic times.

Marcela Tavantzis, Watsonville's Assistant City Manager, says they have been negotiating with the Land Trust regarding some of the amendments that are now in the bill. They are requesting and pursuing the concept of having a seven-member board versus a five-district board. They believe it gives South County better representation, although it would not be identical to the Cabrillo College board.

The majority of agricultural land and land to be preserved is in South County and that is why representation would be important. They appreciate the Land Trust and Senator Simitian's office agreeing to the protection of Measure U lands because that is a critical issue to Watsonville. She realizes some environmental groups have withdrawn their support or opposed the bill because of that. Their contention is a slippery slope. Other jurisdictions would also want to control the activities in their growth areas. Watsonville's response is that if other jurisdictions that have a voter-approved urban limit line want the same thing, that is fine. If every jurisdiction in this State had a voter-approved urban limit line, there would not be as many problems. She is not worried about that slippery slope. That is a critical part of Watsonville continuing to negotiate on this bill.

There should be some discussion about how those four seats of interested parties or stakeholders are appointed to the advisory board other than by the district itself. Watsonville suggested they be appointed by a city selection committee. They could also be appointed by an independent party. The Farm Bureau could appoint their own representative. They do not want four seats appointed by a board that they are not comfortable with.

They are willing to continue negotiations. Given the late date, she suggests making the bill a two-year bill. It would give them time to iron out some issues and time for public outreach and that would be beneficial to the Land Trust in the long run. She understands that they want to make the 2010 deadline to be on the ballot, but given the economy, she does not see the value of being on the ballot in 2010 for tax purposes. Making it a two-year bill would move them to 2012, but she does not see that as a disadvantage since public outreach would probably benefit them.

David Van Lennep is on the Board of Directors for the Santa Cruz County Farm Bureau. The Farm Bureau is supportive of land use policy that favors agriculture, timberland, and the maintenance of rural economies in this county. They have had ongoing discussions with the Land Trust and have carefully considered the short term and long term potential effects of SB 211. As currently written, SB 211 does not provide adequate protection for agricultural land, timberland, and the maintenance of rural economies that depend on those lands.

There are several examples of open space districts in the region where those districts have been utilized to remove the working value of timberland or agricultural land. The Farm Bureau is concerned that without an adequate description and an adequate governance of this pool of money, whether it goes before the voters or not, that they are not supportive.

As currently proposed, both the State Farm Bureau and the Santa Cruz County Farm Bureau oppose SB 211. They are open to amendments to the bill that would satisfy their concerns.

Commissioner Campos asks Mr. Van Lennep what some of the concerns are.

Mr. Van Lennep says the legislation as written is very broad. He understands that the legislation is a framework and a blueprint. They are concerned about the governance of that district and the pool of money. The Farm Bureau has some comfort with the Land Trust, and the values the Land Trust is trying to implement. They wonder how those values get carried through time with the open space district. There is nothing that would keep this district and its funding from being utilized to implement values that the Land Trust does not hold. They

have not had any satisfactory answers about how that connection is made. The maintenance of working lands in the County and their local economies largely depend on working lands and some of the revenues that come out of those lands.

Commissioner Campos asks how Mr. Van Lennep would feel comfortable with the wording to protect the farmlands and the timber harvesting.

Mr. Van Lennep replies that there should be some language that says the open space district would only be limited to purchasing the development rights or development potential on lands and it would not interfere with the capability of those lands to still remain working. If there is a conservation easement purchased by the open space district that would remove the development potential, this is apparently the threat that is trying to be abated. That would not interfere with the ability for those lands to continue to be used for farming, grazing cattle, timber harvesting, mining, and whatever happens on rural lands.

Commissioner Campos suggests having their group put together some wording that they feel comfortable with. He was involved in the negotiations with the Land Trust to buy some development rights, but not to take the farming rights away. Those lands will continue to be farmed. They are looking at Soap Lake, which is near the boundaries of San Benito, Santa Clara, and Santa Cruz Counties among other areas. He asks Mr. Van Lennep to give his response to Darlene Din and she can pass the response back to him.

Joseph Moreno, who lives in the unincorporated Watsonville/Corralitos area, says government has taken on more than they can handle. There is no reason to reach into the taxpayers' pockets for any more super-agencies, especially when the bill is designed to bypass this Commission. There are already mechanisms in place locally and at the County level to handle any kind of environmental problems that need to be addressed. He has spoken to more than 100 of his neighbors and none of them agree with this bill. This bill is not necessary.

Darlene Din is an agricultural consultant and she lives in the City of Watsonville. She works from Santa Barbara to San Mateo for 16 agricultural associations under four contracts. She has worked with public policy as it relates to agriculture since 1974. Her first project was the Pajaro River.

As a resident, she is concerned about how enabling legislation is written. She can remember enabling legislation Senator Mello did on the Pajaro Valley Water Management Agency (PVWMA). That legislation was broadly supported by the community. It was pushed through because of legislative amendments at the very end. When she talked to Senator Mello, he said not to worry because it is just enabling legislation. She has spent years in PVWMA's public hearings about enabling legislation that would be worked out later. She now thinks that issues should be worked out first, not later. It has not served the public well.

Santa Cruz County is highly unique. They are active in process, they like to debate, and it is usually in a civil manner. She is used to going through a public process that sometimes involves litigation. The Board of Supervisors is currently responding to litigation on agricultural policies that relates to Atkinson Lane. She is not automatically excited with the Board of Supervisors being the party who will carry the public discussion forward.

She believes in checks and balances. It bothers her that the sponsors of the bill look at this district as being geographically within the boundaries of the County; so, LAFCO would not be involved. She has testified in front of LAFCO many times over many years asking the Commission to look at agricultural issues. This Commission is a collective of different backgrounds from special districts, the County, and the cities. They come together and evaluate public policy. The fact that there would be a district in this county that would not have to

answer to LAFCO or go through their process does not make sense. It is a process issue.

When Measure J was formed, she was opposed to it. She did not see how it would help agriculture and she did not really understand the measure. She fought Measure J in the first five to ten years. She has seen that for agriculture, the measure has given some stability on investment of money and the working of landscapes. When Measure J passed, her concern was that agricultural land would be taken away and turned into open space.

Some have told her she is just worried about SB 211 because she is worried about Measure J. SB 211 is very different than Measure J. Measure J dealt with zoning and different aspects, and it was put into the County Code where there are checks and balances. SB 211 is forming a district that does not have LAFCO involved in any district disputes.

The City of Watsonville has worked hard with the stakeholder groups because they were always in litigation. What transpired through Measure U is that they tried to work through general plans, but they still ended up in litigation. The formation of this district and this enabling legislation without any assurances to the public process whether it be an urban, environmental, or agricultural assurance, is too broad and without a good vetting of the public. It will compete for taxes.

She cannot get an answer from anyone at the Land Trust why this bill is being proposed now. She wonders why it cannot be a two-year bill or why even have the bill. She thinks the bill should have properly-written enabling legislation. If this is so crucial and this is the only way to get open space, then more details should be examined to make the bill have more value.

She thinks it is LAFCO's obligation under law to oppose this bill. There is a legislative process that should have been handled. It should have to go through LAFCO. LAFCO is part of the checks and balances within these systems concerning special districts. CALAFCO opposed this bill and Santa Cruz LAFCO should oppose it on the same grounds. She appreciates that the City of Watsonville brought this issue forward. It was the first public debate that they had other than the County's. In many cases, outreach is not always to the stakeholder groups who are most affected by the broad aspects.

The State Farm Bureau and the local County Farm Bureau is also concerned about the process. Process is the major problem in SB 211.

John Mancini is Chairman of the Reform Party of Santa Cruz County. He has not seen any reason for having another independent taxing agency. There already is a mechanism to form these agencies and they go through LAFCO. LAFCO is designed to look out for the public interest and to scrutinize these new proposed agencies. He resents anything that bypasses the checks and balances that already exist.

If this bill comes to fruition, there will be another taxing agency and land will be removed from the tax rolls. There does not seem to be any money to maintain this kind of property. There are problems with forest fires because there is no money to maintain these open spaces. He urges LAFCO to oppose SB 211.

* Commissioner Campos leaves the podium.

Mark Van der Pol is a fourth generation Californian who owns a parcel above Scotts Valley. He has been involved with habitat restoration for twenty years. He was a project engineer and quit his career to do something about habitat regulation and destructive land use policies, and primarily preservation.

He wrote a book in 2001 about how people extend their will over other people's property and how it ends up backfiring. It is also about how people take the economic value out of resource land uses that are declared precious.

He holds a patent on a private environmental management method in the United States. He owns a weed-infested fuel bomb that had approximately 60 plant species when he bought it. It now has 340 plant species and 225 of those species are native. The three presidents in the Native Plant Society have been to his property and have declared it the cleanest place on the entire Central Coast from San Francisco to San Diego. No park, open space, or preserve compares with it. The reason is due to active individual hands-on management.

* Commissioner Campos returns.

This used to be a human-managed landscape. There was a weird paradigm that said nature is in one place and people can stay in their comfortable houses, keep their hands off nature, and nature will be fine. He feels this is wrong. He wants to address that paradigm because people have been living with it for about 50 years. There are forests, which are firebombs with weeds that are being spread along the roads by mowers because people are afraid of things. When the forest burns, the weeds take over. Each time, there is a loss of native post-disturbant species. The seed bank is slowly being depleted.

There are approximately six new species that are introduced to his property each year and probably two-thirds of those are non-native. It is shocking how fast this happens. It can convert entire systems.

His economic analysis showed that the system that was regulating this process was serving the needs of particular developers. The idea that something was being done for everyone was actually doing something more for a very few. The hands-on requirements of doing this kind of work takes someone who actually lives there due to the amount of familiarity it takes, the dynamism of the system, the amount of knowledge of what is going to happen where, and managing disturbance. That is part of the system. It takes site-specific knowledge that comes from informing individuals about what they have and allowing them to develop the technology of doing this kind of work because it is in its infancy. It could be an industry.

People have taken away from what has made this economy great and decided that nature does not benefit by them. It is not necessarily true. Diversity is needed in land use management to develop these technologies just as much as biodiversity is needed on land in order to deal with change in circumstances such as weather. Another top down paradigm is not going to help. He opposes this legislation.

Gene Scothorn is a licensed professional civil engineer and has been in practice for more than 40 years. Since 1968, he has worked in land use issues for various agencies all over California. His experience includes a lot of interaction with LAFCO in Santa Cruz County as well as a number of other counties. LAFCO's purpose, under the original act, is subverted when there is legislation directed by the legislature to a single county issue. He urges the Commission not to support SB 211 and to actively oppose it.

The language of SB 211 says there will be negotiations and mechanisms for exclusions or modifications in the future. There is nothing in SB 211 as it is presently written that provides for that. It specifically excludes LAFCO's actions in the formation of this district and does not provide for any actions thereafter.

He asks the Commission to consider the legislature's due diligence in passing this resolution. The only justification he has heard is that this has been done before. As Mr. McCormick pointed out, it has not always been done with success. It is not an assured process.

During the recent budget crisis, when this matter was being considered, he wonders how much real thought the legislature gave to this bill. It is political patronage where a local legislator is granted a pass by the remainder of the legislature because they may have something they want in the future. There was no debate. The committee hearings were a joke. Despite assurances that there will be opportunities to discuss this issue further, the indications from the offices of local legislators is that they do not want to talk about this anymore.

He suggests that enabling legislation could probably be better stated as persistent incrementalism. It means that something will be done now, a little something later, and something more still later. This bill has built-in unintended consequences, in addition to the consequences that are obvious. With respect to the expanded board, to the committee that has been added in the italicized portion of the latest draft of this legislation, it is referred as shielding for an electoral radiation. Putting people on another subcommittee to a board that effectively another mirror of the Board of Supervisors is simply shielding those responsible for the actions from the direct and current scrutiny of the public. He asks the Commissioners to vote against the recommendation of this bill and oppose it.

Tom Walsh lives in Bonny Doon and is speaking as Executive Director of the Senior Coalition and there are members in this coalition from North County to the City of Watsonville. His board of advisors asked him to speak at this hearing because they are embarrassed at LAFCO. SB 211 has been discussed many times and this board has not done anything about it. LAFCO represents Santa Cruz County. The Senior Coalition's mission statement says they are a watchdog group. They like to have public input. They are looking for greater awareness. If the County wanted to pass this bill, they would have to get 5,000 signatures. He believes the cities do not have anything to say about the bill. He urges the Commission not to support SB 211.

Elias Alonzo, a Latino elder from Watsonville, understands that he heard that LAFCO has three options. One is to do nothing, two is to support the bill, and the third is to oppose SB 211.

Chairperson Roger Anderson adds that another option is for LAFCO to oppose the bill unless amended.

Mr. Alonzo continues that, based on today's testimony, he respectfully urges LAFCO to oppose SB 211.

Susan Allan, Chair of the Santa Cruz County Republican Party, says this community owes gratitude to the Land Trust of Santa Cruz County. They have used private donations to buy thousands of acres of land in this county to preserve open space. The Land Trust is doing the right thing and has done it the right way. In contrast, SB 211 is an effort to shortcut the process of forming special districts for the formation of a regional open space district here. Instead of going through the normal creation procedure, SB 211 is an effort to bypass important time-honored processes.

She knows it is difficult to go through all the steps to create a special district. Gathering signatures is tedious and time-consuming. Many would prefer the convenience of a quick legislative action to make democracy work faster. But democracy is not designed for convenience.

In addition to the issue of shortcutting important processes, SB 211 would create a new government entity with a taxing authority, a governing body, and a bureaucracy to achieve a purpose that is already being met by the Land Trust. There is no compelling reason to take an outstanding organization and substitute it with a government entity. Sometimes when a public purpose is not being met by the public sector, the public sector must step in. This is clearly not the case and she urges the Commission to oppose SB 211.

Bryan Mathias has lived in the Aptos/Day Valley region all of his life and he sits on the Santa Cruz County Fair Board. Several times a week there is an agricultural group that will come to the fair and hold an event. There are tons of activities that happen at the Fairgrounds that are related to agriculture. He is concerned when the pulse of the agricultural community is crying out that this bill will be of detriment to them.

Most of his friends have left this county because it is a difficult and expensive place to live. SB 211 will make this county more difficult and more expensive to live in. The language is written so broadly, with undertones of eminent domain, that no one he knows that wants to gain some amount of wealth in the future would want to choose this county over another. He hopes this Commission opposes SB 211.

Bob Thomas is a local retail businessman. Two years ago, he employed 74 people. Today he has 61 people working for him. By the end of summer, he will have to release another five or six people until Christmas time. Retail is suffering a lot today. He sees nothing on the horizon federally or locally to support retail to help create jobs. He opposes SB 211 and asks the Commission to oppose SB 211.

He thinks something is needed to help business in this community to grow and put people to work. People who are employed pay taxes. His company along with other retail companies will be responsible and collect sales tax. He sees no other way to fund this bill except through sales tax. He heard that an \$8 to \$10 million budget might be needed to fund this each year until some decision is made by the Land Trust to purchase some land. He could create many jobs with \$8 to \$10 million each year. He does not want money taken out of the pockets of the consumer that spends money on all the retail businesses in this County.

Derrick Seaver married an Aptos native and moved to Aptos a little more than one year ago. Most of his life was spent in Ohio where he was a six-year member of the Ohio House of Representatives. As a former member of another state's State Legislature, he researched SB 211 and wants to express his opposition to the bill.

The bill states that the formation of the park district is not subject to LAFCO's formation proceedings. Upon moving here, he has appreciated California's government for its openness, its deliberativeness, its transparency, and its democratic spirit. He thinks LAFCO is an integral part of all of those qualities. He also thinks local government here works well and the local processes in place are excellent. He does not see why LAFCO would see that usurped by some legislation coming from the State Legislature.

He is concerned that the legislation singles out Santa Cruz County. In Ohio, it was prohibited to single out a single county. He respects California's processes and the local legislators' knowledge of the area. He agrees with those who have said that enabling legislation is worrisome, particularly when it singles out a single county or a single area to do it. There seems to be some incrementalism involved with the legislation. He urges LAFCO to oppose SB 211.

Sharon Gray lives in a small area of privately-owned land inside Sunset Beach State Park. She opposes SB 211. There is potential in this legislation to take people's property rights, people who have in good faith paid their mortgages, paid for upkeep on their properties, and paid their taxes. Property owners can do what they want

with their own property providing they follow existing legal regulations such as zoning.

She is concerned for economic reasons. Even in the best of economic times, it makes no sense to take properties that are generating income for the county and the state, to remove them from generating any income, and instead become a tax or additional expense on the taxpayer. These are not the best economic times, maybe the worst since the depression. This is legislation with the potential to be devastating to individual landowners.

The state did not have enough money to buy her section of property during the depression when they were forming the state park. There are 62 houses where she lives within Sunset Beach. SB 211 has the potential for their small group as well as other groups within the county to radically alter those property owners for the worse.

She and her late husband owned property in other counties and even in another state. She knows of no other area more environmentally responsible than Santa Cruz County. There are already open space acquisition groups in place such as the Land Trust that are working here. People here are environmentally sensitive to native species and habitats. She thinks if the situation is not broken, there should be no attempt to fix it. This is an area that is not broken. She opposes this legislation. She does not think government should try to fix what is not broken. It has the potential to radically alter the lives of private property owners who have been acting in good faith.

Vic Marani, an Aptos resident, agrees with the mayor of Watsonville, the Farm Bureau, the Republican Party of Santa Cruz County, the Reform Party of Santa Cruz County, the Senior Coalition, and numerous other groups who are strongly opposed to SB 211. SB 211 is here at the wrong time, it has the wrong approach, and all of the amendments are putting a dressing on it.

This legislation should be thrown out and started over. All of the people and stakeholders should be addressed and not ignored. There are people who engage in public discourse and they are reasonable. They can be talked to and the issue can be worked through. On July 8th, he was probably the only person at this hearing sitting at the Assembly Local Government Committee and the only person giving testimony in front of that committee about SB 211. Of all the legislators, paid staff, and high-priced lobbyists, he was one of two people that lived in Santa Cruz County for a bill that only applies to Santa Cruz County. He was embarrassed when someone said that the local LAFCO was OK with this bill. But he knew this LAFCO had not taken a position. CALAFCO was there, but only spoke briefly in opposition to this bill.

LAFCO exists to review all aspects of these issues. They have an obligation to protect the public and look at all of the aspects of forming a special district. This bill bypasses LAFCO. He thinks there is a conflict to have two people that have already voted in support of this bill that can make a judgment today on behalf of LAFCO. Maybe they should not be able to participate or vote in this process. Enabling legislation is not a good idea. People need to start over and engage others on a legitimate and equal basis.

He wonders about the proponents of the Bonny Doon Fire District proposal. Why could they not find a friendly State Senator or Assemblyman to create legislation and bypass LAFCO so they can have their own fire district? There may not be LAFCOs anymore or any level of protection. LAFCO is a check and balance.

There are four State legislators that represent this County. He wonders why negotiations have not included the Senator that represents the southern part of the County, Senator Maldonado. There are two cities that have not discussed this issue. The City of Santa Cruz supports the bill and the City of Watsonville opposes the bill. He understands the City of Scotts Valley is going to discuss SB 211 soon. He wants to hear from a lot more people

about this bill.

* Chairperson Roger Anderson leaves the room.. He turns the podium over to the Vice-Chairperson Leopold.

Commissioner Rapoza says that what is before the Commission today has nothing to do with the viability of an open space district. There is no reflection on the Land Trust or the potential formation of an open space district. What is before the Commission is a piece of legislation whose analysis indicates that they want to expedite the proposed district's formation. In the analysis, it says that the legislature may want to ask why there is a need to circumvent the LAFCO process. They may want to consider that if the district's formation is not going through the full LAFCO process, perhaps it should require that Santa Cruz LAFCO hold at least one public hearing on the issue prior to taking formation proceedings to the voters.

* Chairperson Roger Anderson returns to the podium.

LAFCO's are independent of the counties. Often, there are issues before LAFCO regarding annexations and formations of districts where the boundaries are not necessarily the only issue and they may not be the most contentious issues, such as issues around governance, funding, and the services the proposed district is going to render. There is a process in place for the formation of special districts.

He has read the material and listened to everyone at this hearing. He has not been shown how this special legislation is preferable to a LAFCO process. He thinks the Bonny Doon issue is an excellent example of why the LAFCO process was put in place. The LAFCO process fosters ample public input. There is public input from the first day that the application is brought before the Commission until the final hearing. He is not sure that expediting this process leads to proper public input.

Commissioner Lind has similar concerns that many have already stated. She thinks one of the best concerns is that if a proposal came to LAFCO to form a new district, they would want to see a budget and how it is funded; and that is not part of this bill. She believes there are processes in place that are working effectively where the public is heard such as the Bonny Doon proposal. She opposes SB 211.

Commissioner Leopold appreciates today's testimony. He wonders what LAFCO's interests would be. There are strong feelings about taxes and making sure that all voices are heard in the development of policy. He respects the City of Watsonville for engaging in the process and articulating points of view that were helpful for him to understand some of concerns that were raised. He was glad to see additional amendments added to the bill that reflected those concerns. He is happy to hear that Watsonville is currently engaged in some of the negotiations with the bill's authors.

He thinks it is easy to point out that it is wrong to have enabling legislation that subverts the public process. There is legislation that goes on all the time that specifies Santa Cruz County. When Assembly Member John Laird was in office, special legislation was created to protect the County's cable franchise. No one seemed to mind that because it helped to keep cable costs down. There was special legislation included when the County needed to borrow money from the Redevelopment Agency to pay for a State takeaway. When Assembly Member Fred Keeley was in office, he made sure to include monies for the purchase of parklands and initiative that came to the ballot. There are many circumstances where Santa Cruz is singled out by their legislators, and people should be grateful for that kind of support.

He takes the concerns seriously about the role LAFCO should play in this situation. He is a new LAFCO

member and his LAFCO experience is somewhat limited. He feels that this bill is still in negotiations and he thinks it would be wise not to take a position until people fully understand what the bill is rather than jumping to a conclusion about what it will be. He thinks the Commission should stay neutral on the bill.

Commissioner Campos says his main priority is to protect the City of Watsonville. He wants to keep the line of communication open with Senator Simitian and all the other people involved. If the Commission votes no, that does not mean that the bill will stop, it just means that the Commission will not support the bill. He wants to continue the negotiations. It may come to a point where the negotiations do not result in anything, and if it does, he would have to decide whether to support it or figure out some other way that is acceptable to the people he represents.

He wants to make sure the Farm Bureau is comfortable with the language. He has asked for something in writing from them what they would like to see in the bill.

There are two issues: the protection of farmland and the protection of timber harvesting. There is a large amount of timber harvesting in the Watsonville area that has been going on for a long time. He has talked to the City Manager about continuing negotiations. He wants to set up a meeting with Senator Simitian to hammer out the differences and concerns that the City has.

Commissioner Begun says the problem with this bill is not that it needs more negotiation or more compromises, it is that it subverts the public process. There will be no meetings like this if the new process goes into effect. He opposes SB 211.

Commissioner Leopold points out that this bill will come before the Board of Supervisors and there will be a public hearing. The board represents the entire County. He understands the concerns, but it is not a done deal even if this legislation passes.

Commissioner Campos says if the Commission wants to make sure they have a say in it, it could be one of the conditions to implement in the bill.

Commissioner Rapoza wonders if it is appropriate to attach to the motion his opposition that is solely based on procedural issues. There is a process in place already. He is not sure that through that process they could not accomplish the same results.

Chairperson R. Anderson asks if Commissioner Rapoza wants to add an amendment to the motion.

Commissioner Rapoza says the bill is a procedural bill so he is not sure that an amendment is necessary.

Commissioner R. Anderson is referring to amend it to the motion to oppose.

Request for roll call vote:

Commissioner Begun – AYE
 Commissioner Rapoza – AYE
 Commissioner J. Anderson – AYE
 Commissioner Leopold – NO
 Commissioner Campos – NO
 Commissioner Lind – AYE
 Chairperson R. Anderson - AYE

MOTION AND ACTION

Motion: Lind Second: Begun	That Santa Cruz LAFCO express opposition to SB 211. The motion passes.
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2008-2009 GRAND JURY FINAL REPORT

Mr. McCormick says that the Grand Jury is concerned that some of the smaller districts do not know and do not follow several of the required procedures in state law to conduct their business. The Grand Jury came up with some findings, conclusions, and recommendations, most of which would involve LAFCO to a greater degree by requiring the various districts to provide copies of their by-laws and their mission statements.

He sent a letter to the special districts asking them to send their feedback so he can incorporate it in the draft comments he will be preparing for the next meeting.

Commissioner Rapoza talked to some of the special districts in the San Lorenzo Valley, including the fire districts and his own San Lorenzo Valley Water District. They see this as being geared toward the smallest special districts that either do not have the staff or do not have their own technology to have their own website.

LAFCO’s current website has links to those districts who have websites. Most of those sites have specifically what the Grand Jury is looking for such as regulations, agendas, meeting times and places, and who is on the various special district commissions.

Some of the questions and comments that came back from some of the districts is whether LAFCO staff has the time and staff to maintain these records at the LAFCO office. Most of the districts were taken aback by the suggestion that somehow LAFCO had an enforcement arm to make them comply since they are independent special districts.

Chairperson R. Anderson says that the example cited by the Grand Jury was probably relating to a very small district. He agrees with the Grand Jury’s report that this is an issue. There have been some recent changes in State law to try to clean up abuses from some of the special districts in the State. He wonders what the most constructive way of adding to the record about what these different districts are doing. It would be nice if all the special districts ended up with a link to a website.

Commissioner Begun asks if anything prevents the offer of an educational program for the special districts.

Commissioner J. Anderson agrees with Commissioner Rapoza’s comments. He concurs and many wonder whether LAFCO has the authority or the staff to support the Grand Jury’s suggestions.

Lois Henry has lived in Lompico for 38 years. She was elected to the Lompico County Water District Board last November. She heard previous board members say they would never be on the board again. She wondered how bad it could be and she found out. There is full time staff with a district manager, his assistant, and there is a district secretary. There is a five-person board.

She has an accounting background. When she came on the board, she started looking at the numbers and no one liked that. Lompico Water has been in the red for the past five years and there are no reserves. There is no money for major improvements. She looked at the audit for 2007-2008 and found many mistakes. She complained about it, and they asked why she was complaining because it has always been fine in the past.

She found two letters addressed to the board members from the Auditor's office that complained about previous audits. She asked the board members if they ever saw these letters and they said no. Payroll and benefits are way over budget. She is on the Budget Committee and this year, they are trying to have a balanced budget. The budget they have for 2008-2009 said they were going to spend as much as they made. She told them that was crazy because no one does that. There has to be money for reserves. Unless the governor takes too much money away, they may come out in the black in 2009-10.

The Grand Jury report said that some of the special districts have no by-laws. Lompico Water has no by-laws. She asked for by-laws but she was told that they operate by the Water Code. They had no board procedures. Three months ago, they finally voted for some board policies.

She is speaking for herself and not for the board. They stole their board policies from SLVWD. Policy says that any board member can put any item on the agenda that they want. She has a difficult time getting anything on the agenda. They do not have a mission statement. She thinks this is a breeding ground for hostility among the public and members of the board. There have been horrible blogs and anonymous letters.

She knows Lompico Water is not the only small district with problems. She went to Sacramento for a class to help new special district board members. She hopes this Commission takes this Grand Jury report seriously. She says the letter the Commission sent July 11, 2009 was not listed as correspondence at their July 21st meeting.

Chairperson Roger Anderson asks if Counsel Cheleden can research what this Commission is legally able to do.

Debra Loewen has lived in Lompico for more than 30 years. She remembers Lompico Water having many problems over the years. She has been going to meetings for three years. They have no by-laws. She has gone to the Attorney General's office, talked to her Supervisor and Mr. McCormick, and to anyone who may have jurisdiction over her special district. She has been told that they have no power over Lompico Water District. They have acknowledged that there is a problem, but they have no jurisdiction to correct the problem. She thinks the problem is unique to small special districts within a small community.

The board has largely been ornamental and social. As a rule, the board does not understand their responsibilities. Ms. Henry has reiterated some of the problems, but she thinks the problems are a lot worse than what Ms. Henry expressed.

She realizes LAFCO has limited power over special districts and that they do not have the staff or the resources to help. There is a community foundation that offers board training for non-profits on a regular basis. The County contributes money toward that offer. She thinks this is a 'top down' problem. If their board was better informed, better trained, and had the opportunity to take special district board training classes as a requirement

when they are elected into office, it would help to solve some of the problems. Some of the other problems are entrenched.

She looked at the section of LAFCO's report that comes out every five years specifically on water districts that compared all the County's water districts and their management efficiencies. Lompico Water does not compare. She wonders if this sends a red flag to anyone and why there is not any oversight. She thinks this is too great of a burden for someone like her to fix these problems.

Dick Perez was on the Grand Jury Committee. There are several small districts that have similar problems. As noted in the report, many of the bigger districts have the staff and often they are run quite well. It is the smaller districts that do not have the resources; so, it only works from word of mouth on how to run their special district.

He understands that LAFCO is an independent agency and they can create their own policies. The Grand Jury recommended that LAFCO use those powers to rectify some of these problems. All it requires for LAFCO staff is to house the information in their file cabinets. They would just serve as a repository. Not much staff and resources are required to file some documents in the LAFCO office. This is not an easy fix. It is a place the public can go to for that information if they need it. Most of these small districts are in remote areas and it may be hard to find a document. Some offices have restricted hours that they are open. A central repository would be good for the County.

Commissioner Campos adds that many people do not want to pay when a district tries to raise fees. There needs to be some leadership that will help solve problems.

Mr. Perez says the Grand Jury is asking for the transparency of their by-laws, a mission statement, and Roberts Rules of Order. The Sphere of Influence review is mandated every five years.

Commissioner Campos asks if a letter should be sent again as a courtesy.

Mr. McCormick is still receiving input from the special districts as they meet this month. He will compile everything into a report for the Commission's action next month. He will get legal advice as to what the range of authority this Commission has.

Commissioner Rapoza says the Grand Jury report mentions the 78 special districts within Santa Cruz County. In reality, about two-thirds of those districts are dependent special districts that do not have an elected board. Their board is normally the Board of Supervisors acting as the board for a County Service Area, for example. About one-third of those districts have elected boards and they are the independent special districts, and he assumes those are the districts that are mainly in question.

Mr. Perez says that they were addressing all of the special districts except for the road districts. They just want something on record. He does not think it is unreasonable for any district to mail in their by-laws or mission statement.

MOTION AND ACTION

Motion: Rapoza Second: Campos	To put this item back on the agenda for the September meeting with a report back on the responses from the special districts and a recommendation for action. Motion carries with a unanimous voice vote.
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Chairperson Roger Anderson asks if any Commissioner is interested in running for the CALAFCO board or if they have any ideas for awards nominations, and if so to get the information to Mr. McCormick.

MOTION AND ACTION

Motion: Begun Second: J. Anderson	To adjourn. Motion carries with a unanimous voice vote.
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Meeting is adjourned at 11:54 a.m. The next meeting is scheduled for Wednesday, September 2, 2009.

CHAIRPERSON, ROGER W. ANDERSON

Attest:

Patrick M. McCormick, Executive Officer