

## ***MINUTES OF THE MEETING OF DECEMBER 7, 2005***

The Sacramento Local Agency Formation Commission met this seventh day of December, 2005, at 5:30 P.M. in Board Chambers, County Administration Center, 700 H Street, Sacramento, California.

PRESENT: Chair Robert King Fong; Commissioners Charles Rose, Elliot Mulberg, Susan Peters, Christopher Tooker, and Alternate Commissioners Kevin McCarty and John Jachens.

ABSENT: Commissioners Sophia Scherman and Illa Collin.  
Not Present: Gay Jones, Steve Miklos, Roberta MacGlashan.

STAFF: Executive Officer, Peter Brundage; Assistant Executive Officer, Donald Lockhart; Commission Counsel, Nancy Miller; and Commission Clerk, Marilyn Ann Flemmer.

### **CONSENT CALENDAR**

The meeting was called to order by Chairman Fong at 5:30 PM; the Clerk called the roll; the Commission led the Pledge of Allegiance. The Chair announced that Agenda item #7 and item #13 will be moved to the position of directly preceding item #14. A motion to approve the corrected Minutes of November 2, 2005 and Claims dated December 2, 2005 was moved by Commissioner Rose, seconded by Commissioner Fong and unanimously approved.

### **MUSCHETTO ANNEXATION TO CITRUS HEIGHTS WATER DISTRICT (10-04) [CEQA: Mitigated Negative Declaration]**

Donald Lockhart reviewed the staff report noting that there are local land use issues of contention that do not fall under LAFCo purview, and recommend approval of the annexation.

Mr. Michael Garabedian, representing Citrus Heights Pay-As-You-Go, addressed the Commission. Mr. Garabedian stated his opposition to the proposal citing the City of Citrus Heights' failure to prepare an Environmental Impact Report for the mitigation of traffic and other issues affecting this project.

The Commission asked questions of staff regarding CEQA compliance with the City of Citrus Heights incorporation. The Assistant Executive Officer clarified that LAFCo, as a responsible agency, reviewed and commented on the City certified Negative Declaration. Commission Counsel stated she believes the City of Citrus Heights is in compliance of all measures on the LAFCo resolution of incorporation. Commissioner Rose moved approval of the Muschetto Annexation to Citrus Heights Water District. The motion was seconded by Commissioner Tooker and unanimously passed. [Rose, Mulberg, Peters, Tooker, Fong.]

**City of Sacramento Request for Modification to  
Memorandum of Understanding for Natomas Joint Vision  
SOI/Concurrent Environmental Impact Report Processing**

Peter Brundage stated he recommended the Commission grant an indefinite continuance of this item and he will report back to the Commission. Commissioner Tooker moved the Executive Officer's recommendation; the motion was seconded by Commissioner Rose and unanimously approved.

**City of Isleton Memorandum of Understanding Between LAFCo  
and the City of Isleton for Processing Sphere of Influence Proposal**

Peter Brundage recommended approval for staff to enter into a Memorandum of Understanding with the City of Isleton for processing an Environmental Impact Report for a Sphere of Influence Amendment and Annexation proposal. After brief Commission discussion, Commissioner Tooker moved approval of staff's recommendation; Commissioner Peters seconded the motion which was unanimously passed.

**Special District Advisory Committee Recommendation for  
Procedures for Special District Elections**

Donald Lockhart reviewed the issue of amending the selection procedures for Special District Commissioners and Alternate Commissioners to LAFCo. Mr. Lockhart stated the Special District Advisory Committee has reviewed the change in wording from the current definition of a winning candidate as *a majority of votes cast* to the proposed definition of a winning candidate as **the top "vote getter" will be determined the winner outright.** The Advisory Committee also recommended, continued Mr. Lockhart, that current rules be retained regarding the event of a tie, a runoff election will be held. A change is proposed in that **should a second tie occur, the winner will be determined by the flip of a coin.** There was Commission discussion. Commissioner Rose moved approval of the Special District Advisory Committee recommendation. The motion was seconded by Commissioner Mulberg and unanimously passed.

**Update: Greenbriar Draft Environmental Impact Report**

The Assistant Executive Officer stated that City of Sacramento staff is working with the U.S. Fish and Wildlife Service to prepare and review an Effects Analysis of the proposal on the existing Natomas Basin Habitat Conservation Plan. LAFCo staff reviewed and provided comments on the ADEIR in a timely fashion, consistent with the MOU.

**Update: Open Space-Agricultural Preservation Draft Policies Workshop Status**

Mr. Lockhart stated he attended a Regional Habitat Conservation Planning Workshop in Vacaville 11-17-05. A call for presentations for the Spring Workshop was distributed to the more than one-hundred stakeholders in attendance. The Sacramento Valley Open Space Conservancy, County of Sacramento and City of Sacramento have expressed interest in participating in the Spring Workshop.

**Update: Monthly Budget Report**

The Executive Officer briefly stated there are no budget matters to report; there may be a year end carryover for next year.

**Update: LAFCo Work Plan**

Report provided without comment.

**Update: Legislation**

No report.

Chairman Robert King Fong recused himself from the meeting and left the meeting. Alternate Commissioner Kevin McCarty took Mr. Fong's place. The meeting continued with Christopher Tooker, Vice Chair, acting as Chair.

**WORKSHOP: SMUD SPHERE OF INFLUENCE AMENDMENT  
AND ANNEXATION OF TERRITORY IN YOLO COUNTY (05-05)**

- A. Sacramento Municipal Utility District Presentation, Arlen Orchard, General Counsel, Sacramento Municipal Utility District.***
- B. Pacific Gas & Electric Company Presentation, Thomas E. Bottorff, Senior Vice President, Regulatory Relations, Pacific Gas & Electric Company.***
- C. Sacramento Municipal Utility District Response***
- D. Commission Questions***
- E. Public Comment***
- F. Executive Officer's Report on LAFCo Consultant Contracts***

Vice Chair Tooker altered the presentation stating six elected officials will be called to speak prior to Mr. Arlen Orchard's presentation. The Clerk called each of them to the podium.

Oscar Villegas, Councilmember, City of West Sacramento, addressed the Commission. Mr. Villegas stated "The City Council has worked diligently to obtain data on the proposal. However, P.G. & E. has not provided very good data to date." Mr. Villegas stated that he hopes the Commission will obtain the right data on this proposal.

Neal Peart, Councilmember, City of Woodland, addressed the Commission. Mr. Peart stated, "P.G.&E. assured us they would work with us to do the best they could. That didn't happen. They worked against us. They have slipped to the low road with this issue," stated Mr. Peart. "They are saturating our communities with very bad, misleading and confusing information. The Communities of West Sacramento, Woodland, and Davis have requested SMUD to annex. This is not a hostile takeover, it is a matter of choice," concluded Mr. Peart.

Art Pimentel, Councilmember, City of Woodland, addressed the Commission. Mr. Pimentel presented the Commission with a Joint Resolution, dated April 5, 2005, from the Cities of Davis, West Sacramento and Woodland, and the County of Yolo, stating that after establishing specific criteria by which to assess the potential for annexation, studying the feasibility of annexation and determining the proposals benefit to these communities, the Cities of Davis, West Sacramento, Woodland and the County of Yolo are committed to work jointly and whole heartedly with the SMUD Board of Directors to affect the annexation proposal.

Stephen Souza, Councilmember, City of Davis, addressed the Commission. Mr. Souza stated "Our community is excited about the prospect of annexation into SMUD. Our City has desired annexation for ten years; we have actively pursued it for five years. The PUC found no negative issues. P.G. & E. is now engaged in an active campaign to block the annexation." Mr. Souza stated "P.G. & E. has not worked cooperatively to provide information. They have announced an asset value of four times more than its value. They are running a campaign of annoyance. Please grant us the right to make this determination," concluded Mr. Souza.

Mariko Yamada, Supervisor, Yolo County, addressed the Commission. Ms. Yamada briefly stated "We appreciate your ability to determine the issues fairly; we look forward to a vote in November 2006."

Roy Grimes, President, Sacramento City School Board, addressed the Commission. Mr. Grimes stated "The difference in rate structure between SMUD and P.G. &E. make a radical difference in the finances we have with which to fund our schools. We support the annexation proposal, but believe it is appropriate that Sacramento County ratepayers have the opportunity to vote on the matter," concluded Mr. Grimes.

Arlen Orchard, General Counsel, Sacramento Municipal Utility District, addressed the Commission. A copy of his remarks are attached hereto and made a part hereof. [Also available at [www.saclafco.org](http://www.saclafco.org).] Mr. Orchard then answered Commission questions.

Thomas E. Bottorff, Senior Vice President, Regulatory Relations, Pacific Gas and Electric Company, addressed the Commission. A copy of his remarks are attached hereto and made a part hereof. [Also available at [www.saclafco.org](http://www.saclafco.org).] Mr. Bottorff answered Commission questions.

**Public Comment**

Ernie Head, Yolo County Taxpayers Association, addressed the Commission. Mr. Head stated the Yolo County Taxpayers Association opposes the proposed annexation. "We do not believe such action would result in lower costs or better services. P.G. & E. has always served our community well and will continue to do so," stated Mr. Head.

Ron Morazzini, West Sacramento Resident, addressed the Commission. Mr. Morazzini stated he is a former SMUD employee and he has always lived in West Sacramento. "The quality of service and rates are better in Sacramento. SMUD's reliability is much better than P.G. & E.'s; customer satisfaction is higher with SMUD, and local control gives everyone an opportunity to address the Board of Directors." Mr. Morazzini concluded by urging the Commission to move the matter forward.

Betty Elston, Citrus Heights Resident and SMUD Customer, addressed the Commission. Ms. Elston stated she is concerned about "the unknowns, discrepancies and what happened during the Folsom annexation. I was surprised I wouldn't have a chance to vote on the matter. I am concerned that existing SMUD customers may be left to pay for annexation costs," concluded Ms. Elston.

Cecil Padilla, Yolo County Retiree, addressed the Commission. Mr. Padilla stated he "wished to caution the Commission on the unknowns before you. SMUD promised a 11% reduction in rates and provided 2%---that's pennies. Has SMUD secured the contracts to handle the added load. P.G. & E. celebrates 100 years of service; they are not for sale. Who pays court costs?" concluded Mr. Padilla.

Phil Marler, Assistant City Manager, City of Woodland, addressed the Commission. Mr. Marler stated three city councils and the County Board of Supervisors support this proposal "because they have faith in SMUD and not in P.G. & E. SMUD rates are lower; the value of the P.G. & E. system doesn't make sense. SMUD states they could replace P.G. & E. property for \$250 M. We are confident that the loss of revenue to cities can be recovered through a surcharge. This proposal is in the public interest," concluded Mr. Marler.

Marc Joseph, Coalition of California Utility Employees, addressed the Commission. Mr. Joseph stated the Coalition of California Utility Employees believes "this is not an industry where gambling makes sense. When it comes to operating utilities, SMUD does it well and so does P.G. & E. But when it comes to annexing areas, SMUD makes fundamental errors. SMUD has not complied with CEQA by failing to create an Environmental Impact Report for the proposal. Without complying with CEQA, they have no idea of what this will cost." Mr. Joseph further stated that "SMUD's assumption

is wrong regarding the cost of gas and that will result in a rate increase in Yolo County and for SMUD customers, or both. We think this will be bad for everyone. We think SMUD should stick to what it does," he concluded.

Bruce Gallaudet, Davis Chamber of Commerce, addressed the Commission. Mr. Gallaudet stated he has partnered with P.G. & E. and he has found them to be good community people. "They have supported Little League, Street Fairs, and other events in Davis. If P.G. & E. leaves, it will be like losing a friend. This is a big gamble. I don't want to gamble, or to lose a friend," concluded Mr. Gallaudet.

Jerry Adler, Davis Chamber of Commerce, addressed the Commission. Mr. Adler stated that "The loss of revenue to cities must be mitigated. We suggest that is a utility users tax in disguise and requires a 2/3 voter approval. Howard Jarvis Taxpayers' League says this is a special tax that requires a 2/3 vote. If you accept SMUD's proposal and it passes with more than 50% but less than a 2/3 majority, you are going to have law suits," concluded Mr. Adler.

Mary Lasell, West Sacramento Resident, addressed the Commission. Ms. Lasell stated "Not all residents desire to be SMUD customers. There are no guarantees for rates. I have no problem with P.G. & E. now. Look at what happened with Folsom."

Bill Julian, Davis Resident, addressed the Commission. Mr. Julian stated "P.G. & E. has higher rates but they are driven by diverse power sources. SMUD has made it clear there will be a 2% reduction in rates. We understand about the amount of time required for the surcharge. P.G. & E. will not leave the community, it will continue to be the supplier of natural gas in both counties. Unless they so discredit themselves, they will remain in the community integrating electric and gas service. What divides us makes us losers," concluded Mr. Julian.

Rob Ball, Woodland Joint Unified School District, addressed the Commission. Mr. Ball stated "We can save \$125,000 a year with SMUD's electricity rates. That's textbooks, counselors and schoolrooms we now do not have. A 2% savings is the equivalent of \$3,000/ year, or 60 textbooks, for the District. I urge you to carefully consider the lack of information provided by P.G. & E., and use of scare tactics currently going on," concluded Mr. Ball.

Dean Newberry, Davis Coalition for Local Power, addressed the Commission. Mr. Newberry stated "The Task Force has looked for a method to get the creation of a Municipal Utility District through LAFCo. LAFCo suggested we apply to SMUD. SMUD is capable. Several studies have proven it is not a gamble. The elected officials make local power local government. The risk factors: several years ago citizens took a risk and created SMUD. It is quite a success. Folsom is another success. We can enjoy success with this annexation. I urge you to vote for this proposal," concluded Mr. Newberry.

Kyte Buchoff, Davis Resident, addressed the Commission. Mr. Buchoff stated he is "strongly in favor of accountability in utilities. This is not driving P.G. & E. out; no malefic effect on SMUD or P.G. & E. will occur. With P.G. & E., I would need to buy thousands of shares of stock before they would ask if I had any problems with management. With SMUD, I have a better chance of communicating with management. In any undertaking by humans, there will be risks. This issue must be voted on by the people in our area."

Val Toppenberg, City of West Sacramento, addressed the Commission. Mr. Toppenberg stated "The proposal is a request by the jurisdictions in Yolo County. P.G. & E. proposes to close a service center in Yolo County and also propose to close 82 service centers across the state. West Sacramento receives \$720,000 in franchise fees and property tax. We have been looking at the methodology for recovery of these fees and we are satisfied with the current mitigation plan."

Richard Lauckhart, Global Energy, addressed the Commission. Mr. Lauckhart stated "We have been engaged by P.G. & E. to evaluate the cost of energy for natural gas futures. We have done an analysis that does not match with SMUD's gas price forecast. No credible forecast concurs with SMUD's 2008 forecast. We believe they have missed it. They failed to add extra charges and failed to add in the extra costs of Katrina that will affect us all."

Dan Berman, Coalition for Local Power, addressed the Commission. Mr. Berman stated "P.G. & E. has a pious attitude; press releases that are not truthful." Mr. Berman stated "P.G. & E. has spent thousands on attorneys, consultants and on anti-municipal utility elections. Most of the people who work as consultants for P.G. & E., are in it for the money," he concluded.

Commissioner Tooker closed the public hearing.

Commission Counsel then gave a report on the Consultants that staff has hired (1) outside analysis on valuation of P.G. & E. and (2) Legal Counsel with expertise in energy matters. There was Commission discussion regarding the role of Commissioners and future litigation regarding the proposal. Commission Counsel stated to the Commission, "Your job is to make sure the proposal is reasonable." Mr. Brundage stated he will direct the Consultants to meet with Commissioners to answer their questions. In answer to a Commission question, Mr. Brundage stated "The Consultant's job is not to determine the absolute value of P.G. & E.'s system. I plan to provide the most probable range of value, based on generally accepted methodologies and industry practices, for your consideration."

The meeting was then adjourned for a closed session. Commissioners and staff adjourned to Hearing Room #1 for an Executive Session in which Commission Counsel reported on current litigation: Pacific Gas & Electric Company v. Sacramento Municipal Utility District and Sacramento Local Agency Formation Commission. Sacramento County Superior Court Case No. 05GS015282.

At the conclusion of the Executive Session, Commission and staff returned to Board Chambers. Vice Chair Tooker reopened the meeting. Commission Counsel reported the Executive Session had occurred; no action was taken.

There was no further business; the Commission adjourned at 9:07 P.M.

Respectfully submitted,

***SACRAMENTO LOCAL AGENCY FORMATION COMMISSION***

Marilyn Ann Flemmer  
Commission Clerk

Maf  
Attachments

(Minutes December 7, 2005)