

SPECIAL MEETING
SACRAMENTO CITY COUNCIL
December 1, 1964

The Honorable City Council met in Special Session on this date at the hour of 7:35 o'clock p. m., President Pro Tem of the Council, Walter Christensen presiding and roll call was answered as follows:

Councilmen Christensen, Domich, Mering, Nielsen, Rouse and Talkin.

ABSENT: Councilmen Marriott, McKinney and Murphy.

An executed copy of the notice of the call of the meeting issued by the Mayor and affidavit of mailing of said call by the City Clerk were ordered filed and entered upon the minutes as follows:

SPECIAL MEETING
CITY COUNCIL
SACRAMENTO

TUESDAY
DECEMBER 1, 1964
7:30 O'CLOCK P. M.

6902 I HEREBY CALL a Special Meeting of the City Council to be held at the hour of 7:30 o'clock p. m., on Tuesday, December 1, 1964, in the Council Chamber of the City Hall for the purpose of considering and acting upon matters relating to the consolidation of the City of North Sacramento with the City of Sacramento, including, but not limited to, adoption of an Ordinance approving said consolidation.

ISSUED this 27th day of November, 1964.

s/James B. McKinney
MAYOR

ATTEST:

s/Reginald H. Boggs
CITY CLERK

AFFIDAVIT OF SERVICE BY MAIL
(C. C. P. 1013A)

STATE OF CALIFORNIA)
CITY OF SACRAMENTO) ss.
COUNTY OF SACRAMENTO)

Reginald H. Boggs, being duly sworn, says that he is a citizen of the United States, over 18 years of age, a resident of the City of Sacramento, County of Sacramento, State of California, and that Affiant's business address is Room 203, City Hall, Sacramento, California. That affiant served a copy of the attached Public Notice by placing said copy in an envelope addressed to the persons listed below at their addresses shown, which envelopes were then sealed and the postage fully prepaid thereon, and the reafter was on the 27th day of November 1964, deposited in the United States mail at Sacramento, California. That there is a delivery service by United States mail at the places so addressed, or regular communication by United States mail between the place of mailing and the place so addressed.

s/Reginald H. Boggs
City Clerk

6903 Subscribed and sworn to before me this 1st day of December, 1964.

NOTARY PUBLIC in and for the County of Sacramento, State of California

<u>NAME</u>	<u>BUSINESS ADDRESS</u>	<u>HOME ADDRESS</u>
Walter Christensen	1114 J Street	1617 - 8th Avenue
Dain J. Domich	2618 El Paseo Lane	1341 - 45th Street
Richard H. Marriott	2525 Stockton Boulevard	2716 - 10th Avenue
James B. McKinney	214 Forum Building	2016 - 23rd Street
Philip Mering	901 H Street	104 - 44th Street
Thomas E. Murphy	1005 - 8th Street	518 Lovella Way
Willard E. Nielsen	520 Capitol Mall	1480 - 8th Avenue
Alan P. Rouse	1115 H Street	6160 Fordham Way
Albert J. Talkin	5721 Stockton Boulevard	4890 - 8th Avenue

6904 Certificate of the City Clerk certifying that the City Manager, Assistant City Manager, City Attorney, Assistant City Attorney, and City Engineer were duly served with copy of said Special Meeting Call, in their respective offices in the City Hall, on date of November 30, 1964, was placed on file.

6905 The City Clerk read a report dated December 1, 1964, advising Council of receipt of the following documents pertaining to that Special Municipal Election held on June 2, 1964, in the City of North Sacramento on the question of consolidation of that City with the City of Sacramento:

6905 Judgment and Findings of Fact and Conclusions of Law, entered August 26, 1964, by the Superior Court of the State of California, in and for the County of Sacramento in that action entitled Feige, et al., v. La Rue, et al. No. 151897. Said Judgment and Findings declare the result of the Special Municipal Election in favor of consolidation with the following vote:

VOTES CAST:	4149
VOTES CAST FOR CONSOLIDATION:	2082
VOTES CAST AGAINST CONSOLIDATION	2067

Resolution No. 64-1211, adopted on October 28, 1964, by the Board of Supervisors of the County of Sacramento setting forth the result of said election in accordance with the Court's Judgment and Findings, the Statement of the proposition submitted and the statement of bonded indebtedness.

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Resolution No. 3017, adopted on November 30, 1964, by the City Council of the City of North Sacramento setting forth the result of said election in accordance with the Court's Judgment and Findings, the statement of the proposition submitted and the statement of bonded indebtedness.

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The foregoing documents and report from the City Clerk were thereupon ordered filed.

Councilmen Marriott and Murphy arrived during the foregoing reading.

Councilmen Thomas A. Lane and Melville S. Stongman of the City of North Sacramento appeared and expressed dissatisfaction with the merger proceedings, with Councilman Stongman stating that in his mind a doubt exists that the true will of the people of North Sacramento was heard and with Councilman Lane asking that the City Council reject approval of the consolidation because of uncertainties in the election and suggesting that a new election be conducted by the City of Sacramento and the City of North Sacramento to determine the true will of the voters.

Following the foregoing remarks by the North Sacramento City Councilmen, City Manager E. A. Fairbairn called upon Assistant City Attorney Joseph Coomes to present the City's Statement on the merger proceedings. Mr. Coomes thereupon read the following statement into the records of this instant meeting:

December 1, 1964

MEMORANDUM TO: City Council

Members in Session

FROM: Joseph E. Coomes, Jr.
Assistant City Attorney

We feel it is necessary to set the record straight in view of recent statements which in our opinion constitute very unjust and unfounded charges against the Superior Court in proceedings relating to the consolidation of the City of North Sacramento with the City of Sacramento. While there is certainly a right to criticism, the Courts themselves are not in a position to answer irresponsible and unfounded charges by parties who have had the opportunity of their day in Court and who have not taken advantage of their right to appeal from decisions they disagree with.

All of the allegations of irregularities in the conduct of the consolidation election which are now being raised again, were specified in detail - in over twenty separate specifications - in the election contest filed in the Superior Court by the contestants of the consolidation election. The complaint in that action - to which the City of North Sacramento joined as an intervener - alleged among other matters that certain voters living outside the City of North Sacramento were given ballots and allowed to vote in the election, and that the canvass and the counting of the votes was incorrectly reported and returned. Both the City of Sacramento and the City of North Sacramento intervened in this action after Judge Mundt had expressed his concern that he wanted all interested parties fully represented.

There was, as the first step in the proceedings, a full recounting of all the ballots cast in the election. This was done in open court and both sides had opportunity to object to certain ballots and submit them to the court for a ruling. These rulings were subject to review on appeal. There was no appeal. When the recount was completed, the result was 2082 votes cast for consolidation and 2067 votes cast against consolidation.

For reasons known best to the contestants, they were either unable or unwilling to offer proof of any of the election irregularities alleged in the complaint. Both the contestants and the City of North Sacramento rested their case without any offer of proof or attempt at proof of irregularities in the conduct of the election. A list of 181 voters alleged to have cast illegal votes was served on the respondent by the contestants. No proof of these votes was offered. Attorney Allen Williams, in a statement in open court and recorded by the court reporter, told Judge Mundt that he felt the irregularities alleged were not irregularities of a sufficient nature that would change the result of the election. He rested his case. City Attorney Raymond McClure also rested the case for the City of North Sacramento.

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With the recount complete, and both sides having voluntarily rested their case, Judge Mundt quite properly, we feel, found that the election was conducted in all respects as required by law. Judge Mundt stated from the bench that the election was held in a manner of high public service. There was no evidence of irregularities. The Court found no merit in the contest and the contest was dismissed. He ordered the City officials of the City of Sacramento and the City of North Sacramento to carry out the mandate of the people of North Sacramento.

Furthermore, the Court's written Findings of Fact and Conclusions of Law, and the Judgment to be entered in the case, were submitted to the Attorneys for the contestants and the City of North Sacramento for review prior to signing and entry by the Court. The Attorneys did not object to the form or content of these documents, although they had full opportunity to raise such matters with the Judge.

The Findings contain a finding that "The special municipal election on said Proposition B was conducted and the votes counted and tallied, reported, and the canvass prepared, in the manner provided by law." The conclusions of the court include "5. No irregularities whatsoever occurred in the conduct of said election which, had they not occurred, would have changed the result of the election" and "6. No irregularities whatsoever occurred which would require the election to be declared null and void."

The Judgment contained a direction to the City Council of the City of North Sacramento to enter the results of the election, as found by the Court, in its official records.

It was the refusal of the Council of the City of North Sacramento to obey this directive in the judgment that led to the five Councilmen being adjudged in contempt of court. They of course have purged themselves of that contempt by adopting a resolution last night in compliance with the Judgment.

We have, then allegations of a complaint which were joined in by the City of North Sacramento tendering the issues of numerous irregularities, a 3-day trial in the Superior Court at which no proof was presented to substantiate any of these allegations, and the Court properly finding under such circumstances that there were no irregularities in the conduct or result of the election which would have changed its result. We have, furthermore, no challenge to the written Judgment and Findings before their entry by the Court, and, finally, no appeal from the Judgment of the Court from its date of entry of August 26, 1964, to the time it became final and no longer subject to appeal 60 days thereafter.

The Judgment of the Superior Court in the election contest must therefore be treated as final and conclusive as to the will of the voters of the City of North Sacramento and the issues raised in that action.

s/Joseph E. Coomes, Jr.
Joseph E. Coomes, Jr.
Assistant City Attorney

JEC:df

In accordance with recommendation of the City Attorney, Councilman Murphy moved that rule 7a of City Council Rules be suspended to enable Council to act upon the ordinance approving consolidation at this instant meeting. Seconded by Councilman Domich and carried by the following vote:

AYES: Councilmen Christensen, Domich, Marriott, Mering, Murphy, Nielsen, Rouse and Talkin.

ABSENT: Councilman McKinney.

In accordance with report and recommendation of the City Attorney, Councilman Murphy thereupon moved that the following ordinance be adopted:

ORDINANCE NO. 2579, FOURTH SERIES

AN ORDINANCE APPROVING THE CONSOLIDATION OF THE CITY OF NORTH SACRAMENTO WITH THE CITY OF SACRAMENTO

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1:

The consolidation of the City of North Sacramento with the City of Sacramento, under the provisions of an act of the Legislature of the State of California designated as the "Municipal Consolidation Act of 1913" as amended to date, and pursuant to proceedings heretofore had, and an election held in said City of North Sacramento on the second day of June, 1964, at which election a majority of all votes cast in said City of North Sacramento upon the question of consolidation submitted at said election were in favor of consolidation of said City of North Sacramento with the City of Sacramento, be, and the same is hereby approved.

SECTION 2.

The Clerk of the Council of the City of Sacramento shall make and certify under the seal of the City of Sacramento, and transmit to the Secretary of State of the State of California, a copy of this ordinance, giving the date of its passage, together with a copy of the Judgment and Findings of Fact and Conclusions of Law entered August 26, 1964, by the Superior Court of the State of California, in and for the County of Sacramento, in the action entitled Feige, et al., vs LaRue, et al., No. 151897, a copy of Resolution No. 64-1511 adopted by the Board of Supervisors of the County of Sacramento and a copy of Resolution No. 3017 adopted by the City Council of the City of North Sacramento, setting forth the result of said election as confirmed by the Superior Court.

6907

SECTION 3.

From and after the date of filing in the office of the Secretary of State of this Ordinance and the Certificate of the Clerk of the City of Sacramento containing a copy of the record of the proceedings for the consolidation of the City of North Sacramento with the City of Sacramento, said municipal corporations shall be deemed to be consolidated and the City of North Sacramento shall be deemed to be and shall be annexed and joined to and merged into the City of Sacramento, and the property in said cities of North Sacramento and Sacramento shall, after such consolidation, be subject to taxation at the same rate to pay such bonded indebtedness of the City of North Sacramento and the City of Sacramento specified in the official Notice of Election.

SECTION 4.

The City Clerk of the City of Sacramento is further authorized and directed to transmit a certified copy of this Ordinance, together with supporting documents as may be required under pertinent laws, to the State Board of Equalization, and the County Recorder and County Assessor of the County of Sacramento.

SECTION 5.

The City Clerk is hereby directed to publish this Ordinance once within 10 days after its passage in the Sacramento Union, a newspaper of general circulation published in the City of Sacramento, California, the official newspaper of the City. This Ordinance shall take effect on the 30th day from the date of its passage.

Seconded by Councilman Domich and carried by the following vote:

AYES: Councilmen Christensen, Domich, Marriott, Mering, Murphy, Nielsen, Rouse and Talkin.

ABSENT: Councilman McKinney.

Councilmen Christensen, Domich, Marriott and Mering expressed their views in defense of the consolidation.

Council adjourned at the hour of 7:45 o'clock p. m.

APPROVED BY THE CITY COUNCIL ON DATE OF
December 10, 1964

James B. McKinney
MAYOR

ATTEST:

Reginald H. Bygs
CITY CLERK