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STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION CALIF. ENERGY COMMISSION  
JUN 21 1983  
OFFICE OF THE SECRETARY

BUSINESS MEETING

1516 NINTH STREET  
1st FLOOR HEARING ROOM  
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 15, 1983  
10:25 A.M.

Reported by: Patricia A. Petrilla

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COMMISSIONERS PRESENT

- Charles R. Imbrecht, Chairman
- Russell L. Schweickart, Commissioner
- Karen K. Edson, Commissioner

STAFF PRESENT

- John Geesman, Executive Director
- Mark Urban
- John Chandley
- John Schade
- Bill Pennington
- Jim Faulkinbury
- Luree Stetson
- Wendy Morgan, Secretary

PUBLIC ADVISER'S OFFICE

- Ernesto Perez

EX OFFICIO

- Gordon F. Snow

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3 CHAIRMAN IMBRECHT: Good morning. I'll call the  
4 meeting to order and apologize for my tardiness.

5 Commissioner Commons is absent today, and  
6 Commissioner Gandara may join us later. He has unavoidable  
7 personal business to attend to. So we'll notice the  
8 presence of a quorum, a bare quorum, I should say.

9 In light of the fact that we apparently need to  
10 have a little more discussion about Item No. 1, I'm going  
11 to put that over and move to the second item on the agenda,  
12 and ask staff to come forward and make a presentation on  
13 that please. It's a contract with William Stevens Taber,  
14 Chairperson of the Professional Advisory Group for \$18,500  
15 to fund the work of the Chairperson of the Professional  
16 Advisory Group for the Nonresidential Building Standards  
17 Project.

18 MR. SCHADE: Commissioners, my name is John  
19 Schade, I'm with the Building Standards Development Office,  
20 and we've been involved in this Nonresidential Standards  
21 Development Project for two years now.

22 The process requires a cooperative concensus  
23 building effort with the building industry. In order to  
24 do that, we need an independent individual to serve as  
25 liaison with the industry, and we need an individual with

1 activist characteristics.

2           Steve Taber has satisfied those requirements for  
3 two years, and prior to that has worked with us on a  
4 voluntary basis, and this proposal here is to extend that  
5 contract for an additional year. Actually, it's a new  
6 contract.

7           CHAIRMAN IMBRECHT: Okay. That's fairly straight-  
8 forward. Are there any questions from the Commission?  
9 Commissioner Schweickart?

10           COMMISSIONER SCHWEICKART: No, I don't have a  
11 question. I think -- this is a subject, the issue of the  
12 nonres standards, and their scheduling, and that sort of  
13 thing is a subject which will be coming before the Commission  
14 on a rather frequent basis in the next several weeks and  
15 months, and the role of the Professional Advisory Group has  
16 been very important in bringing comment and -- professional  
17 comment and input to the Commission as we develop the nonres  
18 standards.

19           I support and recommend this contract extension  
20 to the Commission, while at the same time suggesting that  
21 we will be bringing before the Commission a review of the  
22 overall program of nonresidential standards, which may, at  
23 some point in the future, necessitate some modifications.

24           But I think that at this point, it's entirely  
25 appropriate, and necessary, in fact, to move forward with

1 this contract. I believe, if I am correct, John, that there  
2 is a 30 day notice provision within the contract for any  
3 changes or termination, depending upon circumstance, right,  
4 from either party?

5 MR. SCHADE: That's correct.

6 COMMISSIONER SCHWEICKART: All right. I'd ask to  
7 make sure that was an element of the contract, and with that  
8 element, I think we have the flexibility should there be any  
9 major changes. So, with that, I would certainly support and  
10 recommend the contract to the Commission.

11 CHAIRMAN IMBRECHT: Fine. Does anyone wish to be  
12 heard in support or opposition to Item No. 2? Then do I  
13 hear a motion?

14 COMMISSIONER SCHWEICKART: I'll move the contract.

15 COMMISSIONER EDSON: Second.

16 CHAIRMAN IMBRECHT: Seconded by Commissioner Edson,  
17 without objection, the contract will be approved unanimously.

18 We'll turn to Item 3 which is a contract for  
19 electronic data processing services for 83/84 budget year.  
20 This is in compliance with the funds provided in the  
21 Governor's budget.

22 EXECUTIVE DIRECTOR GEESMAN: Mr. Chairman, let me  
23 point out a discrepancy in the agenda. The figure \$400,000  
24 is a misprint. It should read \$300,000, as all of your  
25 backup material indicates.

1                   CHAIRMAN IMBRECHT: Thank you.

2                   MR. FAULKINBURY: I'm Jim Faulkinbury of the  
3 Office of Computer Services. The contract you have with  
4 the Teale Data Center is a preliminary contract to continue  
5 electronic data processing through Teale, and I think we  
6 can anticipate, if funds become available, we will have to  
7 go at a later date for additional funding.

8                   We're spending approximately \$40,000 a month at  
9 the current time. I don't believe that this amount of  
10 funding will be sufficient to get through the year, however,  
11 it is the amount identified in the Governor's budget as  
12 available for Teale at the current time.

13                  CHAIRMAN IMBRECHT: So you would anticipate a  
14 BCP some time later in the year?

15                  MR. FAULKINBURY: At some point in the future,  
16 if funds do become available.

17                  CHAIRMAN IMBRECHT: The context of that \$40,000  
18 monthly expenditure, because of a reduced workload in some  
19 areas, do you anticipate that our needs next year will  
20 diminish?

21                  MR. FAULKINBURY: Actually, since next year is a  
22 biannual year, I anticipate higher needs, to tell you the  
23 truth. Last year was a biannual year, we spent \$958,000.  
24 This year we're spending close to \$700,000, however, we have  
25 moved a lot of our large programs to the local minicomputer,

1 which has reduced. Most of the things we've reduced are  
2 in the area of building standards, not in the area of  
3 assessments forecasting.

4           CHAIRMAN IMBRECHT: Okay. Well, I think that it's  
5 essential that we very carefully document exactly what our  
6 needs are as we expend these funds, and also try to live  
7 within the Governor's budget to the extent possible,  
8 obviously.

9           Is there anyone else that wishes to be heard on  
10 Item No. 3? Do I hear a motion?

11           COMMISSIONER EDSON: I'll move the contract.

12           CHAIRMAN IMBRECHT: Moved by Commissioner Edson,  
13 seconded by Commissioner Schweickart, without objection,  
14 the contract will be approved unanimously.

15           Number 4, another contract with the Franchise  
16 Tax Board for \$15,000 for supplemental data entry service,  
17 also for the 83/84 fiscal year. Jim, you're presenting  
18 this one as well?

19           MR. FAULKINBURY: Again, this is a standard  
20 contract that we found a need for information. It's about  
21 the level that we've been using key data entry at the  
22 current time, we are spending that amount of money, and  
23 this should be sufficient to get us through the year.

24           The last full year we have any figures for were  
25 \$12,000 total expenditure. We don't have sufficient figures

1 this year because of delay in their billing to know how much  
2 we are going to spend out of this year's funding.

3 COMMISSIONER EDSON: This is a contract that we  
4 use to get the data that we report on our tax credit  
5 expenditures.

6 CHAIRMAN IMBRECHT: Right.

7 COMMISSIONER EDSON: I think it's the best source  
8 of information the Legislature and the Administration has  
9 to gauge what's happening in that area and I would move the  
10 contract.

11 MR. FAULKINBURY: We have one key data operator  
12 in house, and we have a workload that exceeds her capabilities  
13 but not sufficient for a second key data operator. It was  
14 found that this was the most expedient way of supplying our  
15 total key data operations needs.

16 CHAIRMAN IMBRECHT: Okay, fine. It's been moved  
17 by Commissioner Edson, seconded by Commissioner Schweickart.  
18 Does anyone else wish to be heard on this matter? Without  
19 objection, the contract will be adopted unanimously.

20 Item 5 is the consent calendar. Does anyone wish  
21 to -- obviously, there's only one item on the consent  
22 calendar. Does anyone wish to be heard relative to  
23 Commissioner consideration and adoption of a procedural  
24 amendment deleting the requirement for a Committee hearing  
25 from the order issued March 23, '83 relating to applicance

1 efficiency testing and certification requirements for the  
2 Convectionaire Heat Pump?

3 Moved by Commissioner Schweickart, seconded by  
4 Commissioner Edson --

5 COMMISSIONER SCHWEICKART: Does the Chairman ever  
6 move?

7 CHAIRMAN IMBRECHT: It's ordinarily not appropriate,  
8 but I'll do it if you think --

9 COMMISSIONER SCHWEICKART: I see.

10 COMMISSIONER EDSON: It's only the last resort.

11 CHAIRMAN IMBRECHT: It's just like a legislative  
12 hearing now, there were many motions I made over there that  
13 I was a ventroliquist on. Without objection, the consent  
14 calendar will be adopted.

15 Is there any objection to approval of the minutes,  
16 Item 6? Hearing none, they will be adopted.

17 Are there any policy committee reports? Yes, I  
18 have -- let's see, is Luree present? We'll take a report  
19 from myself which is on the Government Relations Committee.

20 We recommended support for AB 643 by Assemblyman  
21 Larry Stirling, which grants counties the power to operate  
22 solar and hydroelectric facilities, and wish to hear further  
23 details on that proposal. These were unanimous recommenda-  
24 tions, I might add, by the Government Relations Committee.

25 We recommended a neutral position on levelized

1 costs for municipal solid waste, basically we wanted to  
2 review the bill as it moved along the Senate, and saw the  
3 appropriate amendments that would be discussed.

4 Natural gas issues, we recommend opposition to  
5 AB 1152 by Assemblyman Elder which is a preferential gas  
6 rate for industrial users. We recommend opposition to  
7 Assemblywoman Moore's AB 2117 and ACR 57 which is purchase  
8 of low cost gas, unless it was brought into conformity.

9 With SB 1062 by Senator Garamendi which we  
10 recommend support on, as being the preference as to the  
11 approach on this entire issue.

12 COMMISSIONER SCHWEICKART: So 1062 is California  
13 gas producers, is that --

14 COMMISSIONER EDSON: It's been amended so it  
15 no longer requires preference for California producers, but  
16 would allow directing the purchase for the least cost.

17 CHAIRMAN IMBRECHT: That's right.

18 COMMISSIONER EDSON: And that is a problem, I  
19 think, with AB 2117, it continues to have the California  
20 producer --

21 CHAIRMAN IMBRECHT: Exactly, and the same is true  
22 for 2118. That's the extent of the Government Relations  
23 Committee Report. Moved by myself, and seconded --

24 COMMISSIONER SCHWEICKART: Going to move that one?

25 CHAIRMAN IMBRECHT: It's my report, and seconded

1 by Commissioner Edson. Without objection, we will adopt  
2 the recommendations of the Government Relations Committee.

3 Were there any other Committee reports?

4 COMMISSIONER SCHWEICKART: Let me just indicate  
5 for the Commission by way of information that the Nonresi-  
6 dential Building Standards, and in particular, the first set  
7 of low- and high-rise office building standards are in  
8 final draft. They've been provided to everyone's office,  
9 I'm sure you have committed them to memory.

10 I would point out these have been essentially  
11 three years -- two and a half years, I guess, in development  
12 at this point. The Professional Advisory Group, which was  
13 much earlier, has played an integral role in providing  
14 input. There are clearly a number of controversial features  
15 involved, and yet there have been extensive involvement in  
16 consideration and accommodation made in these.

17 We will be moving forward within the next 14  
18 days, I believe. It may be actually immediately following  
19 the next business meeting that they are formally sent to  
20 the Office of Administrative Law for formal publication,  
21 beginning the 45-day hearing period, which leads, then, to  
22 bringing them before the full Commission.

23 So this is only by way of information that we are  
24 now to begin that formal process leading to the full  
25 Commission hearing on these -- this element of the

1 nonresidential buildings. Unlike the Residential Building  
2 Standards, in addition to the savings in operating costs,  
3 which are represented by the standards, in most instances,  
4 the first cost of buildings will also be reduced. As a  
5 result, they have a somewhat different chemistry, let me  
6 say, from the standpoint of the builder, while at the same  
7 time, there are certainly a variety of opinion on the  
8 features.

9 CHAIRMAN IMBRECHT: Fine. Optimistically, we  
10 look forward to that being the case.

11 COMMISSIONER SCHWEICKART: This is --

12 CHAIRMAN IMBRECHT: If it would appear, knock on  
13 plastic. Okay, thank you Commissioner Schweickart.  
14 Commissioner Edson, any reports? All right fine.

15 General Counsel's Office.

16 MR. URBAN: Yeah, we have one matter to report.  
17 The Office of Administrative Law a week and a half ago  
18 returned our data collection regs because it -- many of  
19 the specific amendments failed to comply -- they felt they  
20 failed to comply with some of their requirements.

21 We've reviewed their letter. Some of their  
22 criticisms are well taken, and what we propose to do is to  
23 issue a new notice of proposed rulemaking that would  
24 essentially allow us to make cleanup amendments to respond  
25 to OAL's nonsubstantive concerns, and then bring a set of

1 amended regulations back to the Commission for readoption  
2 so that we can then get those into form for OAL to either  
3 accept our -- that we've answered their questions, or there  
4 may be a couple of areas where we can't, at least offer a  
5 better explanation to them.

6           We'd have the NOPR out sometime next month, and  
7 then the matter would come before the Commission, roughly  
8 45 days thereafter.

9           CHAIRMAN IMBRECHT: All right, thank you.

10 Questions? A nice clean meeting today.

11           Mr. Geesman, do we have --

12           EXECUTIVE DIRECTOR GEESMAN: I have several items.  
13 First, if her plans work out right, I believe this is Karen  
14 Mathies last business meeting as Commission Secretary, and  
15 I'd like, on behalf of the staff that have worked with her  
16 over the years, I know on behalf of all of you, extend my  
17 thanks to her for several years of very dedicated service  
18 under very trying conditions.

19           Secondly --

20           CHAIRMAN IMBRECHT: We certainly join in expressing  
21 our appreciation.

22           COMMISSIONER SCHWEICKART: And happy birthday.

23           CHAIRMAN IMBRECHT: And wish you well in your  
24 future plans.

25           EXECUTIVE DIRECTOR GEESMAN: I believe Kent has

1 distributed to each of you this morning a two-page handout  
2 entitled, "CEC Budget Fact Sheet" which contains the actions  
3 of the Conference Committee in terms of approving a  
4 restoration of various positions to our budget.

5           The long and short of it is that the Department of  
6 Finance had recommended approximately a 29 percent reduction  
7 in Commission Staff. The Conference Committee, in  
8 memorializing action taken by either the Senate or the  
9 Assembly, restored about 61 positions, meaning that we will  
10 sustain, if the Conference Committee budget were to be  
11 adopted, a 17 percent reduction in staff.

12           The other item is from Luree, and I don't believe  
13 you've received this yet, it's a spread sheet identifying  
14 Conference Committee action on the oil overcharge funds  
15 that California will be administering. As I think you all  
16 know by now, the Commission received about \$9 million,  
17 slightly above \$9 million to administer.

18           The boxes on this spread sheet indicate the  
19 actions that the Conference Committee finally took.

20           COMMISSIONER SCHWEICKART: John, do you have any  
21 information on the comparable level of reductions in other  
22 agencies of the state? Are we leading the pack?

23           EXECUTIVE DIRECTOR GEESMAN: I don't know that  
24 we're literally in first place. I believe that the State  
25 Public Defender's Office may still be ahead of us in terms of

1 overall percentage. I'm not aware of any other agency  
2 that has a comparable level of reduction.

3 CHAIRMAN IMBRECHT: Is that true of the Coastal  
4 Commission as well?

5 EXECUTIVE DIRECTOR GEESMAN: Yes, it is. Yes, it  
6 is. We have a higher proportion of reduction in our budget  
7 in terms of staff resources than the Coastal Commission.  
8 Cuts in the Coastal Commission were focused entirely in  
9 the energy group.

10 COMMISSIONER SCHWEICKART: I take it that in the  
11 Executive Office cut, which is the highest portion --

12 EXECUTIVE DIRECTOR GEESMAN: That includes legal,  
13 small offices, and Commission offices.

14 COMMISSIONER SCHWEICKART: Including the policy  
15 analysis --

16 EXECUTIVE DIRECTOR GEESMAN: That's correct.

17 COMMISSIONER SCHWEICKART: -- group. So that the  
18 principal impact, as -- even coming out of Conference  
19 Committee, let alone going into it, is effectively to cut  
20 back on the Commission's policy analysis, legal, and  
21 conservation capabilities, is that --

22 EXECUTIVE DIRECTOR GEESMAN: That's correct.

23 MS. STETSON: One thing I'd like to add on the  
24 petroleum violation escrow funds, if you'll notice on the  
25 chart, the original amount suggested by the Senate and

1 Assembly, and Governor's Office, for that matter, were  
2 decreased. The reason for that was the fact that the total  
3 amount, or the highest amount in any one item could not be  
4 violated.

5 So, to come up with a formula that was below \$9.1  
6 million, there was an agreement reached to decrease these  
7 amounts and give us monies for all the programs that were  
8 suggested.

9 CHAIRMAN IMBRECHT: I see. That's Conference  
10 Committee rules.

11 MS. STETSON: That's correct, and this was done  
12 with supporting all of these programs for the Commission.  
13 It wasn't taken as a negative approach at all. The  
14 Conference Committee wanted to see us have all these programs  
15 approved.

16 EXECUTIVE DIRECTOR GEESMAN: The other item I had  
17 is probably best handled in Executive Session because it  
18 has to do with a personnel matter.

19 CHAIRMAN IMBRECHT: All right, fine. I believe  
20 there's only public comment and the first agenda item, so  
21 I'm going to suggest that we ask, is there any member of  
22 the public that has any issue they would like to address to  
23 the Commission?

24 If not, we will recess, then, for executive  
25 session. I suggest we just hold it in the conference room

1 here since there are just three of us, and we will  
2 reconvene to consider the first agenda item as well, as  
3 soon as we conclude the executive session. We'll be in  
4 brief recess.

5 (Executive Session 10:48 to 12:05.)

6 CHAIRMAN IMBRECHT: Okay. We'll reconvene the  
7 meeting for consideration of Item No. 1. Before -- I  
8 should say that pending information from Commissioner  
9 Gandara, we may continue the Executive Session this  
10 afternoon for his presence, for further discussion of the  
11 personnel matters that were brought to our attention.

12 The last item on the agenda is Item No. 1,  
13 consideration of a claim of exemption from the new  
14 residential building standards filed by Pacifica Corporation.  
15 We'll ask first for a staff presentation, and then anyone  
16 in the audience who would like to address the issue.

17 What happened to John Chandley now?

18 COMMISSIONER SCHWEICKART: He may be looking up  
19 some additional information.

20 CHAIRMAN IMBRECHT: Obviously, without the staff  
21 to make a presentation, we'll have to wait a few moments.

22 (Brief off the record.)

23 CHAIRMAN IMBRECHT: Okay. Fine. We'll now  
24 reconvene. I am not going to extend the Executive Session.  
25 We'll ask our Executive Director to brief Commissioner

1 Gandara on the matters which we discussed in the Executive  
2 Session relative to personnel matters, and then I'll ask  
3 Mr. Chandley to please make his presentation on Item No. 1.

4 MR. CHANDLEY: Thank you, Mr. Chairman. You have  
5 before you a proposed decision drafted by our office  
6 granting a partial exemption to Pacifica Corporation from  
7 the Residential Building Standards.

8 As you'll recall, we took public testimony on  
9 this matter at the last business meeting, you deferred taking  
10 any action, formal action on the matter until today, in  
11 order to deal with the -- make sure that the -- taking the  
12 final action was properly noticed.

13 But you did take testimony, and you received --  
14 and I want to state for the record, that the Commission  
15 did receive into evidence five exhibits and on the basis  
16 of those exhibits, and the testimony that was taken on the  
17 last business meeting, we have drafted the -- a decision  
18 order granting partial exemption.

19 The order, or the decision indicates that if the  
20 builder were compelled to comply fully with the new  
21 Residential Building Standards that both of the statutory  
22 criteria for an exemption would be met. The first being  
23 that substantial funds were expended for planning, designing,  
24 architecture, engineering prior to the adoption date of the  
25 standards.

1           The second criteria, that it would be impossible  
2 for the builder to comply fully with the standards without  
3 substantial delays, or substantial increases in costs of  
4 construction.

5           In the judgment of this office, the decision is  
6 -- fully complies with statutory criteria. There is  
7 adequate evidence in the record, based on the discussion and  
8 the testimony that was taken at the last business meeting,  
9 and the exhibits which were entered at that time, and we  
10 have no difficulty supporting that decision.

11           I would ask that the Commission go ahead and  
12 adopt the decision and order. I would like to indicate that  
13 on pages -- excuse me, on page 4, at the last full paragraph,  
14 at Commissioner Edson's suggestion, I will delete the last  
15 sentence, and include a transition sentence between that  
16 paragraph and the following paragraph, to that sentence and  
17 the sentence in the next paragraph are somewhat redundant,  
18 and I will simply make some editorial changes to have that  
19 read more smoothly.

20           Other than that, I would urge you to adopt the  
21 decision and order.

22           CHAIRMAN IMBRECHT: Fine. Is there any member of  
23 the public who wishes to be heard on this matter?

24           Hearing none. Anyone else who wishes to be heard?  
25 Mr. Geesman? All right, fine. Any comments or questions

1 from the Commission?

2           COMMISSIONER SCHWEICKART: Yes, Mr. Chairman. I'd  
3 like to state my frank ambiguity on this issue. I believe  
4 this is a case where we have a very close call. There are  
5 special circumstances in terms of the CHFA financing which  
6 has been a part of this project, and which may, in some  
7 sense, be placed in jeopardy were this exemption not to be  
8 granted.

9           The connection of that particular and unique  
10 circumstance to the investments made prior to the adoption  
11 of the standards which forms the basis for the Commission's  
12 decision to grant an exemption, I find to be, while legally  
13 and technically identifiable, a rather tenuous basis on  
14 which to grant an exemption.

15           Nevertheless, with the weight of evidence, I  
16 think the -- while it not being overwhelming by any means,  
17 that there is adequate basis for granting an exemption in  
18 this particular case.

19           But I would like to state my -- the degree of  
20 let me say closeness in the judgment, that at least I am  
21 exercising in supporting this motion before us today, and  
22 I in no case consider this to be precedential in terms of  
23 any further exemptions which may come before us in the  
24 future.

25           CHAIRMAN IMBRECHT: Thank you, Commissioner

1 Schweickart. I'd just indicate that I would share those  
2 comments, and these are unique circumstances, I believe  
3 that's the purpose of an exemption process, to consider  
4 unique circumstances, and to balance a broad range of  
5 equities that are involved in the application of our  
6 regulatory prerogatives.

7 Without further comments --

8 COMMISSIONER EDSON: I'll move the order.

9 CHAIRMAN IMBRECHT: -- I have a motion from  
10 Commissioner Edson. I will second that motion. Is there  
11 objection to a unanimous roll call? Hearing none, that  
12 will be the order.

13 I believe there are no -- the exemption with  
14 conditions is adopted.

15 No further business to come before the Commission,  
16 we'll adjourn to our next meeting two weeks hence. Thank  
17 you.

18 (Thereupon the business meeting of the California  
19 Energy Resources Conservation and Development Commission was  
20 adjourned at 12:18 p.m.)

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## 1 REPORTER'S CERTIFICATE

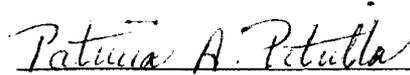
2

3 THIS IS TO CERTIFY that I, Patricia A. Petrilla,  
4 Reporter, have duly reported the foregoing proceedings  
5 which were held and taken in Sacramento, California, on  
6 Wednesday, June 15, 1983 and that the foregoing pages  
7 constitute a true, complete and accurate transcription of  
8 the aforementioned proceedings.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said hearing, nor in any  
11 way interested in the outcome of said hearing.

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Reporter

15 Dated this 20th day of June, 1983.

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