



JOHN J. SANSONE  
COUNTY COUNSEL

THOMAS E. MONTGOMERY  
ASSISTANT COUNTY COUNSEL

NATHAN C. NORTHUP  
THOMAS J. HARRON  
CLAUDIA ANZÚRES  
DEBORAH A. McCARTHY  
CHIEF DEPUTIES

# County of San Diego

## OFFICE OF COUNTY COUNSEL

COUNTY ADMINISTRATION CENTER  
1600 PACIFIC HIGHWAY, ROOM 355  
SAN DIEGO, CALIFORNIA 92101-2469  
(619) 531-4860 FAX (619) 531-6005

### DEPUTIES

C. ELLEN PILSECKER  
GEORGE W. BREWSTER JR.  
WILLIAM A. JOHNSON, JR.  
WILLIAM W. TAYLOR  
STEPHEN R. MAGRUDER  
MORRIS G. HILL  
RICKY R. SANCHEZ  
TIMOTHY M. BARRY  
WILLIAM L. PETTINGILL  
JUDITH A. McDONOUGH  
WILLIAM DEAN SMITH  
JAMES R. O'DAY  
RODNEY F. LORANG  
DAVID J. SMITH  
THOMAS D. BUNTON  
ELIOT ALAZRAKI  
MIRIAM E. BREWSTER  
TERENCE G. DUTTON  
LAUREL G. TOBAR  
JANICE INGOLD LAU  
LAURIE J. ORANGE

MARK C. MEAD  
PAUL J. MEHNERT  
WILLIAM H. SONGER  
DENNIS FLOYD  
LISA MACCHIONE  
KEVIN G. KENNEDY  
DAVID G. AXTMANN  
JAMES M. CHAPIN  
MARY JO LANZAFAME  
ALEC S. BEYER  
DAVID BRODIE  
MARA W. ELLIOTT  
LEONARD W. POLLARD II  
STEPHANIE KISH  
THOMAS DEÁK  
THOMAS L. BOSWORTH  
WALTER J. DE LORRELL III  
JAMES M. TOPPER  
RACHEL WITT  
CARRA L. RHAMY  
B. GEORGE SEIKALY

June 5, 2007

Raymond Lutz  
Citizens' Oversight Projects  
P.O. Box 252  
El Cajon, CA 92022

Re: Backcountry Revitalization Meeting

Dear Mr. Lutz:

Your May 21, 2007 e-mail to Tale Halse was forwarded to our office for review. You indicate that you believe the Backcountry Revitalization meetings hosted by Supervisor Jacob are subject to the Brown Act. Our conclusion is that the Brown Act does not apply to these informal meetings.

The Brown Act (Gov't Code § 54950, et seq.) applies to "the legislative body of every local agency". Gov't Code § 54958. The term "legislative body" is defined in section 54952; "local agency" is defined in section 54951. The Backcountry Revitalization meetings do not fit either definition.

A local public agency governed by the Brown Act must be "created by statute or Constitution." *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force*, 134 Cal.App.4<sup>th</sup> 354, 359 (2005). The informal gathering does not meet this requirement. Similarly, there is no "legislative body" involved in the meetings. *Taxpayers for Livable Communities v. City of Malibu*, 126 Cal.App.4<sup>th</sup> 1123 (2005).

The fact that Supervisor Jacob, a member of the Board of Supervisors, attends the meetings does not make them subject to the Brown Act. While the Board of Supervisors itself is a legislative body of the County, one Supervisor does not comprise a quorum of the Board. Therefore, the Brown Act does not apply. *Taxpayers for Livable*

*Communities*, 126 Cal.App.4<sup>th</sup> at 1126-1128 (Brown Act did not apply to private meetings held by two members of the Board of Supervisors).

You also inquired about the source of the limitation on a County Supervisor's interactions when an application for a proposed project is pending. Section 375.11 of the County's Administrative Code provides:

"No member of a decision-making body shall, after an application necessitating a hearing has been filed with the County, discuss said matter with other members of a decision-making body or with proponents, opponents, or other interested parties, except in the course of and during said public hearing."

Therefore, Supervisor Jacob properly declined to discuss the Blackwater project at the May 18, 2007 Backcountry Revitalization meeting

Very truly yours,

JOHN J. SANSONE, County Counsel

By *C. Ellen Pilsecker*  
C. ELLEN PILSECKER, Senior Deputy

cc: Supervisor Dianne Jacob

07-00905