

**DRAFT  
SAN DIEGO LAFCO  
MINUTES OF THE REGULAR MEETING  
AUGUST 3, 2009**

**2**

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman Bill Horn. Also present were: Regular Commissioners – Councilmember Carl Hilliard; Supervisor Dianne Jacob; Councilmember Donna Frye; John Ingalls; Mayor Mark Lewis and Bud Pocklington. Alternate Commissioner – Jo MacKenzie. LAFCO Staff – Executive Officer Michael Ott; LAFCO Consultant Harry Ehrlich; Local Governmental Analyst Claire Riley and LAFCO Legal Counsel William Smith. Absent were: Regular Commissioner – Councilmember Andy Vanderlaan; Alternate Commissioners – Supervisor Greg Cox; Mayor Jim Janney and Harry Mathis.

**Item 1  
Roll Call**

The Commission Secretary performed the roll call for the August 3, 2009 LAFCO meeting. All regular commissioners were present with the exception of Commissioner Andy Vanderlaan.

**Item 2  
Approval of Minutes of Meeting Held June 1, 2009**

With Commissioner Carl Hilliard abstaining, ON MOTION of Commissioner Pocklington, seconded by Commissioner Lewis, and carried unanimously by the commissioners present, the Commission dispensed with reading the minutes of June 1, 2009 and approved said minutes.

**Item 3  
Executive Officer's Recommended Agenda Revisions**

Michael Ott indicated that there were no revisions to the agenda.

**Item 4  
Commissioner/Executive Officer Announcements**

Chairman Bill Horn asked if there were any announcements.

Michael Ott announced to Chairman Horn that there is an announcement. Mr. Ott introduced Tamaron Luckett and Ruth Arellano as the support staff for the Commission meetings.

**Item 5**  
**Public Comment**

There were no public comments.

**Item 6**  
**Request for Reconsideration of a Contractual Service Agreement: City of La Mesa / David Beck Brown (OAS06-22)**

Michael Ott explained the reconsideration procedures for the Commission. He stated that an appeal was submitted by the property owner David Beck Brown within the thirty (30) day time period allowed under LAFCO's rules. Mr. Ott indicated there are three questions that should be considered when reviewing the appeal:

- (1) Has significant new information been provided in the request that was previously unavailable at the time the Commission originally acted on the item?
- (2) Have compelling arguments been presented in the request that would justify reconsideration?
- (3) Were substantive errors/omission identified in the Commission's previous action that need to be corrected through the reconsideration process?

Michael Ott indicated that Claire Riley will provide a presentation and summarize the basis of the appeal.

In response to a question from Commissioner Carl Hilliard regarding his absence at the June 1, 2009 meeting, Legal Counsel William Smith said he is not required to be at a public hearing and can vote on an item as long as he reads the meeting minutes.

Claire Riley provided a PowerPoint presentation to the Commission. Ms. Riley indicated that the property owner David Beck Brown filed a request for reconsideration on June 19, 2009. She indicated that Mr. Beck Brown stated there were some areas of concern and other issues that he would like to address. She also provided an overview of traffic issues, the feasibility of a septic system on the property, use of a Pirana System, and LAFCO precedents for extending sewer service to Assessor Parcel Number (APN) 496-012-01.

Ms. Riley said that the reconsideration request states that conflicting statements were made at the June 1, 2009 LAFCO meeting regarding traffic on Edgelake Drive. She stated that it is not possible to connect a road from the vacant parcel to access Edgelake Drive.

Ms. Riley indicated that Mr. Beck Brown provided documentation of road easements to gain access to APN 496-012-01 from Lemon Avenue. She also said that LAFCO staff consulted with the County Assessor's office and according to official County of San

Diego records, an approximate 20 foot wide private easement and right-of-way for road purposes has been established between APN 496-012-01 and Lemon Avenue.

Ms. Riley indicated that residents expressed concerns about growth in the area and the number of sewer hookups that would be allowed. She said that Mr. Beck Brown states that his sewer agreement with the City of La Mesa allows only two connections, one for APN 496-022-01 and one for APN 496-012-01. She also said that the current zoning for the proposed area within the County of San Diego is Rural Residential 2 (1 dwelling unit per ½ acre) and the current zoning for the surrounding incorporated City of La Mesa area is R1E-P and allows for 1-2 dwelling unit(s) per acre; which indicates that the County and City zoning are essentially the same. Ms. Riley indicated that staff confirmed with an engineer (Dann Marquardt) with the City of La Mesa, that the sewer extension will stub out at the Beck Brown property. She said that the parcels surrounding the Beck Brown properties are developed according to the city and county zoning except for one unimproved parcel APN 496-012-01 in the vicinity.

Ms. Riley also said that an onsite sewage treatment feasibility investigation was conducted in 2006 by Petra Engineering and concluded that septic systems are not suitable for wastewater disposal on the subject properties.

Ms. Riley summarized a March 6<sup>th</sup> and April 12<sup>th</sup>, 2006 letter from Petra Engineering regarding the subject area APN 496-012-01 stating that it is underlain by steep, rocky slopes, abundant rock outcrops and shallow soil profile. She also said that LAFCO staff researched the United States Department of Agriculture's (USDA) soil survey for the proposed area and the USDA report identified two soil types in this area: (1) Cieneba described as rocky, coarse, sandy loam with a 30 to 75 percent slope; and (2) Cieneba-Fallbrook described as rocky, sandy loams with a 9 to 30 percent slope. She said the USDA report rating for septic tank feasibility is based on the soil properties that affect absorption of the effluent, construction and maintenance of the system and public health. The Beck Brown's properties resulted in a rating of "limitations" to septic tank absorption. In addition, the slope gradient for the property is not suitable for septic system disposal. The USDA report rating soil types of Cieneba, rock outcrop, and Fallbrook results in "restricted" permeability; the slope gradient for the property is in excess of 50 percent, which is not suitable for septic system disposal. Ms. Riley indicated that three letters were received from the County of San Diego, Department of Environmental Health regarding septic system failures or infeasibility for APNs 496-022-01, 496-012-01 and 496-022-10. She also said a suggestion was made regarding the use of a Pirana System on the property, but according to research the LAFCO staff conducted, the Pirana System is not a repair or rehabilitation tool for septic systems. It requires regular maintenance, filters, and stable electrical source to function adequately; if not maintained the system will fail and a septic system would overburden with wastewater.

Ms. Riley also said the Beck Brown's request for reconsideration states that precedent exists for connection to a public sewer system because sewer service has been granted to a vacant property in the Mount Helix area year ago (revolving house). Ms. Riley

explained the approval of the annexation which provided sewer service to the revolving house in the Mt. Helix area does not appear to be relevant. However, LAFCO staff has researched more actions to determine whether there is precedent for extending sewer service to the undeveloped parcel. Ms. Riley summarized a number of past actions approved by LAFCO that did demonstrate precedence.

Ms. Riley also indicated there was a question from the June 1<sup>st</sup>, 2009 Commission meeting whether other county parcels in the area are receiving public sewer service. Ms. Riley indicated that other parcels are receiving public sewer service and the City of La Mesa currently provides sewer service to some parcel outside its corporate boundaries. Ms. Riley also said the Spring Valley Sanitation District also provides public sewer service to the area south of the proposed territory.

Commissioner Dianne Jacob asked if there were any building permits or applications submitted from the applicant. In response to the question, Michael Ott indicated that no building permits or applications have been submitted. Commissioner Jacob also asked if there were any impending public health and safety issues and inquired if LAFCO needs to make a finding for health issues with territory outside of the sphere of influence. Mr. Ott said that besides the developed Beck Brown and Lithopoulos properties there were no impending public health and safety issues in the vicinity.

Commissioner Jacob also inquired about the house constructed on a vacant parcel on Alto Court. In response to the question, Michael Ott indicated that the house is known as a revolving house and the property owner was required to have a building permit.

Commissioner Donna Frye asked if the City of La Mesa provides sewer service outside its boundaries and sphere of influence. In response to the question, Michael Ott said that the City does provide sewer service outside its city limits and sphere in a number of areas. Commissioner Frye also asked about the findings of the impending threat of health and safety issues. She noted nothing has changed as far as the findings or the determination. Mr. Ott explained about the needs for making the findings and determinations.

Commissioner John Ingalls inquired about the vicinity map and whether LAFCO staff could point out any sewer connections in the area outside of the City of La Mesa.

Chairman Bill Horn asked if there are other sewer connections in the area outlined on the map. In response to the question, Dann Marquardt, Engineer, with the City of La Mesa indicated there are sewer connections in the area. Chairman Horn also inquired about the six adjacent parcels having sewer services. Mr. Marquardt indicated none of these parcels will be provided sewer service at this time.

Chairman Horn inquired whether the subject area is developed and should have an easement. In response to the question, Michael Ott indicated that easements have been granted for sewer service and access.

Commissioner Ingalls indicated that the process for this property may not end, due to the fact that other properties with septic systems may fail. Mr. Ingalls suggested whether the Commission should approve this item or continue with the process in the future. Michael Ott explained that the Commission will vote on the options provided by the staff report that address this issue.

Commissioner Jacob inquired whether LAFCO has heard from other property owners having septic failures. In response to the question, Michael Ott said LAFCO has not received any letters regarding septic failure issues other than the property owner in the vicinity of APN 496-022-01 (Lithopolous).

Alternate Commissioner Jo MacKenzie commented on solutions and other options required for property owners who have failing septic systems.

Commissioner Ingalls asked for clarification on the parcel 496-022-01 of the developed house having the failed septic system and if this portion will be authorized to contract to the City of La Mesa.

Commissioner Mark Lewis commented about the options to protect other residents and their properties that utilize septic systems.

In response to the question, Michael Ott explained the options are provided in the staff report. Mr. Ott said that Option #1 the contractual service agreement would be limited to APN 496-012-01 and if the parcels are divided in the future, the property owner will have to return to LAFCO for further authorization to connect to a public sewer system. Mr. Ott also said that Option #2 would be to deny the appeal and find that compelling information was not provided by the appellant.

Chairman Bill Horn opened the public hearing item.

Chairman Horn asked if there are any speaker slips in support to the item.

Michael Ott indicated that there are speaker slips in support and opposition to the item.

The following individuals addressed the Commission in support for Option #1 of the Executive Officer's recommendation:

Bill Snipes, representative for David Beck Brown, addressed the Commission in support of the proposal and Option #1 of the Executive Officer recommendation. He explained that sewer service will only be provided to only one parcel.

Commissioner Ingalls inquired whether the additional parcels surrounding the area will have sewer service in the future.

Robert Smith, Real Estate Broker, addressed the Commission in support of the proposal and Option #1 of the Executive Officer recommendation. He explained details

on the sewer and road easement access of the property and there will be no impact on the traffic in the community. Mr. Smith provided a handout to the Commission.

Commissioner Frye asked Mr. Smith if copies of the legal description and report were made available to the public.

In response to the question, Mr. Smith said the information is available to the public, but he did not make enough copies to distribute to everyone.

Marcia Holman, resident, addressed the Commission in support of the proposal and Option #1 of the Executive Officer recommendation. She explained that the property owners have legal access to the road easement that connects to Lemon Avenue.

Laurie Brown, property owner, addressed the Commission in support of the proposal and Option #1 of the Executive Officer recommendation. She explained that the property failed for the percolation testing and the soil was found unsuitable for wastewater disposal. Mrs. Brown also said that the Pirana System is not adequate for the property. Mrs. Brown provided a handout to the Commission.

David Beck Brown, property owner, addressed the Commission in support of the proposal and Option #1 of the Executive Officer recommendation. He explained that he has complied with all regulations that were required for the property and asked for the reconsideration to obtain a contractual service agreement for the vacant parcel.

The following individuals addressed the Commission in support for Option #2 of the Executive Officer recommendation (Denial):

Jack Phillips, Chairman for the Valle de Oro Planning Group, addressed the Commission in support of Option #2 of the Executive Officer recommendation. Mr. Phillips provided a handout to the Commission. He expressed concerns about the Petra report feasibility, infrastructure into the Mt. Helix area, slope issues of the parcel, growth induction and CEQA issues.

Chairman Horn asked Mr. Phillips if the Valle de Oro Community Planning Group was aware that one of the Beck Brown properties had a septic system problem. Mr. Phillips said the Planning Group did not agree that one of the properties had a failing septic system.

In a question from Alternate Commissioner MacKenzie regarding the age of the homes that are in the surrounding area, Mr. Phillips explained the homes were subdivided in the early 1960's and the age range of the homes varies.

Patrick O'Connor, resident, addressed the Commission in support of Option #2 of the Executive Officer recommendation. Mr. O'Connor provided a handout to the Commission. He expressed concerns about the reconsideration of David Beck Brown to obtain sewer service to a vacant parcel. He said no significant information has been

presented to the Commission and no compelling arguments to justify reconsideration. Mr. O'Connor also indicated that there be access from another road before pre-construction and construction; do not rezone the property; lots be limited to two single-family residences; and any damage to the road be repaired by the property owner.

Val O'Connor, resident, addressed the Commission in support of Option #2 of the Executive Officer recommendation. Mrs. O'Connor expressed concerns about annexation to the City of La Mesa. She said she requested something in writing from the Real Estate agent that the property owners will have assurance and that their property will not be annexed into the City of La Mesa. She also expressed concerns about the traffic impacts in the proposed area.

Miguel Goicoechea, resident, addressed the Commission in support of Option #2 of the Executive Officer recommendation. Mr. Goicoechea said he is not opposed to sewer systems. However, he indicated there is no urgent need to approve the item due to lack of information indicating there is a failing system.

Clara Davis, resident, addressed the Commission in support of Option #2 of the Executive Officer recommendation to the proposal. She expressed concerns about the septic system not failing in the area. She also stated there was not a percolation test done on the Beck Brown property.

W. F. Redfield, resident, did not address the Commission.

James B. Davis, resident, did not address the Commission.

Commissioner Mark Lewis inquired whether anyone was available in the audience from the County Department of Environmental Health to speak about percolation and if any new information is available.

Michael Ott indicated that Llew Munter of the Department of Environmental Health is in the audience and available to answer any questions.

Llew Munter, Supervising Environmental Health Specialist, Department of Environmental Health, addressed the Commission. He explained that there is no new information to provide - sufficient evidence is adequate and only partial testing done and other tests may be required. Mr. Munter explained details of terrain designs and impacts of grading.

In a question from Commissioner Jacob inquiring whether there are any impending threats to public health and safety for a house to be constructed and if it provides a septic system and if any building permits were submitted. Mr. Munter indicated that it is unlikely the property owner will be able to obtain a permit from the Department of Environmental Health.

Commissioner Jacob asked if there were any other alternative systems for the Beck Brown property. Mr. Munter explained the details of slope constraints on any alternative systems.

Commissioner Jacob expressed there has been a lot of opposition for the proposed project and neighborhood issues. She also expressed concern over the infeasibility of situating a septic system on the property.

Commissioner Jacob inquired about clarification of Option #1 – which would only allow the Commission to approve the extension of sewer for one parcel. Mr. Ott said that approval of Option#1 would prohibit any subsequent sewer connections without LAFCO approval.

Commissioner Jacob also discussed the precedent associated with LAFCO's actions. She asked if LAFCO can make the findings of new information or compelling justification. Commissioner Jacob indicated that most of her concerns have been addressed, such as alternative systems, impending threat or public health and safety issues, a vicinity map was provided to show the extension sewer services into the County and the City of La Mesa. Commissioner Jacob also suggested that LAFCO communicate with the Department of Public Works and the applicant that any pre-construction or construction traffic be obtained from another road access other than Edgelake Drive.

Commissioner Jacob placed a motion on the floor to approve staff recommendation Option #1.

- (1) Found in accordance with the Executive Officer's determination that pursuant to Section 15319 (b) of the State CEQA guidelines, the extension of sewer service is not subject to the environmental impact evaluation process because the proposal are contains not more than three single-family residences to be constructed or converted as defined by section 15303;
- (2) For the reasons set forth in the Executive Officer's Report, concur with the Determination of the Executive Officer that the future use of septic systems on APN 496-012-01 would result in an existing or impending threat to the public's health and safety pursuant to Government Code Section 56133(c);
- (3) Find that the Beck Brown request for reconsideration presents new information and compelling arguments regarding the clarification of access/traffic issues associated with APN 496-012-01; consistency with sewer service patterns and densities in the surrounding vicinity, infeasibility of septic system usage on APN 496-012-01; precedent of LAFCO's recent actions; and poor site characteristics for APN 496-012-01 necessitating connection to a public sewer system, including but not limited to shallow soil, subsurface rock, steep slope, and poor soil percolation, per the USDA Soil Survey, County Department of Environmental Health, and LAFCO site survey;



- (4) Delegate to the Executive Officer the responsibility to authorize the City of La Mesa to provide sewer service outside its jurisdictional boundaries and sphere of influence, **limited to APN 496-012-01**;
- (5) Determine that the authorization in item 3 applies only to APN 496-012-01 and not to any future parcels or lots that may be created through a subdivision of APN 496-012-01 per the City of La Mesa's Sewer Facilities Reimbursement Agreement; and
- (6) Direct the Executive Officer to communicate strongly to the Department of Public Works and County Planning Department that any pre-construction and construction activity on APN 496-012-01 be obtained from road access other than Edgelake Drive.

Commission Lewis seconded the motion.

Legal Counsel, William Smith, addressed to the Commission that this is not an annexation to the City of La Mesa. Mr. Smith said that this motion includes information on the existing or impending threat to public health and safety issues.

Commissioner Bud Pocklington commented on water and sewer systems issues and why it is important to connect to public sewer systems.

Commissioner Frye stated that she disagreed with the staff regarding the CEQA issues and growth inducement. Commissioner Frye also said she could not determine any impending threat to the public's health and safety based on the applicant's lack of building plan.

Michael Ott asked Chairman Horn for a voice vote.

Chairman Horn requested that the Commission Secretary call for a voice vote.

The Commission Secretary recorded the following votes:

|             |   |
|-------------|---|
| AYES:       | Commissioners Pocklington, Ingalls, Lewis, Hilliard, Jacob and Horn |
| NOES:       | Commissioner Frye   |
| ABSENT:     | Commissioners Vanderlaan and Mathis                                 |
| ABSTAINING: | None  |

Chairman Horn indicated that the motion passes with a vote of 6 to 1.

**Item 7**

**Fourth Quarter Budget Update FY 2008-09:  
A status report on LAFCO's budget**

Michael Ott provided an update report of the budget for FY 2008-09.

This was an information item and no action by the Commission was required.

**Item 8**

**Quarterly Self-Approved Expense Claims Report**

At the request of Michael Ott, the Commission waived the staff presentation.

On motion of Commissioner Pocklington, seconded by Commissioner Jacob, and carried unanimously by the commissioners present, the Commission took the following action:

Accepted and ratified the August 3, 2009 Quarterly Self-Approved Expense Claims Report.

**Item 9**

**Legislative Report Update – August 2009**

Harry Ehrlich, Legislative Director and LAFCO Consultant, provided the Commission with an update on the Legislation bills. Mr. Ehrlich indicated there is no additional information or anything to report at this time. He also said there are bills that have pending activity.

Commissioner Pocklington inquired about the impact the same budget is having on LAFCO. Michael Ott said there will be no impact to LAFCO this fiscal year and the Commission has reduced its budget which will decrease the funding requirements of local agencies in San Diego County.

Chairman Horn announced the correct date for the September meeting is September 14, 2009.

There being no further business to come before the Commission, the meeting adjourned at 10:55 a.m. to the September 14, 2009 meeting, in Room 302, County Administration Center.

**Tamaron Lockett  
Administrative Aide**