
OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Community Planning Group bylaws updates inconsistent with Council Policy 600-24

On Tuesday, July 22, 2008 the City Council is being asked to approve or deny community planning group bylaw updates that are inconsistent with City Council Policy 600-24. The Mayor's July 15, 2008 Executive Summary outlines thirteen Community Planning Groups that have proposed bylaws that are inconsistent with City Council Policy 600-24 and require Council review. An additional six community planning groups are requesting deviations from Council Policy 600-24, however the deviations include conflicts with the State's Brown Act. The bylaw deviations for these community planning groups will be heard at a later date.

Introduction

City Council Policy 600-24 identifies responsibilities and establishes minimum operating procedures to govern the conduct of planning groups when they operate in their officially recognized capacity. On May 22, 2007 the City Council approved revisions to Council Policy 600-24 which incorporated additional operating procedures and provisions for compliance with the Brown Act. Part of the motion approved by the City Council was the requirement that all deviations requested by community planning groups be considered by the City Council.

Since approval of the revisions to City Council Policy 600-24, staff from the City Planning & Community Investment (CP&CI) Department and the Office of the City Attorney have been reviewing the 39 community planning groups' updated bylaws for consistency with the Council Policy. Attachment II to the July 15th Executive Summary outlines the policy deviations by planning group. Examples of the deviations requested include:

- Expanding boundaries and subject matter jurisdictions.
- Purpose of the Community Planning Groups.
- Procedures for handling vacancies and elections.

It is important to note that at this point the Mayor's staff has not made any recommendations to the City Council on whether to approve or deny the deviations to the community plans that differ from Council Policy 600-24.

Concerns with lack of information

The attachments to the July 15, 2008 Executive Summary lists the policy deviations from Council Policy 600-24 by Planning Group, Article, and Section and also provides a brief summary of the differences. However, the Executive Summary does not provide any information from City staff or planning group members on the reasons why they are requesting a deviation from Council Policy 600-24. It is the opinion of the IBA that this information is pertinent and should have been included as part of the Executive Summary. In addition, with staff from the Planning department and the City Attorney's office acting in the role of facilitator of the process, it is unclear who is responsible for providing justification for the deviations. It is also unclear if representatives of the thirteen planning groups will be available at the City Council meeting on July 22nd to discuss their requests. The IBA is also concerned that many of the deviations requested, such as expanding boundaries and subject matter jurisdictions, could have significant policy ramifications. To date, representatives from the Planning Department and the City Attorney's Office have not provided an analysis of the policy and legal ramifications on approving the deviations. These two departments could be significantly impacted by the decisions made by the City Council to approve the bylaw deviations.

Due to the concerns discussed above, the IBA recommends that the City Council delay voting on approving or denying the requests for deviations until the following information is provided:

- *Memorandum to the City Council from either City staff or the planning groups outlining the reasons for requesting deviations from Council Policy 600-24.*
- *Policy analysis from City staff on the ramifications of approving the deviations.*
- *Legal analysis by the City Attorney's office on the legality of the deviations.*

Brown Act conflicts

Six Community Planning Groups are requesting deviations that include conflicts with the State's Brown Act. Per the July 15, 2008 Executive Summary "The six bylaws that propose Brown Act deviations will be scheduled for City Council Consideration later this year." *It is a concern to the IBA that clear violations of the State's Brown Act would be requested to be docketed or heard by the City Council. The IBA recommends that bylaws that are in clear violation of State law should not be considered by the City Council and should be addressed through appropriate channels.*

Conclusion

Due to the concerns with the lack of information provided to the City Council and Brown Act conflicts, the IBA recommends that the City Council delay voting on approving or denying the requests for deviations. In addition, the IBA recommends that the City Council request the following information prior to voting on the deviation requests:

- Memorandum to the City Council from either City staff or the planning groups outlining the reasons for requesting deviations from Council Policy 600-24.
- Policy analysis from City staff on the ramifications of approving the deviations.
- Legal analysis by the City Attorney’s office on the legality of the deviations.

The IBA recommends that bylaws that are in clear violation of State law should not be considered by the City Council and should be addressed through appropriate channels.

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