



THE CITY OF SAN DIEGO

MEMORANDUM


DATE: July 17, 2008


TO: Rocky Sgro, Chair, Otay Mesa Nestor Community Planning Group

FROM: Mary P. Wright, City Planning & Community Investment Department & Marianne Greene, Office of the City Attorney

SUBJECT: Approval of an amendment to the Otay Mesa Nestor Community Planning Group bylaws

The Otay Mesa Nestor Community Planning Group bylaws amendment has been reviewed and determined to be in conformance with the provisions of City of San Diego (City) Council Policy 600-24 (Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups). The Council Policy 600-24 requires each community planning group, as a condition of official recognition by the City, to submit a copy of its own operating procedures and responsibilities, otherwise known as "bylaws." Amendments may be approved by the Mayor's office and the City Attorney's office if determined to conform to Council Policy 600-24. The amended bylaws have been reviewed and approved by the City Attorney's office and the City Planning & Community Investment department, acting on behalf of the Mayor's office. The bylaws are effective as of the last and final date signed below.

 Date: 9/15/08
Mary P. Wright, AICP
Deputy Director
City Planning & Community Investment

 Date: 9/10/08
Marianne Greene
Deputy City Attorney

MPW/MG/bt

Attachments: Otay Mesa Nestor Community Planning Group bylaws

Otay Mesa Nestor Community Planning Group Bylaws

Amended 10 October 2007

ARTICLE I Name

- Section 1. The official name of this organization is the Otay Mesa Nestor Community Planning Group.
- Section 2. All activities of this organization shall be conducted in its official name.
- Section 3. The community planning area boundaries for the Otay Mesa Nestor Community Planning Group are the boundaries of the Otay Mesa Nestor community, as shown on Exhibit "1".
- Section 4. Meetings of the Otay Mesa Nestor Community Planning Group shall be held within these boundaries, except that when the Otay Mesa Nestor Community Planning Group does not have a meeting facility within its boundary that is accessible to all members of the public, they may meet at the closest meeting facility.
- Section 5. The official positions and opinions of the Otay Mesa Nestor Community Planning Group shall not be established or determined by any organization other than the planning group, nor by any individual member of the planning group other than one authorized to do so by the planning group.

ARTICLE II Purpose of Community Planning Group and General Provisions

- Section 1. The Otay Mesa Nestor Community Planning Group has been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission, City staff, and other governmental agencies on land use matters, specifically concerning the preparation of, adoption of, implementation of, or amendment to, the General Plan or a land use plan when a plan relates to the Otay Mesa Nestor community boundaries. The planning group also advises on other land use matters as requested by the City or other governmental agency.
- Section 2. In reviewing individual development projects, the Otay Mesa Nestor Community Planning Group should focus such review on conformance with the adopted community plan and/or the General Plan. Preliminary comments on projects may be submitted to the City during the project review process. Whenever possible, the formal planning group recommendation should be submitted no later than the end of the public review period offered by the environmental review process. Upon receipt of plans for projects with substantive revisions, the planning group may choose to rehear the project and may choose to provide a subsequent formal recommendation to the City.
- Section 3. All activities of the Otay Mesa Nestor Community Planning Group shall be nonpartisan and nonsectarian and shall not discriminate against any person or persons by reason of race, color, sex, age, creed or national origin, or sexual orientation, or

physical or mental disability. In addition, meeting facilities must be accessible to disabled persons.

- Section 4. The Otay Mesa Nestor Community Planning Group shall not take part in, officially or unofficially, or lend its influence in, the election of any candidate for political office. Elected members shall not identify affiliation with a planning group when endorsing candidates for public office. The planning group may take a position on a ballot measure.
- Section 5. Pursuant to the provisions of City Council Policy 600-5, the Otay Mesa Nestor Community Planning Group's failure to respond to the City's request for input on the preparation of, adoption of, implementation of, or amendment to, the General Plan or a community, precise, or specific plan, or failure to review and reply to the City in a timely manner on development projects shall result in the forfeiture of rights to represent the Otay Mesa Nestor community for these purposes. Such a determination resulting in the forfeiture of rights to represent the community for these purposes shall be made only by the City Council upon the recommendation of the Mayor's Office.
- Section 6. The Otay Mesa Nestor Community Planning Group operates under the authority of the Ralph M. Brown Act which requires that meetings of the planning group are open and accessible to the public. In addition, Council Policy 600-24 "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups" and these bylaws govern the operations of the planning group. Several provisions of these bylaws constitute Brown Act requirements as outlined in the Policy. In addition, the Administrative Guidelines provide explanations of the Policy's minimum standard operating procedures and responsibilities of this planning group. *Robert's Rules of Order Newly Revised* is used when the Policy, the Administrative Guidelines, and these bylaws do not address an area of concern or interest.
- Section 7. The Otay Mesa Nestor Community Planning Group may propose amendments to these bylaws by majority vote of the elected members of the planning group. Proposed amendments shall be submitted to the offices of the Mayor and City Attorney for review and approval. Any proposed amendments that are inconsistent with Council Policy 600-24 shall not be approved by the Mayor and City Attorney and shall be forwarded to the City Council President who shall docket the matter for Council consideration. Bylaw amendments are not valid until approved by the City.

ARTICLE III Community Planning Group Organizations

- Section 1. The Otay Mesa Nestor Community Planning Group shall consist of sixteen elected members to represent the community. These members of the planning group shall constitute the officially recognized community planning group for the purpose of these bylaws and Council Policy 600-24.
- Section 2. Council Policy 600-24 requires that elected members of the Otay Mesa Nestor Community Planning Group shall, to the extent possible, be representative of the various geographic sections of the community and diversified community interests.

On the Otay Mesa Nestor Community Planning Group elected seats are filled, to the extent possible, by representatives of the various geographic sections of the community and diversified interests of the community.

Planning group members shall be elected by and from eligible members of the community. To be an eligible community member an individual must be at least 18 years of age, and shall be affiliated with the community as a:

- (1) property owner, who is an individual identified as the sole or partial owner of record, or their designee, of a real property (either developed or undeveloped), within the Otay Mesa Nestor community planning area, or
- (2) resident, who is an individual whose primary address of residence is an address in the Otay Mesa Nestor community planning area, or
- (3) local business person, who is a local business or not-for-profit owner, operator, or designee at a non-residential real property address in the Otay Mesa Nestor community planning area.

An individual may become an eligible member of the Otay Mesa Nestor community by having documented attendance at two (2) meetings of the Otay Mesa Nestor Community Planning Group's last six (6) regular meetings prior to the month preceding the election meeting and filing an application with the group secretary at least sixty (60) days in advance of the election.

Once eligibility to vote is established, an individual remains an eligible member of the community until a determination is made that the individual does not meet the planning group's criteria and formal action is taken by the planning group. However, the Otay Mesa Nestor Community Planning Group shall require proof of eligibility during elections.

Section 3. Members of the Otay Mesa Nestor Community Planning Group shall be elected to serve for fixed terms of four years with expiration dates during alternate years to provide continuity.

No person may serve on the planning group for more than eight years.

The eight year limit refers to total maximum consecutive years of service time, not to individual seats held.

After a one-year break in service as a planning group member, an individual who had served for eight consecutive years shall again be eligible for election to the planning group.

The planning group will actively seek new members to the extent feasible. If not enough new members are found to fill all vacant seats the planning group may retain some members who have already served for eight consecutive years to continue on the planning group without a break in service. Refer to Council Policy 600-24 Article III, Section 4 for further clarification.

Section 4. A member of the Otay Mesa Nestor Community Planning Group must retain eligibility during the entire term of service.

- Section 5. A member of the Otay Mesa Nestor Community Planning Group found to be out of compliance with the provisions of Council Policy 600-24 or the planning group's adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, and any future amendments thereto.
- Section 6. Some provisions of these bylaws constitute requirements under the Brown Act, as outlined in Council Policy 600-24. A member of the Otay Mesa Nestor Community Planning Group who participates in a meeting of the planning group where actions are alleged to have been in violation of the Brown Act may be subject to civil or criminal consequences.

ARTICLE IV Vacancies

- Section 1. The Otay Mesa Nestor Community Planning Group shall find that a vacancy exists upon receipt of a resignation in writing from one of its members or upon receipt of a written report from the planning group's secretary reporting the third consecutive absence or fourth absence in the 12-month period of April through March each year, of a member(s) from the planning group's regular meetings.
- Section 2. Vacancies that may occur on the Otay Mesa Nestor Community Planning Group shall be filled not later than 120 days following the date of the determination of the vacancy. The term of office of any member filling a vacancy shall be for the balance of the vacated term.
- The Otay Mesa Nestor Community Planning Group shall fill vacancies at an advertised general election in accordance with Article III, Section 2.
- Section 3. When the Otay Mesa Nestor Community Planning Group is unable to fill a vacancy within 120 days, as specified above, and the planning group has more than twelve members, either the seat may remain vacant until the next planning group election, or these bylaws may be amended to permit decreased membership to a minimum of 12 members. If a vacancy remains for more than 60 days from the time a vacancy is declared, and there are less than 12 elected planning group members in good standing, the planning group shall report in writing the efforts made to fill the vacancy to the City. If, after 60 additional days, the planning group membership has not reached 12 members, the planning group will be deemed inactive until it has attained at least 12 members in good standing.

ARTICLE V Elections

- Section 1. General elections of Otay Mesa Nestor Community Planning Group members shall be held during the month of March in accordance with the elections procedures found in Exhibit "2" of these bylaws.

The Otay Mesa Nestor Community Planning Group's general elections shall be held every two years.

The deadline to qualify for candidacy in the March general election shall be prior to the February noticed regular or special meeting of the full planning group

membership preceding the election. The planning group's Election subcommittee shall be established no later than January and shall begin soliciting eligible community members to become candidates. This committee shall consist of three members whose terms do not expire in the upcoming election. In February, the Election subcommittee shall present to the planning group a complete list of interested candidates collected up to that point in time. Candidates may be added at the February meeting. A candidate forum may be advertised and held at the February meeting.

In order to be a candidate in the March election, an eligible member of the community [see Article III, Section 2] must have documented attendance at two regular meetings of the Otay Mesa Nestor Community Planning Group's last six meetings prior to the February regular meeting preceding the election.

Section 2. The Otay Mesa Nestor Community Planning Group shall make a good faith effort to utilize means appropriate to publicize the planning group's eligibility requirements for candidacy and the upcoming elections.

In the election process, the planning group shall seek enough new candidates to exceed the number of seats open for election in order to allow those who have served for eight consecutive years to leave the group for at least one year.

The Otay Mesa Nestor Community Planning Group holds its election at the March regular meeting.

The Otay Mesa Nestor Community Planning Group will require proof of identity of those eligible community members who are seeking to vote in the election. The planning group shall ensure that voting is only by eligible members of the community.

The ballot presented to eligible community members to vote will clearly identify which seats individual candidates are running for, how many candidates can be selected, whether there are limitations on which candidates various categories of eligible community members can vote for and which candidates, if any, must receive a 2/3 majority of the vote due to service beyond eight or nine consecutive years of service.

The Otay Mesa Nestor Community Planning Group planning group's policy is that write-in candidates are not allowed.

Section 3. Voting shall be by secret written ballot. Proxy voting for elections is not allowed under any circumstances. Development and promotion of "slates" of candidates is contrary to the intent of Council Policy 600-24 and is not allowed.

Section 4. The Otay Mesa Nestor Community Planning Group's election becomes final after announcing the election results at the conclusion of the noticed regular March monthly planning group meeting.

The Chair is responsible for preparing, certifying and forwarding the election report to the City. New members shall be seated in April at the start of the regular meeting

in order to allow their full participation as elected members at the April planning group meeting.

Any challenge to the election results must be filed with the chair of the Elections subcommittee in writing within 24 hours of the counting of the ballots in order to allow enough time to resolve the issue.

Section 5. Article VIII, Section 1(e) contains all voting procedures.

ARTICLE VI Community Planning Group and Planning Group Member Duties

Section 1. It is the duty of the *Otay* Mesa Nestor Community Planning Group to cooperatively work with the City throughout the planning process, including but not limited to the formation of long-range community goals, objectives and proposals or the revision thereto for inclusion in a General or Community Plan.

It is the duty of all planning group members to conduct official business of the planning group in a public setting. It is recognized that the officers of the planning group may oversee administrative business of the planning group, such as the assembling of the draft agenda, in preparation for public discussions. However, all substantive discussions about agenda items or possible group positions on agenda items shall occur at the noticed planning group meetings.

It is the duty of a planning group as a whole, and of each individual member, to refrain from conduct that is detrimental to the planning group or its purposes under Council Policy 600-24. No member shall be permitted to disturb the public meeting so as to disrupt the public process as set forth on the planning group's agenda.

Section 2. (a) Meeting Procedures

It shall be the duty of each member of the Otay Mesa Nestor Community Planning Group to attend all planning group meetings.

(i) REGULAR AGENDA POSTING - At least 72 hours before a regular meeting, the agenda containing a brief general description of each agenda item shall be posted. The brief general description of each agenda item need not exceed 20 words per item unless the item is complex. The agenda shall also provide notice of the date, time and location of the meeting. The agenda shall be posted in a place freely accessible to the general public and shall include information on how a request for accessible accommodation may be made.

The listing of the agenda item shall include the intended action of the planning group regarding that item [e.g., information item, action item].

(ii) PUBLIC COMMENT- Any interested member of the public may comment on agenda items during regular or special planning group meetings. In addition, each agenda for a regular planning group meeting shall allow for a public comment period at the beginning of the meeting for items not on the agenda but are within the scope of authority of the planning group. Planning group members may make brief announcements or reports to the planning group on their own activities under the

public comment section of the agenda. The planning group may adopt time limits for public comment to ensure operational efficiencies.

(iii) ADJOURNMENTS AND CONTINUANCES – If the Otay Mesa Nestor Community Planning Group does not convene a regularly scheduled meeting, within 24 hours, there shall be a copy of the "Notice of Adjournment" of the meeting posted on or near the door of the place where the adjourned meeting was to be held.

If a meeting is adjourned because less than a quorum was present, a new regular meeting agenda must be prepared. If a meeting is adjourned because no members of the planning group were present, the subsequent meeting, if not a regular meeting, must be noticed as if a special meeting.

(iv) CONTINUED ITEMS - If an item is continued from a prior regular meeting to a subsequent meeting more than 5 days from the original meeting, a new agenda must be prepared as if a regular meeting; otherwise the original meeting agenda is adequate.

(v) CONSENT AGENDA - For items to be considered for a "Consent Agenda" all of the following are required:

1. A subcommittee of the planning group has discussed the item at a noticed subcommittee meeting,
2. All interested members of the public were given an opportunity to address the subcommittee, and
3. The item has not substantially changed since the subcommittee's consideration.

The comments of the subcommittee and those made by interested members of the public should be reflected in the minutes of the subcommittee. Any interested member of the public may comment on a consent agenda item. Any interested member of the public may take a consent agenda item off the consent agenda by request.

(vi) QUORUM AND PUBLIC ATTENDANCE - A quorum, defined as a majority of non-vacant seats of a planning group, must be present in order to conduct business, to vote on projects, and to take actions at regular or special planning group meetings.

No member of the public shall be required, as a condition of attendance at any meeting of the planning group, to register or provide any other information. Any attendance list or request for information shall clearly state that completion of such information is voluntary. No member of the public may be charged a fee for admittance.

(vii) DEVELOPMENT PROJECT REVIEW - The Otay Mesa Nestor Community Planning Group may not, as a condition of placing an item on the agenda, require applicants to submit additional information and materials beyond which the applicant has been required to submit as part of the City's project review application process.

When reviewing development projects, the planning group shall allow participation of affected property owners, residents and business establishments within proximity to the proposed development.

The planning group shall directly inform the project applicant or representative in advance each time that such review will take place and provide the applicant with an opportunity to present the project.

(viii) ACTION ON AGENDA ITEMS - An item not noticed on the agenda may be added if either two-thirds of the entire elected membership, or every member if less than two-thirds are present, determine by a vote that there is a need to take an immediate action, but only if the need for action came to the attention of the planning group subsequent to the agenda being posted.

The Otay Mesa Nestor Community Planning Group planning group's chair fully participates in planning group discussions and votes on all action items

The planning group shall not engage in, or allow, secret ballot or proxy voting on any agenda item. Other methods of absentee voting on agenda items, such as by telephone or by e-mail are also prohibited.

Votes taken on agenda items shall reflect the positions taken by the elected or appointed positions on the planning group identified in Article III, Section 1 of Council Policy 600-24.

(ix) COLLECTIVE CONCURRENCE - Any attempt to develop a collective concurrence of the members of the Otay Mesa Nestor Community Planning Group as to action to be taken on an item by members of the planning group, either by direct or indirect communication, by personal intermediaries, by serial meetings, or by technological devices, is prohibited, other than at a properly noticed public meeting.

(x) SPECIAL MEETINGS - The chair of the Otay Mesa Nestor Community Planning Group, or a majority of planning group members, may call a special meeting. An agenda for a special meeting shall be specified as such, and shall be prepared and posted at least 24 hours before a special meeting. Each member of the planning group shall receive the written notice of the meeting at least 24 hours before the time of the meeting as specified in the notice unless the member files with the planning group secretary a written waiver of notice at, or prior to the time of, the meeting. Written notice shall be delivered to each local newspaper of general circulation and radio or television station requesting notice in writing at least 24 hours before the time of the meeting. The notice shall identify the business to be transacted or discussed at the meeting. No other business shall be considered at this meeting. Public testimony on agenda items must be allowed; however, the non-agenda public comment period may be waived.

(xi) EMERGENCY MEETINGS - Emergency meetings, requiring no public notice, are called for matters related to public health and safety. These matters are outside of the purview of the Otay Mesa Nestor Community Planning Group and are prohibited under these bylaws.

(xii) **RIGHT TO RECORD** - Any person attending a meeting of the Otay Mesa Nestor Community Planning Group must be allowed to record or photograph the proceedings in the absence of a reasonable finding by the planning group that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the meeting.

(xiii) **DISORDERLY CONDUCT** - In the event that any planning group meeting is willfully interrupted by a person or group of persons, so as to make the orderly conduct of the meeting infeasible, the planning group may first cause removal of the individual or individuals. If that is unsuccessful then the planning group may order the meeting room cleared and continue in session on scheduled agenda items without an audience, except that representatives of the media shall be allowed to remain. The planning group may also readmit an individual or individuals who were not responsible for the disruption.

(b) **Subcommittees**

The Otay Mesa Nestor Community Planning Group may establish standing and ad hoc subcommittees when their operation contributes to more effective discussions at regular planning group meetings.

STANDING SUBCOMMITTEES - Pursuant to the purpose of the Otay Mesa Nestor Community Planning Group as identified in Article II, Section 1, the planning group has established the following Standing Subcommittees and number of members:

- (i) Bylaws Subcommittee (3)
- Elections Subcommittee (3)
- Project Review Subcommittee (3)
- Parks and Recreation Subcommittee (3)
- Volunteer Code Compliance Subcommittee (varies)

(ii) **AD HOC SUBCOMMITTEES** - Ad hoc subcommittees may be established for finite period of time to review more focused issue areas and shall be disbanded following their review.

(iii) **SUBCOMMITTEE COMPOSITION** - Subcommittees shall contain a majority of members who are members of the planning group.

Non-members, who are duly appointed by a planning group to serve on a subcommittee, may be indemnified by the City in accordance with Ordinance No. O-17086 NS, and any future amendments thereto, provided they satisfy any and all requirements of the Administrative Guidelines.

(iv) **RECOMMENDATIONS** - Subcommittee recommendations must be brought forth to the full planning group for formal vote at a noticed public meeting. In no case may a committee or subcommittee recommendation be forwarded directly to the City as the formal recommendation of the planning group without a formal vote of the full planning group.

(c) Abstentions and Recusals

(i) RECUSALS - Any member of the Otay Mesa Nestor Community Planning Group with a direct economic interest in any project that comes before the planning group or its subcommittees must disclose to the planning group that economic interest, and must recuse from voting and not participate in any manner as a member of the planning group for that item on the agenda.

(ii) ABSTENTIONS – In limited circumstances, planning group members may abstain from either voting on an action item, or from participating and voting on an action item. The member must state, for the record, the reason for the abstention.

(d) *Meeting Documents and Records*

(i) AGENDA BY MAIL - Requests to mail copies of a regular agenda, and any accompanying material, shall be granted. Such materials shall be mailed when the agenda is posted, or upon distribution to a majority of the members of the community planning group, whichever occurs first. A request to receive agendas and materials may be made for each calendar year and such request is valid for that entire year, but must be renewed by January 1 of the following year. A cost-recovery fee may be charged for the cost of providing this service.

(ii) AGENDA AT MEETING - Any written documentation, prepared or provided by City staff, applicants, or planning group members that is distributed at the planning group meeting shall be made available upon request for public inspection without delay. If such material is distributed at the planning group meeting, then it shall be made available upon request at the meeting. If such material is prepared by someone other than City staff, applicants, or planning group members, or is received from a member of the public during public testimony on an agenda item, then the material shall be made available for public inspection at the conclusion of the meeting. A cost-recovery fee may be charged for the cost of reproducing any the materials requested by an individual or individuals.

(iii) MINUTES – For each planning group meeting, a report of Otay Mesa Nestor Community Planning Group member attendance and a copy of approved minutes shall be retained by the planning group, and shall be available for public inspection. The minutes of each planning group meeting shall include the votes taken on each action item and reflect the names for, against and abstaining when the vote is not unanimous. Recusals shall also be recorded. Minutes should record speakers and public testimony, and whether each project applicant (whose project was subject to planning group action) appeared before the planning group. If an applicant did not appear before the planning group then the meeting minutes must indicate the date when and type of notification (e.g. electronic, telephonic, facsimile) provided to the applicant requesting his or her appearance at the planning group meeting. A copy of the approved minutes shall be submitted to the City within 14 days after approval by the planning group.

The Otay Mesa Nestor Community Planning Group is not required to audio or videotape meetings but if recordings are made, they are subject to a public request to inspect without charge. A cost-recovery fee may be charged for copies of recordings.

(iv) RECORDS RETENTION – Otay Mesa Nestor Community Planning Group records must be retained for public review. City staff will establish a records retention schedule and method for collection and storage of materials that will be utilized by all planning groups.

Section 3. It shall be the duty of the Otay Mesa Nestor Community Planning Group and its members to periodically seek community-wide understanding of and participation in the planning and implementation process as specified in Article II, Section 1. The planning group shall give due consideration to all responsible community attitudes insofar as these are deemed to be in the best long range interest of the community at large.

Section 4. It shall be the duty of the Otay Mesa Nestor Community Planning Group to maintain a current, up-to-date roster of the names, terms, and category/qualifications of planning group members in its possession, and to forward the current roster, as well as any updates, to the City. The planning group must also submit to the City, by the end of March each year, an annual report of accomplishments for the past calendar year and anticipated objectives for the coming year related to Article II, Section 1 above. Rosters and annual reports constitute disclosable records under the Brown Act.

Section 5. The Otay Mesa Nestor Community Planning Group may develop a policy for financial contributions from the citizens of the community for the purposes of furthering the efforts of the planning group to promote understanding and participation in the planning process. However, no membership dues shall be required and no fee may be charged as a condition of attendance at any planning group meeting. All contributions must be voluntarily made, and no official planning group correspondence may be withheld based on any individual's desire to not make a voluntary contribution.

Section 6. Each elected Otay Mesa Nestor Community Planning Group member is required to attend an orientation training session administered by the City as part of planning group and individual member indemnification pursuant to Ordinance No. O-17086 NS, and any future amendments thereto. Newly seated planning group members must complete a basic orientation training session within 12 months of being elected or appointed to a planning group or the member will be ineligible to serve.

ARTICLE VII Planning Group Officers

Section 1. The officers of the Otay Mesa Nestor Community Planning Group shall be elected from and by the members of the planning group. Said officers shall consist of a Chairperson, Vice Chairperson and Secretary. The length of an officer's term shall be Two years, except that no person may serve in the same planning group office for more than eight consecutive years. After a period of one year in which that person did not serve as an officer that person shall again be eligible to serve as an officer.

- Section 2. Chairperson. The Chairperson shall be the principal officer of Otay Mesa Nestor Community Planning Group and shall preside over all planning group and communitywide meetings organized by the planning group.
- Section 3. Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall perform all the duties and responsibilities of the Chairperson.
- Section 4. Secretary. The Secretary shall be responsible for the planning group's correspondence, attendance records, and minutes and actions [including identification of those planning group members that constitute a quorum, who vote on an action item, and who may abstain or recuse and the reasons], and shall assure that planning group members and members of the public have access to this information. The Secretary may take on these responsibilities or may identify individuals to assist in these duties.
- Section 5. The Chairperson shall be a recognized community planning group's representative to the Community Planners Committee (CPC). However, by vote of the planning group, a planning group member other than the chair may be selected as the official representative to CPC with the same voting rights and privileges as the chair. Designation of a member other than the chair for either representative, as well as for the planning group's alternate to CPC shall be forwarded in writing to the staff representative to CPC prior to extension of voting rights and member attendance.
- Section 6. The Otay Mesa Nestor Community Planning Group officers and representatives to the CPC shall promptly disseminate to all elected planning group members pertinent information that is received by the planning group regarding its official business.

ARTICLE VIII Planning Group Policies and Procedures

- Section 1. The Otay Mesa Nestor Community Planning Group bylaws incorporate policies and procedures directed by Article I through VII of Council Policy 600-24. These bylaws also contain some policies and procedures recommended in Article VIII of Council Policy 600-24. This bylaws Article lists additional procedures which are found in Exhibits attached to the bylaws.

Any procedures found in exhibits have the same effect as if they were incorporated directly into Articles I through VII of the bylaws. They are separated into exhibits for ease of understanding.

Listed procedures are grouped by category as follows: Community Participation; Planning Group Composition; Conduct of Meetings; Member and Planning Group Responsibilities; and Elections.

(a) Community Participation

The following are the Otay Mesa Nestor Community Planning Group procedures regarding community participation:

The community is encouraged to attend meetings and participate in planning group discussions.

(b) Planning Group Composition

The following are the Otay Mesa Nestor Community Planning Group procedures pursuant to Article III, Section 2 regarding planning group composition:

Eligible community members are determined by meetings attended which is documented and verified by the sign-in sheets.

(c) Conduct of Meetings

The following are the Otay Mesa Nestor Community Planning Group procedures regarding conduct of planning group meetings:

The planning group sends the agenda to City Planning for posting on the city website. The agenda is also posted at the meeting site at least 72 hours prior to the scheduled meeting.

Non Agenda Public comment is one of the first items on the agenda, and is limited to 2 minutes per speaker. Total time for public comment may incur time limits placed in the interest of covering all agenda items. The Chairperson will maintain order in the meeting of both planning group members, presenters, and community members. The Chairperson asks for community participation in discussions, based on time availability. Subcommittee membership is normally composed of planning group members. Normally, three members or more comprise a subcommittee. Subcommittees are normally formed when there is a long term requirement for study and presentation to the planning group. Ad Hoc committees are formed for short term requirements for study and presentation to the planning group. The Elections subcommittee is responsible for pursuing eligible candidates for offices, and any open district seat. The committee will organize the election, with the assistance of the Secretary, determine eligible voting community members and create ballots, conduct the election, counting ballots and reporting the outcome to the Chairperson. The Project Review subcommittee plans for developments, and then reports its findings to the planning group. The Parks and Recreation subcommittee represents the Planning Group at Parks and Receptions meetings and reports issues back to the Planning Group. The Volunteer Code Compliance committee studies issues from community members regarding code compliance violations and recommends resolution to the City.

(d) Member and Planning Group Responsibilities

The following are the Otay Mesa Nestor Community Planning Group procedures regarding member and planning group responsibilities:

The planning group and its members may communicate with the City Planner assigned to our area on issues that are not project review recommendations. The planning group can make comments/suggestions to developers who present information items to the meeting.

The internal bylaws amendment process includes the bylaws committee reviewing recommendations, notifying the Chairperson of the proposed amendments, who may

place this as an agenda item, the Secretary sends out the proposed amendments to the planning group for individual review, then present to the full community planning group for vote.

(e) Elections

The Elections Handbook, which is an attachment to the Administrative Guidelines, provides general guidance for planning group elections. The following are procedures pertaining to the elections provisions of these bylaws:

Voting will take place at and during a scheduled Community Planning Group meeting.

Voting shall be open to eligible members of the community as follows: a) Must be 18 years of age or older, and b) be a property owner, who is an individual identified as the sole or partial owner of record, or their designee, of real property (either developed or undeveloped), with-in the community planning area, or c) resident, who is an individual whose primary address of residence is an address in the community planning area, or d) local business person, who is a local business or not-for-profit owner, operator, or designee at a non-residential real property address in the community planning area and must have documented attendance at two meetings of the Otay Mesa Nestor Community Planning Group's last 6 regular meetings.

Ballot retention: All voted ballots shall be kept by the Secretary in a sealed envelope until after the next Community Planning Group meeting, or until the outcome of an election challenge, at which time the ballots shall be destroyed.

Elections may only be challenged by a person(s) who were in attendance and signed in at the meeting the vote was taken.

A person listed on the ballot need not be present at the election, but must have previously accepted the nomination.

ARTICLE IX Rights and Liabilities of Recognized Community Planning Groups

Section 1. Indemnification and Representation. The Otay Mesa Nestor Community Planning Group and its duly elected or appointed members have a right to representation by the City Attorney and a right to indemnification by the City under Ordinance O-17086 NS, and any future amendments thereto, if the claim or action against them resulted from their obligation to advise and assist the City and its agencies with land use matters as specified in Policy 600-24, Article II, Section 1; their conduct was in conformance with Policy 600-24 and these bylaws; and all findings specified in the ordinance can be made.

Section 2. Brown Act Remedies. The Otay Mesa Nestor Community Planning Group and its duly elected members may be subject to both Council Policy 600-24 violations as described in Section 3 below and penalties provided for in the Brown Act. The Brown Act includes criminal penalties and civil remedies. Both individual members of the planning group, as well as the planning group itself, may be subject to civil remedies. Under certain circumstances, individual planning group members may face

criminal misdemeanor charges for attending a meeting where action is taken in violation of the Brown Act, and where the member intended to deprive the public of information to which the member knows or has reason to know the public is entitled. Alleged violations will be reviewed and evaluated on a case-by-case basis.

Section 3. Council Policy 600-24 Violations and Remedies.

(a) Alleged Violations by a Member of the Otay Mesa Nestor Community Planning Group

In cases of alleged violations of the Otay Mesa Nestor Community Planning Group bylaws or Council Policy 600-24 by a planning group member, the planning group may conduct an investigation consistent with the Administrative Guidelines and these bylaws.

A complaint that an individual member of a planning group violated one or more provisions of the planning group's bylaws or Council Policy 600-24 may be submitted to the planning group chair by any individual, including another planning group member. The complaint should be filed within 90 days of the alleged violation.

If, after a thorough investigation, the planning group determines that the individual member has violated a provision of these bylaws or Council Policy 600-24, the planning group shall, where feasible, seek a remedy that corrects the violation and allows the member to remain as a member of the planning group.

If corrective action or measures are not feasible, the planning group may remove a member by a two-thirds vote of the planning group. The vote to remove the group member shall occur at a regularly scheduled public meeting subject to the procedures outlined in the Administrative Guidelines and these bylaws.

If the planning group member found to be out of compliance with the provisions of these bylaws or Council Policy 600-24, the planning group risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, and any future amendments thereto.

Investigation procedures for elected member violations are outlined below:

Any action by the Otay Mesa Nestor Community Planning Group to discipline or remove a member must occur at a scheduled planning group meeting and be advertised on the agenda as an action item. Due to the significant nature of removing an elected member, and to ensure a fair and public process, the procedures for investigating a violation of a member are listed below:

Documenting a violation:

- A complaint that a violation of bylaws of Council Policy 600-24 has occurred will be presented to the planning group chair. If the complaint is about the chair, it may be presented to any other officer of the planning group.

- The complaint should be detailed enough to provide a description of, and timeframe within which, the alleged violation was committed and who was responsible for the violation.
- The complaint should provide a citation of the bylaws or Council Policy 600-24 provisions of which the action is claimed to violate. If the complaint is from someone other than another planning group member, the chair [or other officer] may assist in providing appropriate citations to assist the complainant.
- The chair will confer with the planning group officers [exception: if an officer is the subject of the grievance or has a business or personal relationship with the alleged violator] regarding the complaint.
- The chair shall create a written record of the complaint and alleged violation to share with the alleged violator.

Procedures for administering and acting on investigating a violation: While the authority for this process rests with this planning group, City staff may be contacted for assistance at any point in the process.

- Once the information about an alleged violation is completed in writing, the chair, with assistance from the planning group officers, will meet and talk with the planning group member against whom the violation is alleged. The allegations will be presented and the planning group member shall be given opportunity for rebuttal.
- If the chair, with assistance from the planning group officers, determines that no violation has actually occurred, the chair may record this in the written record of the complaint.
- If the chair, with assistance from the planning group officers, determines that a violation has occurred but the situation can be remedied either by action of the planning group or by the planning group member, then the chair will outline the necessary actions to achieve the remedy.
- If the chair, with assistance from the planning group officers, determines that the situation cannot be remedied and that the interests of the community and Otay Mesa Nestor Community Planning Group would best be served by the removal of the planning group member, then the chair shall set the matter for discussion at the next planning group meeting. The planning group member who committed the violation shall be given adequate notice about the meeting discussion, and will be given the opportunity to resign prior to docketing the matter for a planning group discussion.

Presenting a violation to the planning group:

- The matter of removing a seated planning group member will be placed on the planning group's agenda as a potential action item. Supporting materials from the chair or from the offending planning group member will be made available to the elected planning group members prior to the meeting.
- The matter will be discussed at the planning group's regular meeting with opportunity given to the planning group member who committed the violation to present their case and/or rebut documentation gathered by the chair with the assistance of the planning group officers. The member may also request a continuance of the item to gather more information to present to the planning group.

- At the end of the discussion, the planning group may, by a 2/3 vote, choose to remove the member.

Recourse for expelled member:

- There is no appeal available to an elected planning group member removed by a 2/3 vote of their recognized community planning group.
- The planning group member's seat shall be immediately declared vacant and subject to provisions of Article IV.
- The removal of a planning group member by a 2/3 vote of their recognized community planning group will not prohibit the member from running for a planning group seat in future scheduled elections.

(b) Alleged Violations Against the Otay Mesa Nestor Community Planning Group as a Whole

In the case of an alleged violation of the planning group's bylaws or of Council Policy 600-24 by the planning group as a whole or multiple members of the planning group, the violation shall be forwarded in writing to the City. The Mayor's Office will engage in a dialogue with the planning group, determining the validity of the complaint, and seeking resolution of the issue or dispute. The Otay Mesa Nestor Community Planning Group will work with the City toward a solution and the planning group recognizes that, in accordance with Council Policy 600-24, the City may consult with the Community Planners Committee.

If a violation against the planning group as a whole is proven and there is a failure of the planning group to take corrective action, the planning group will forfeit its rights to represent its community as a community planning group recognized under Council Policy 600-24. Such a determination resulting in the forfeiture of a seated group's rights to represent its community shall be based on a recommendation by the Mayor's Office to the City Council. A planning group shall not forfeit its recognized status until there is an action by the City Council to remove the status. The City Council may also prescribe conditions under which official recognition will be reinstated.

If the planning group is found to be out of compliance with the provisions of this Policy not subject to the Brown Act or its adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, and any future amendments thereto.

Exhibit 1: Otay Mesa Nestor Community Planning Group Boundary Map

Exhibit 2: Election Procedures.

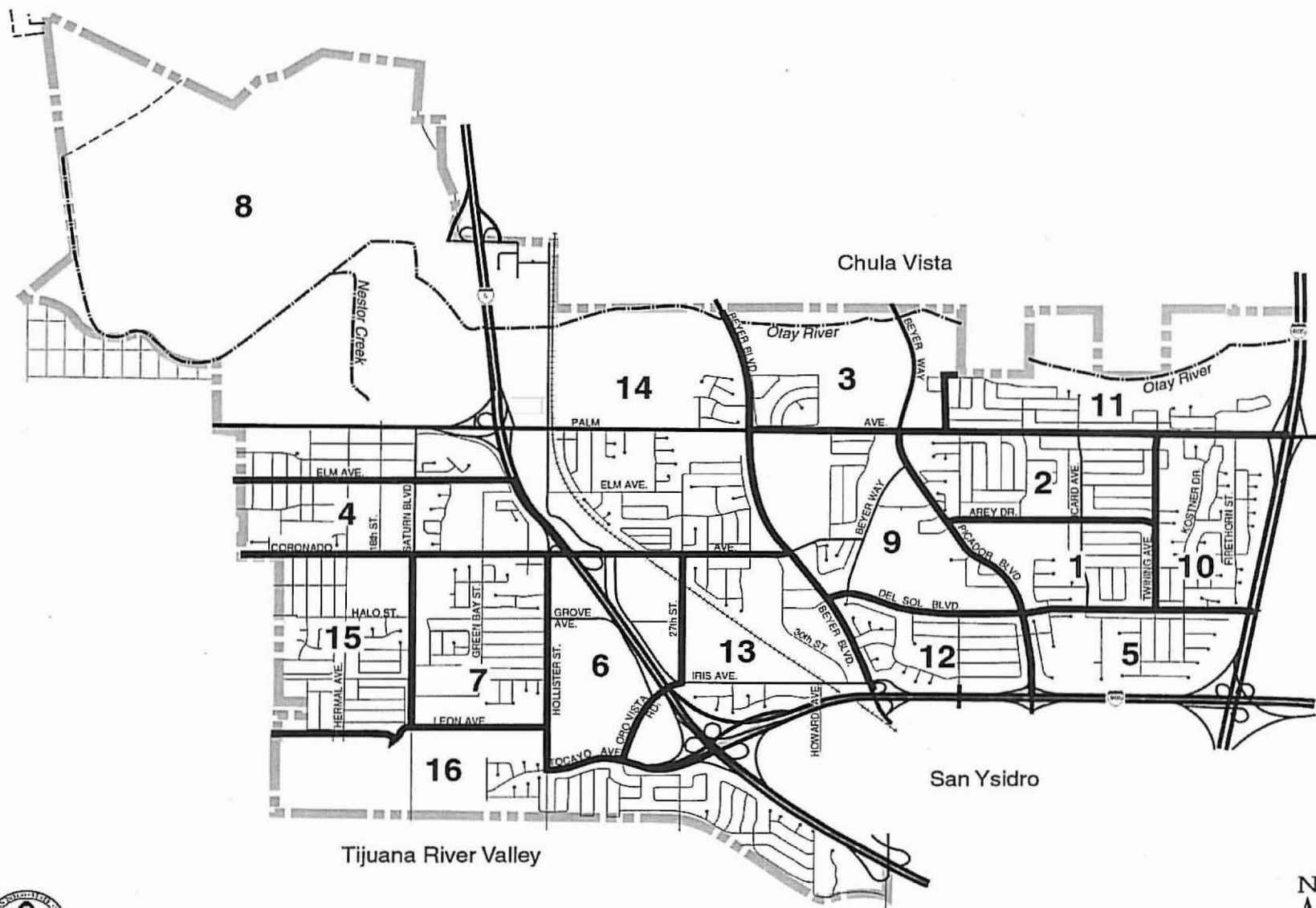


Exhibit 1



OTAY MESA-NESTOR COMMUNITY PLANNING COMMITTEE
 CITY OF SAN DIEGO • PLANNING DEPARTMENT



Exhibit 2

ELECTION PROCEDURES

A. AUTHORITY

The procedures in this Exhibit include all of the requirements contained in Article V and Article VII Section 1 (e) of the Otay Mesa Nestor Bylaws. The Elections Handbook (which is an attachment to the "Administrative Guidelines for Implementation of Council Policy 600-24: Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups) provides general guidance for the election process. Where revisions to the procedures in those documents conflict or are inconsistent with the procedures in this Exhibit, the revisions shall take precedence and shall have the same effect as if this Exhibit were amended to conform to those referenced procedures, except where options to the procedures are permitted.

B. ELECTION SUBCOMMITTEE

1. No later than January of an election year, the Chairperson shall establish an Election Subcommittee of three (3) persons whose term does not expire in the upcoming election. A subcommittee chairperson shall be responsible for the conduct of the committee's business.
2. The subcommittee shall:
 - Solicit "eligible community members" to become candidates
 - Develop and implement a process for the promotion of the March election
 - Prepare a sample ballot for distribution with the March agenda
 - Prepare official ballots with names randomly placed for the March election
 - Supervise the election process
 - Review each voter's qualifications (see paragraph D)
 - Issue one (1) official ballot to each qualified voter
 - Tabulate the ballots
 - Determine the legality of all ballots cast
 - Convey the results of the election to the OMNCPG Chairperson
 - Collect and seal in an envelope all ballots cast, defaced, replaced, or disqualified
3. At the February meeting, the Election Subcommittee shall present to the planning group a completed list of interested candidates collected up to that point in time. Development and promotion of "slates" of candidates in contrary to the intent of Council Policy 600-24 and is not allowed. Candidates may be added at the February meeting. The February OMNCPG agenda may docket as an informational item a "Candidate Forum". The OMNCPG Chairperson may limit the time for each candidate to speak.
4. The Elections Subcommittee shall be disbanded twenty-four (24) hours after the election is final unless a challenge is filed in accordance with the Challenge Criteria herein.

C. CANDIDATE REQUIREMENTS

1. Must be at least 18 years of age, and
2. Must be an "eligible community member" (Art. III, Sect. 2)

- a. property owner, who is an individual identified as the sole or partial owner of record, or their designee, of a real property (either developed or undeveloped), within the Otay Mesa Nestor community planning area, or
 - b. resident, who is an individual whose primary address of residence is an address in the Otay Mesa Nestor community planning area, or
 - c. local business person, who is a local business or not-for-profit owner, operator, or designee at a non-residential real property address in the Otay Mesa Nestor community planning area, and
3. Must have a Membership Application on file with the Secretary at least sixty (60) days in advance of the election, and
 4. Must have documented attendance at two (2) of the OMNCPG last six (6) regular meetings prior to the month preceding the election meeting.
 5. Council Policy 600-24 requires that elected members shall, to the extent possible, be representative of various geographic sections of the community, and diversified community interests.

D. VOTER REQUIREMENTS

1. Must be at least 18 years of age, and
2. Must be an "eligible community member" (Art. III, Sect. 2)
 - a. property owner, who is an individual identified as the sole or partial owner of record, or their designee, of a real property (either developed or undeveloped), within the Otay Mesa Nestor community planning area, or
 - b. resident, who is an individual whose primary address of residence is an address in the Otay Mesa Nestor community planning area, or
 - c. local business person, who is a local business or not-for-profit owner, operator, or designee at a non-residential real property address in the Otay Mesa Nestor community planning area, and
3. Must have attended at least two (2) of the OMNCPG last six (6) meeting prior to the February Regular meeting preceding the election year, documented by the Secretary.
4. Must present proof of identity at the polling location. The following are some of the documents that may be used to prove eligibility:
 - a. California driver's license or identification card
 - b. Lease, rental agreement, or rent receipt
 - c. Deed to real property
 - d. Current Business License
 - e. Most recent utility bill (not including cellular telephone)
 - f. Any other documents or materials that the Election Subcommittee may deem necessary

E. BALLOTS AND VOTING

1. Voting shall be by secret written ballot.
2. Proxy, mail-in, and/or write-in balloting shall not be permitted.
3. Candidates with less than eight (8) consecutive years of service shall be seated in order of plurality of total qualified votes cast for each candidate.
4. Any remaining seats shall be awarded in order of plurality to candidates with more than eight (8) consecutive years of service, provided first that they receive at least two-thirds majority of the total qualified votes cast.

5. Sample and official ballots shall clearly identify:
 1. Which seats individual candidates are running for
 2. How many candidates can be selected
 3. Which candidates must receive a two-thirds majority vote due to service beyond eight (8) years
6. Only members of the Election Subcommittee shall handle and count the ballots.
7. The tabulation shall include:
 1. The total number of ballots cast
 2. The number of illegal ballots
 3. The number of qualified ballots
 4. The total qualified ballots counted
 5. The total qualified votes cast for each candidate by name
8. The ballots shall be retained by the Secretary, in a sealed envelope, until after the next regular Community Planning Group meeting or until the outcome of an election challenge at which time the ballots shall be destroyed.

F. POLLS

1. Polls shall be located so as to be accessible to the general public and to persons with physical limitations.
2. In general, the poll location should be at the same place and time as the OMNCPG holds its regular meetings, unless circumstances warrant a change in location or time. Another location or time may be selected prior to or at the February regular meeting.
3. Where more than one polling place/time is necessary, additional procedures regarding the handling and transportation of ballots and other procedures relating to the election process shall be developed by the Elections Subcommittee with the advice and assistance of City Staff and the City Attorney.
4. The polling location(s) and time(s) shall be posted at least 72 hours prior to the opening of the polling place.

G. ELECTION RESULTS AND REPORTING

1. The Elections Subcommittee will present the results to the OMNCPG Chairperson.
2. At the conclusion of the March meeting, the Chairperson will announce the election results. The election then becomes final.
3. The Chairperson is responsible for preparing, certifying, and forwarding an election report to the City.
4. Newly elected members shall be seated in April at the start of the regular meeting in order to allow their full participation as elected members at that meeting.

H. CHALLENGE CRITERIA

1. Elections may only be challenged by a person(s) who were in attendance and signed in at the meeting the vote was taken.

2. Any challenge to the election results must be filed with the chairperson of the Elections Sub Committee in writing within twenty-four (24) hours of the counting of the ballots in order to allow enough time to resolve the issue.
3. The Elections Subcommittee chairperson shall within fourteen (14) business days prepare a written appraisal of the challenge and submit the documents to City Staff or the City Attorney as appropriate.
4. If it is determined that a recount of the ballots cast is required, then the Elections Subcommittee chairperson will submit the documents to City Staff or the City Attorney, as applicable, for an independent recount or other disposition.
5. If a challenge is found to be valid, then City Staff or the City Attorney should advise options that could cure the challenge.