

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT STANDARD OPERATING PROCEDURES AND RESPONSIBILITIES OF
 RECOGNIZED COMMUNITY PLANNING GROUPS

POLICY NO.: 600-24

EFFECTIVE DATE:

BACKGROUND:

Community planning groups have 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 each recognized community planning group's planning area boundaries. Planning groups also advise on other land use matters as requested by the City or other governmental agencies. This Policy applies to the 12 to 20 elected members of a recognized community planning group, herein referred to as members.

Planning groups are private organizations. The City does not direct or recommend the election of specified individual members, nor does the City appoint members to planning groups, or recommend removal of individual members of a planning group. The City does not delegate legal authority to planning groups to take actions on behalf of the City. Planning groups are voluntarily created and maintained by members of communities within the City. Council Policy 600-24 was created to provide the guidance for organizations operating as officially recognized community planning groups.

In 2006, it was determined that since planning groups are advisory bodies created by an action of the City Council, that they are subject to California's Open Meeting Law, the Ralph M. Brown Act ("Brown Act") (California Government Code Sections 54950 through 54963). The 2007 amendments to Council Policy 600-24 incorporate clear direction to planning groups about compliance with the Brown Act.

Bylaws of recognized community planning groups shall be amended to conform to the 2007 amendments to Council Policy 600-24 within 6 months from the enactment of the 2007 amendment. Until the expiration of 6 months, or adoption of bylaws amendments, whichever comes first, a planning group operating in conformance with bylaws that were previously approved by the City Council, shall be deemed to be operating in conformance with this Policy.

PURPOSE:

The purpose of Council Policy 600-24 is to identify responsibilities and to establish minimum operating procedures governing the conduct of planning groups when they operate in their officially recognized capacity.

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It is the policy of the City Council to require each recognized community planning group, as a condition of official recognition by the City of San Diego, to submit a copy of its own operating procedures and responsibilities, otherwise known as "bylaws," to the City. These bylaws must contain, at a minimum, all the provisions addressed in this Policy, and conform to the criteria contained herein, including the standardized bylaws shell attached to this Policy. Individual planning groups' bylaws may utilize options within the standardized bylaws shell and may also expand on provisions in this Policy to better meet the needs of diverse communities. However, all bylaws must remain in conformance with the provisions of this Policy to maintain official recognition by the City. The original bylaws for each planning group and the initial members and terms of each planning group seat and member will be submitted for approval by resolution of the City Council.

Community planning groups that are also incorporated under the laws of the State of California shall maintain corporate bylaws separate from the planning group bylaws.

Subsequent amendments to adopted bylaws may be proposed to the City by a majority vote of the elected membership of a community planning group. Amendments shall be approved by the Mayor's Office and City Attorney if determined to conform with this Policy. Bylaws amendments that cannot be approved by the Mayor's Office and City Attorney will be taken to the City Council for consideration. A planning group's proposed revisions to their adopted bylaws, to bring them into conformity with the 2007 revisions to this Policy, to the extent such bylaws are inconsistent with this Policy, do not go into effect, and may not be used by the planning group, until the City has approved the bylaws and has notified the planning group of the effective date of the amendment. Failure of a planning group to comply with the approved operating procedures and responsibilities will be cause for the City Council to withdraw official recognition.

Planning groups must utilize Council Policy 600-24 and their adopted bylaws to guide their operations. City staff is assigned to prepare and maintain Administrative Guidelines in consultation with the Community Planners Committee. The Administrative Guidelines are intended to explain this Policy's minimum standard operating procedures and responsibilities of planning groups. The Administrative Guidelines provide the planning groups with explanations and recommendations for individually adopted bylaws and planning group procedures. Robert's Rules of Order Newly Revised should be used when this Policy, the Administrative Guidelines, and planning group bylaws do not address an area of concern or interest. It is also the policy of the City Council that the City shall indemnify, and the City Attorney shall defend, a recognized community planning group or its individual members in accordance with Ordinance No. O-17086 NS entitled "An Ordinance Providing for Legal Representation to and Indemnification of Community Planning Committees Against Claims for Damages," as discussed further in Article X, Section 1, and any future amendments thereto.

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The intent of the Brown Act, as stated in section 45950, is that the actions of public bodies, “. . . be taken openly and that their deliberations be conducted openly . . .” This is consistent with the goals of the City and planning groups operating pursuant to this Policy. Accordingly, community planning groups shall ensure that all meetings are open to the public, properly noticed, and conducted in compliance with each of the Brown Act provisions as identified in this Policy.

ARTICLE I Name

Section 1. A recognized community planning group shall adopt an official name which shall be subject to the approval of the City Council.

Section 2. All activities of a recognized community planning group shall be conducted in its official name.

Section 3. A boundary for a recognized community planning group’s area of authority is based on the boundary of the applicable adopted community plan. The boundary is intended to give a planning group the advisory responsibilities over an area that has been established based on logical, man-made, or geographic boundaries. In some cases, the City Council may determine that a boundary other than that of an adopted plan is the appropriate boundary for a planning group’s oversight, and may identify an area either smaller than, or more encompassing than, an adopted community plan.

The community planning area boundaries which are applicable to each recognized community planning group shall be shown on a map to be included in the bylaws as Exhibit "A."

In accordance with Brown Act section 54954(b), meetings of recognized community planning groups shall be held within these boundaries. When however a 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 4. The official positions and opinions of a recognized 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. Community planning groups have been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission,

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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 each recognized community planning group's planning area boundaries. Planning groups also advise on other land use matters as requested by the City or other governmental agency.

Pursuant to the provisions of Council Policy 600-33, a recognized community planning group will be asked to review a park general development plan or capital improvements within the park only if there is no City recognized park advisory group.

Section 2. A recognized community planning group reviewing individual development projects should focus such review on conformity 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, a formal planning group recommendation should be submitted no later than the end of the public review period offered by the environmental review process.

Substantive changes in projects subsequent to completion of the environmental review process will sanction further evaluation by the planning group. This will provide staff and the project applicant the opportunity to respond to the comments or concerns and potentially resolve possible conflicts before the project is noticed for discretionary action.

Section 3. Insofar as the efforts of the recognized community planning group are engaged in the diligent pursuit of the above purpose, City staff assistance, if any, shall be provided under the direction of the Mayor's Office.

Section 4. All activities of recognized community planning groups 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, Brown Act section 54953.2 requires that meeting facilities must be accessible to persons with disabilities.

Section 5. A recognized community planning group shall not take part in, officially or unofficially, or lend its influence in, the election of any candidate for political office. Planning group members shall not identify affiliation with a planning group when endorsing candidates for public office. A planning group may take a position on a ballot measure.

Section 6. Pursuant to the provisions of City Council Policy 600-5, a recognized community planning group's consistent failure to respond to the City's request for planning group 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

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and reply to the City in a timely manner on development projects shall result in the forfeiture of rights to represent its community for these purposes. Such a determination resulting in the forfeiture of rights to represent its community for these purposes shall be made only by the City Council upon the recommendation of the Mayor's office.

Section 7. A recognized community planning group may propose amendments to its bylaws by majority vote of the elected members of the group. Proposed amendments shall be submitted to the offices of the Mayor and to the City Attorney, respectively, for review and approval. Any proposed amendments that are inconsistent with the standardized bylaws shell, attached to this Policy, shall be scheduled for consideration by City Council.

ARTICLE III Community Planning Group Organizations

Section 1. A recognized community planning group shall consist of a specific number of members that is not fewer than 12 nor more than 20, provided, however, that when a larger membership shall give better representation to a community, the City Council may approve such larger membership. Upon recognition by the City Council, the members of the planning groups shall constitute the official planning group for the purposes set forth in Article II.

Section 2. The members of the recognized community planning group shall consist of the members as of the date of recognition by the City Council, and of such additional members as shall thereafter be elected by eligible community members in the manner prescribed by this Policy.

Section 3. Members of recognized community planning groups shall, to the extent possible, be representative of the various geographic sections of the community and diversified community interests. 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 community planning area, or
- (2) resident, who is an individual whose primary address of residence is an address in the community planning area, or
- (3) local business person, who is a local business owner, operator, or designee at a non-residential real property address in the community planning area.

Demonstration of individual eligibility to vote as a property owner, resident, or local business person, as described in (1) through (3) above, may be achieved

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through an application showing evidence of qualifications. Eligibility (and demonstration of eligibility) to vote may be further defined in planning group bylaws. This may include minimum attendance requirements. Once eligibility to vote in an election is established, an individual remains eligible until he or she does not meet the eligibility requirements.

- Section 4. Members of a recognized community planning group shall be elected to serve for fixed terms of two to four years with expiration dates during alternate years to provide continuity. This can vary for the purpose of the selection of initial group members for new groups. No person may serve on a planning group for more than eight consecutive years if members are elected to two- or four-year terms, or nine consecutive years if members are elected to three-year terms. The eight or nine year limit refers to total 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 or nine consecutive years shall again be eligible for election to the committee.

This Policy provides an exception for a planning group to retain some members who have already served for eight or nine consecutive years to continue on the planning group without a break in service if not enough new members are found to fill all vacant seats as follows:

A planning group member who has served eight or nine consecutive years may appear on the ballot with new candidates. After open seats are filled with qualified new members, and if open seats still remain, the following provisions may be utilized: A member may serve in excess of eight or nine consecutive years (as specified above) if that person is reelected to a remaining open seat by at least a two-thirds majority of the votes cast by eligible community members participating in the regular election. The number of individuals on a planning group serving more than eight or nine consecutive years shall in no case exceed twenty-five percent of the voting committee membership.

The term of a member elected by a two-thirds vote serving beyond eight or nine years shall count as time served beyond the required break in service as required by this section. Future consecutive election of the member who has served beyond eight or nine years is subject to the requirements of this section.

- Section 5. A member of a recognized community planning group must retain eligibility during the entire term of service. A planning group member may be removed from the planning group, upon a majority vote of the planning group, if, during a regularly scheduled public meeting, the Secretary presents documentation to the planning group and has notified the member in question that the member is no longer eligible to serve. Ineligibility may be due to not meeting the membership qualifications found in Article III, Section 3 or Article IV, Section 1 of this Council Policy and in the group's adopted bylaws.

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Section 6. A planning group member or planning group found to be out of compliance with the provisions of this Policy, 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.

Violations of the Brown Act may, in some circumstances, carry civil or criminal consequences as described in this Policy at Article IX, Section 2. However, as stated in a memorandum prepared by the City Attorney, by implementing bylaws and operating in compliance with this Policy, planning groups will be considered to be in substantial compliance with the Brown Act. (City Att'y MOL No. 2006-26)

ARTICLE IV Vacancies

Section 1. A recognized 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 its 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 regular meeting as established under Article VI, Section 2 below.

Section 2. A single vacancy that occurs on a recognized community planning group shall be filled by the planning group in a manner specified by the bylaws of the planning group.

Two or more concurrent community planning group vacancies shall be filled by a vote of all eligible members of the community by secret written ballot. Vacancies shall be filled no later than 120 days, following the date of the determination of the vacancy, unless the end of the 120 day period would occur within 90 days of the annual March election as described in Article V.

The term of office of any member filling a vacancy in accordance with the procedure established in Article III, Section 4 above shall be for the balance of the vacated term.

Section 3. When a recognized community planning group is unable to fill a vacancy within the 120 days, as specified above, and the planning group has more than twelve members, the planning group shall either leave the seat vacant until the next planning group election, or amend its bylaws to permit decreased membership to a minimum of twelve members. If a vacancy remains for more than 60 days from the time a vacancy is declared, and the planning group has less than 12 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 and the City shall notify the City Council that the planning group will be

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inactive until it has attained at least 12 members in good standing. The City shall assist with the planning group election in the attempt to regain the minimum Policy membership requirement of 12 members.

ARTICLE V Elections

Section 1. Elections of recognized community planning group members shall be held during the month of March in accordance with procedures specified in adopted planning group bylaws. Planning groups shall hold elections every year or every other year. 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 or nine consecutive years to leave the group for at least one year.

In order to be a candidate in the March election, an eligible member of the community must have documented attendance at three of the planning group's last 12 meetings prior to the February regular meeting preceding the election.

Planning groups may establish voting procedures that include opportunities for multiple voting times on the date of the election, or for multiple locations, or both, provided those procedures allow for the completion of the election during the month of March and they demonstrate an ability to assure fair access and avoidance of voting improprieties. Where an opportunity to vote on more than one date is proposed, then the voting procedures for such an election shall be submitted, at least forty-five (45) days in advance of the first day that voting is proposed to occur, to the office of the Mayor and to the City Attorney, respectively, for review and approval. All voting procedures must insure that voting is done only by eligible members of the community.

Section 2. The City shall publicize the elections of recognized community planning groups through the City website, City TV24 programming, electronic mail, the City's webpage, and other available effective means.

The planning group shall make a good faith effort to utilize means appropriate to their communities to publicize the planning group's eligibility requirements for candidacy and the upcoming elections.

Section 3. Voting shall be by secret written ballot. Recognized community planning groups may establish bylaw provisions to address procedures for mailing in ballots for elections if the planning group determines that this procedure, or another specified procedure, would increase community participation in the election process. Under no circumstances is proxy voting for elections allowed. At a minimum, ballots shall be available for a specified period at the noticed planning group meeting at which the election will be held.

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Section 4. Unless otherwise explicitly provided for in a recognized community planning group's bylaws, an election becomes final after announcing the election results at a noticed planning group meeting. New members shall be seated in April.

ARTICLE VI Community Planning Group and Planning Group Member Duties

Section 1. It shall be the duty of a recognized community planning group to cooperatively work with the Mayor's staff 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.

In accordance with the Brown Act section 54953(a) it shall be the duty of all recognized community planning group members to meet in open and in public, and all persons shall be permitted to attend any meeting of the planning group except as otherwise noted in this Policy.

The community planning group members shall 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 shall be the duty of a planning group as a whole, and of each individual planning group member, to refrain from conduct that is detrimental to the planning group or its purposes under this Policy. 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. Recognized community planning groups and planning group members are responsible for assuring compliance of meeting procedures and meeting records requirements under this Policy.

(a) Meeting Procedures

It shall be the duty of each recognized community planning group member to attend all planning group meetings.

- (1) **Regular Agenda Posting.** In accordance with Brown Act section 54954.2(a), at least 72 hours before a regular meeting, the agenda containing a brief general description of each agenda item. 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

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include information on how a request for accessible accommodation may be made.

The listing of an agenda item shall include the intended action of the planning group regarding that item, for example, stating that the item is an information item only or it is an action item.

(2) **Public Comment.**

1. Agenda Items: Any interested member of the public may comment on agenda items during regular or special planning group meetings. (Brown Act section 54954.3(a))
2. Non Agenda Items: 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 that are within the scope of the planning group. (Brown Act section 54954.3(a)) Planning group members may respond by asking for more factual information, or by asking a question to clarify, and also may schedule the item for a future agenda. However, no discussion, debate, or action may be taken on such items. (Brown Act section 59454.2)
3. A planning group may adopt time limits for individual items and for individual speakers to ensure operational efficiencies but such time limits must be reasonable and give competing interests equal time. (Brown Act section 54954.3(b))

(3) **Adjournments and Continuances.** In accordance with Brown Act section 54955, planning group meetings may be adjourned to a future date. Within 24 hours, a notice of adjournment must be clearly posted on or near the door of the place where the original 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.

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In accordance with Brown Act section 54954.2, if a subsequent meeting is held more than 5 days from the original meeting, a new regular meeting agenda must be prepared (*); otherwise if shorter, the original meeting agenda is adequate.

- (4) **Continued Items.** In accordance with Brown Act section 54955.1, 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.
- (5) **Consent Agenda.** In accordance with Brown Act section 54954.3(a), 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.

- (6) **Quorum and Public Attendance.** This Policy defines a quorum as a majority of non-vacant seats of a planning group. In accordance with Brown Act section 54952.2, a quorum must be present in order to conduct business, to vote on projects, and to take actions at regular or special planning group meetings.

In accordance with Brown Act section 54953.3, no member of the public shall be required, as a condition of attendance at any meeting of a 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.

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- (7) **Development Project Review.** Planning groups may not, as a condition of placing an item on their 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.

It shall also be the duty of a planning group, when reviewing development projects, to 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.

- (8) **Action On Agenda Items.** In accordance with Brown Act section 54954.2(b)(2), 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.

In accordance with Brown Act section 54953(c), planning groups 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 this Policy.

- (9) **Collective Concurrence.** In accordance with Brown Act section 54952.2, any attempt to develop a collective concurrence of the members of a 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.
- (10) **Special Meetings.** In accordance with Brown Act section 54956, the chair of a 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

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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.

- (11) **Emergency Meetings.** Brown Act section 54956 describes emergency meetings for matters related to public health and safety. These matters are outside of the purview of a planning group and are prohibited under this Policy.
- (12) **Right To Record.** In accordance with Brown Act sections 54953.5 and 54953.6, any person attending a meeting of the 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.
- (13) **Disorderly Conduct.** In accordance with Brown Act section 54957.9, 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

Recognized community planning groups are encouraged to establish standing and ad hoc subcommittees when their operation contributes to more effective discussions at regular planning group meetings.

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- (1) **Standing Committees.** Standing subcommittees are on-going subcommittees tasked with reviewing specific issue areas, such as development review. In accordance with Brown Act section 54952(b), all standing subcommittees of a planning group are subject to Brown Act public noticing and meeting requirements as set forth in Council Policy 600-24, Article IV, Section 2(a).
- (2) **Ad Hoc Subcommittees.** Ad hoc subcommittee meetings are established for a finite period of time to review more focused issue areas and are disbanded following their review. While the Brown Act does not impose requirements upon ad hoc subcommittees when made up entirely of members of the planning group and constituting less than a quorum of the planning group (Brown Act section 54952) , this Policy requires all subcommittee meetings be noticed and open to the public by inclusion of the meeting announcement on a regular meeting agenda, by an electronic notice, or by announcement at a regular planning group meeting.
- (3) **Committee Composition.** All committees and subcommittees shall contain a majority of members who are members of the planning group. Any member of a committee or subcommittee, who is not a member of the planning group, shall have completed formal training by the City in the duties and responsibilities of community planning groups, before serving on any such committee or subcommittee.
- (4) **Recommendations.** All committee and 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

- (1) **Recusals.** Any member of a recognized community planning group with a direct economic interest in any project that comes before the planning group or its committees or subcommittees must disclose to the planning group that economic interest, and must recuse himself or herself from voting and must not participate in any manner as a member of the planning group for that item on the agenda.

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- (2) **Abstentions.** In accordance with the Brown Act section 54953(c), all action taken by the planning group including votes must be taken in public.

In limited circumstances, from time to time, 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

- (1) **Agenda by Mail.** In accordance with Brown Act section 54954.1, 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.
- (2) **Agenda at Meeting.** In accordance with Brown Act section 54957.5, any written documentation, prepared or provided by City staff, applicants, or planning group members, that is distributed at a planning group meeting, shall be made available upon request for public inspection without delay. If such material is distributed at a 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. Further, the planning group may charge for the cost of reproduction of any materials requested by an individual or individuals.
- (3) **Minutes.** For each planning group meeting, a report of 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 should record the names of the speakers, the nature of the 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

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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.

Planning groups are not required to audio or videotape their meetings but if they do then, accordance with Brown Act section 54953.6, they are subject to a public request to inspect without charge. A cost-recovery fee may be charged for copies of recordings.

- (4) **Records Retention.** In accordance with Brown Act 54957.5, 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 a recognized 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 of this Policy. 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 a recognized 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 the duties enumerated in Article II, Section 1 of this Policy. Rosters and annual reports constitute disclosable records under the Brown Act.

Section 5. A recognized 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. It shall be the duty of each recognized community planning group member to

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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 entitled “An Ordinance Providing for Legal Representation to and Indemnification of Community Planning Committees Against Claims for Damages,” as discussed further in Article X, Section 1, and any future amendments thereto.

It shall be the duty of the City to offer at least two orientation sessions each year as well as topic-specific sessions intended to advance the knowledge of planning group members in subjects within the scope of responsibilities of recognized community planning groups. Newly seated planning group members must complete an orientation training session within 12 months of being elected or appointed to a planning group, or the member will become ineligible to serve.

ARTICLE VII Planning Group Officers

Section 1. The officers of a recognized 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 and, by policy, a planning group’s bylaws may include such other officers as the planning group may deem necessary. Further duties of the officers may be defined in planning group bylaws.

The planning group shall determine the length of an officer's term in its bylaws, except that no person may serve in the same planning group office for more than eight or nine 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 a recognized 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 specific action vote of the planning group, some other member may be selected as

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the official representative to CPC with the same voting rights and privileges as the Chairperson. Each planning group should also vote to select an alternate CPC representative.

Section 6. It shall be the duty of the officers of recognized community planning groups and of the Community Planners Committee representative to 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

In addition to incorporating the policies outlined in Articles I through VII into recognized community planning group bylaws, each planning group shall include policies and procedures found necessary for the group's effective operation under this Policy. The following topic areas are those to be addressed. Explanations of when and why to adopt procedures or policies are found in the Administrative Guidelines.

- (1) Community Participation, suggested but not limited to: community outreach; assurances of seeking diverse representation on the planning group.
- (2) Planning Group Composition, suggested but not limited to: methods for anticipated conversion of planning group seats, such as developer seats or appointed seats, as applicable; general membership eligibility and recordkeeping, as applicable; involving the community at large.
- (3) Conduct of Meetings, suggested but not limited to: meeting noticing, including subcommittees; meeting operations such as time limits on speakers and maintaining a civil meeting environment; subcommittee operations such as process for project reviews and bylaw amendments; role of the chair in voting; role of a general membership or the public in discussing agenda items.
- (4) Member and Planning Group Responsibilities, suggested but not limited to: filling vacant seats either during a term or following an election; how planning group positions will be represented to the City; discipline or removal of an individual member; bylaw amendment process, including the development of procedures companion to the bylaws.
- (5) Elections, suggested but not limited to: promoting planning group elections; determining eligibility of candidates and voters; ballot preparation, handling, and counting procedures; poll location and operation criteria; election challenges.

ARTICLE IX. Rights and Liabilities of Recognized Community Planning Groups

Recognized community planning groups operating under this Policy are afforded certain protections for their activities within their identified scope of responsibilities.

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As reviewed in a memorandum prepared by the City Attorney, issued November 3, 2006, (City Att’y MOL No. 2006-26), the Brown Act provides various remedies for violation of its provisions but by implementing bylaws and operating in compliance with this Policy, planning groups will be considered to be in substantial compliance with the Brown Act. Any planning group, or any of its individual members, may seek assistance and training, from the City Attorney to conform with the Brown Act.

Section 1. Indemnification and Representation

A recognized 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 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 the Bylaws of the community planning group; and all findings specified in the ordinance can be made.

Section 2. Brown Act Remedies

The Brown Act includes civil remedies (Brown Act sections 54960 through 54960) and criminal penalties (Brown Act section 54959) for violation of its provisions. Thus planning groups are encouraged to proactively cure violations themselves. This is to prevent legal actions that would void planning group actions, and it assures good faith, voluntary compliance with the Brown Act.

Both individual members of a planning group, as well as the planning group as a whole, could potentially be subject to civil remedies. Civil remedies may include relief to prevent or stop violations of the Brown Act, or to void past actions of the planning group, and may in some cases include payment of attorneys fees.

Individual planning group members may potentially face criminal misdemeanor charges for attending a meeting where action is taken in violation of the Brown Act, but only if the member intended to deprive the public of information which the member knew or had reason to know the public was entitled. Action taken includes collective decisions or promises, and also includes tentative decisions, but does not include mere deliberation without taking some action. Alleged violations will be reviewed and evaluated on a case-by-case basis.

Any planning group, or any of its individual members, may seek assistance, as well as training, from the City Attorney to better understand, to implement, and comply with the Brown Act.

Section 3. Council Policy 600-24 Violations and Remedies

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Council Policy 600-24 provides various remedies for violation of its provisions by recognized community planning groups or their elected members. Where a planning group does not cure a violation by itself, it may forfeit its status as a recognized advisory body and lose its right to indemnification and defense by the City.

Alleged Violations by a Member of a Recognized Community Planning Group

In the case of an alleged violation of this Policy or a recognized community planning group's adopted bylaws by a planning group member, the planning group shall conduct an investigation consistent with the Administrative Guidelines and adopted planning group bylaws.

If the planning group, after a thorough investigation, determines that the individual member has violated a provision of this Policy or the planning group's bylaws, 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 in adopted planning group bylaws.

A member found to be not in compliance with the provisions of this Policy not subject to Brown Act or adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, as discussed further in Article X, Section 1, and any future amendments thereto.

Alleged Violations by a Recognized Community Planning Group

In case the of an alleged violation of this Policy or adopted planning group bylaws by a recognized community planning group as a whole or multiple members of the planning group, the violation shall be forwarded in writing to the City for investigation by the Mayor's office. The City will engage in a dialogue with the planning group, determining the validity of the complaint, and seeking resolution of the issue or dispute.

If a violation against a recognized community 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

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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.

A planning group found to be out of compliance with the provisions of Council Policy 600-24 that are not subject to the Brown Act or with its adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS.