CITY OF SAN DIEGO

Community Orientation Workshop Handbook

COW 2010

This handbook accompanies the Community Orientation Workshop – a discussion of the roles and responsibilities of the community planning volunteers as they relate to Citywide planning issues, community plan preparation, and the development and regulatory processes of the City.

Also, refer to www.sandiego.gov/planning/community/cow.shtml for updates to this handbook.

City of San Diego • City Planning & Community Investment

Printed Annually

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THE CITY OF SAN DIEGO

April 30, 2010

Community Planning Group Members:

Thank you for participating in the City's Community Orientation Workshop. As a community planning group member, you are an important component of the land use planning process. The City of San Diego values your input and recognizes the responsibilities entrusted to you. The City Council has established Council Policy 600-24 as the operating procedure for recognized community planning groups. One provision of Council Policy 600-24 calls for community planning members to attend this orientation workshop.

Understanding your role and responsibilities as outlined in Council Policy 600-24 is the most important aspect of the session, as your planning group's actions can be legally indemnified by your having attended this workshop and by your acting in accordance with Council Policy 600-24 and your approved bylaws. City staff will explain your role and responsibilities as a planning group member, and will provide you with an overview of existing and new processes that are City-community partnerships. While the orientation workshop is not intended to provide technical instruction, you will very likely find that you will gain greater appreciation for the complexities of the development review and land use planning processes by having attended the workshop. This understanding will augment the quality of your participation as a community planning group member.

Thank you for attending this workshop. Your participation in this process is greatly appreciated.

Sincerely,

William Anderson, FAICP
Director
City Planning & Community Investment

Kelly Broughton
Director
Development Services

WA/KB/soa/bcm

City Planning & Community Investment
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Tel (619) 235-5200 Fax (619) 533-5951

City Of San Diego

General Information

KEY CITY OF SAN DIEGO DECISION FORUMS

THE MAYOR

Effective January 1, 2006, the City of San Diego (City) changed from a City Manager form of government to a Strong Mayor form. Approved by voters in November of 2004, the Strong Mayor form of government will remain in place through December of 2010 when voters will need to decide whether to make the change permanent.
Under the Strong Mayor form of government, the Mayor is the City's chief executive officer and assumes the responsibilities previously held by the City Manager. These include administering the operations of the City, hiring managers, preparing the annual budget and recommending actions to be taken by the City Council.

THE CITY COUNCIL

In addition to the Mayor, who is elected by all City voters, the City Council is made up of eight nonpartisan Councilmembers who are nominated and elected by district. Members serve overlapping four year terms, with City Council elections occurring on odd-numbered years (Districts 1, 3, 5 and 7 elected in 1993, 1997, etc., Districts 2, 4, 6 and 8 elected in 1995, 1999, etc.). The City Council elects one of their members to serve as Council President for a one year term.

The City Council is San Diego's governing legislative body. It is responsible for the City's laws, policies, and programs. As representatives of the citizens, members of the City Council have certain authority delegated to them by the City Charter. The City Council has the authority to approve all ordinances, resolutions and contracts, adopt the annual budget, provide for revenues, and make or confirm appointments to various City Boards and Commissions.

The City Council is organized into eight standing committees to facilitate the legislative process: Rules, Open Government and Intergovernmental Relations; Natural Resources and Culture; Land Use and Housing; Public Safety and Neighborhood Services; and Budget and Finance. Each of the eight committees meets once or twice a month to hold public hearings and review legislation and departmental actions before such matters are considered by the full City Council.

In addition to regular weekly City Council and committee meetings, the City Council meets as the San Diego Housing Authority and the San Diego Redevelopment Agency.

Legislative programs from the state and federal government, that affect San Diego, are developed for City Council approval by the Department of Intergovernmental Relations. This department maintains offices in Washington D.C., and Sacramento, and it works with federal and state legislatures, agencies and departments on matters of interest to San Diego.

- Rules, Open Government and Intergovernmental Relations Committee
- Natural Resources and Culture Committee

- Public Safety and Neighborhood Services Committee
- Land Use and Housing Committee
- Budget and Finance Committee
- Audit Committee
- Ad Hoc Fire Prevention and Recovery Committee
- Government Efficiency and Openness Committee

City Council Meetings

The City Council meets weekly in the Council Chambers on the 12th floor of the City Administration Building. Except for holidays or special adjournments, the full City Council meets weekly on Monday afternoon and all day Tuesday. Planning matters are most often heard on Tuesday.

All City Council meetings are open to the public, except for "closed sessions", when the City Council discusses personnel or judicial matters. Taking part in the City Council meetings are the eight Councilmembers, the City Attorney, the City Clerk and interested citizens.

Council Meeting Procedures

At least five members of the eight-member Council must be present to constitute a quorum. If there is a quorum, the City Clerk "calls the roll" or takes attendance, and the Council begins to transact the City's business.

The City Council's business is listed on a printed "docket" or agenda. The City Council proceeds item by item on the docket. As consideration of each item is ended, a vote is taken by the City Council to approve or reject the item, or to refer it for further study, continue it until a later meeting, file it or take other action. The web site address to access City Council agendas is http://www.sandiego.gov/citycouncil/.

Many of the items on the City Council docket have been studied and debated in Committee meetings or have been the subject of written reports from the Mayor's Office or the City Attorney before the Council meets in full session. This procedure permits some items to be acted upon routinely. Other items may call for an extended public and Council discussion before a vote is taken. Any member of the public may be heard on an item, as long as a form with the person's name and address is filled out ahead of time. These forms can be obtained in the City Council Chambers or in the 12th floor hallway. Normally, a limit is placed on the amount of time allowed each speaker. Members of the City Council then discuss the item and ask the members of the Council to vote. A telephone line to listen to the City Council hearing over the phone from remote locations is available at 619-533-4001. The web site address for the San Diego City Council is: http://www.sandiego.gov/citycouncil/.

PLANNING COMMISSION

Duties:

Conducts hearings on special use permits, all re-zoning, all community plans, and the General Plan. Acts as the decision maker for permits, maps, and other matters in accordance with the discretionary decision-making procedures of the Land Development Code. Considers land use ordinances and such other improvements as City Council may, or by ordinance, determine. The Planning Commission meets weekly on Thursdays. The web site address for San Diego Planning Commission is http://www.sandiego.gov/planning-commission/.

Appointment:

Appointed by the Mayor and confirmed by the City Council.

HISTORICAL RESOURCES BOARD

Duties:

Advises the Mayor, City Council, City Planning Commission, and Park and Recreation Board on historical resources in the City. The Historical Resources Board (HRB) meets monthly. The HRB's monthly agendas can be accessed at: http://www.sandiego.gov/historical/agenda.shtml. Complete details regarding the Historical Resources Board can be found in Section 111.0206 of the Land Development Code.

Appointment:

Appointed by the Mayor and confirmed by the City Council.

SAN DIEGO HOUSING COMMISSION

Duties:

Investigates and improves dwelling conditions in the City. Reviews and recommends revisions and actions, including recommendations on all matters before the San Diego Housing Authority (Housing Authority), to which the San Diego Housing Commission (Housing Commission) reports. Approves plans, specifications, agreements, expenditures and such other matters as the Housing Authority may from time to time delegate by resolution to the Housing Commission. The web site for the Housing Commission is: http://www.sdhc.net/.

Appointment:

The Board of Commissioners of the San Diego Housing Commission act as independent overseers of the Housing Commission and guide staff of the Commission. Commissioners are appointed by the Mayor and confirmed by the City Council. If the Mayor does not appoint a member within 45 days after a vacancy occurs, the City Council shall make an appointment.

Councilmembers may be appointed as members of the Housing Commission in those membership positions other than the two low-income tenant positions.

PARK AND RECREATION BOARD

Duties:

Advises the City Council on public policy matters relating to the acquisition, development, maintenance and operation of parks, beaches, playgrounds, and recreational activities; reviews the recreational program; coordinates the work of such committees as may be established; conducts investigations, studies and hearings.

Appointment:

Appointed by the Mayor and confirmed by the City Council.

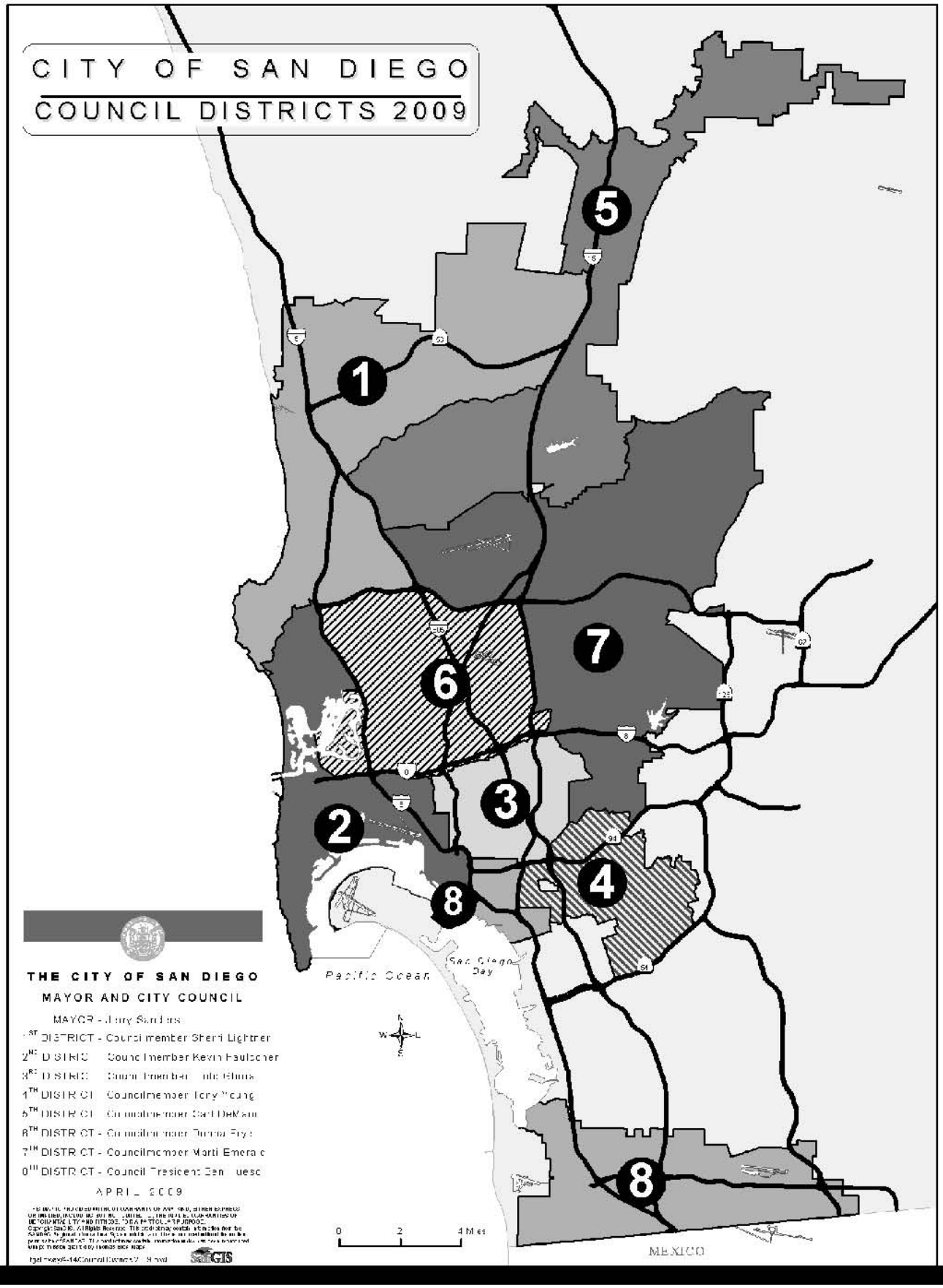
HEARING OFFICER

Duties:

Acts as the decision maker for permits, maps, and other matters in accordance with the decision-making procedures of the Land Development Code. The Hearing Officer presides at a public hearing and makes an impartial decision on a permit, map, or other matter based on the application, written reports prepared prior to the hearing, and information received at the hearing.

Appointment:

The Hearing Officer was appointed by the City Manager and continues under the new Strong Mayor form of government.


CITY OF SAN DIEGO
COUNCIL DISTRICTS 2009
THE CITY OF SAN DIEGO
MAYOR AND CITY COUNCIL
MAYOR - Jerry Sanders
1ST DISTRICT - Councilmember Sherri Lightner
2ND DISTRICT - Councilmember Kevin Faulconer
3RD DISTRICT - Councilmember Tony Young
4TH DISTRICT - Councilmember Tony Young
6TH DISTRICT - Councilmember Carl DeMaio
8TH DISTRICT - Councilmember Donna Frye
7TH DISTRICT - Councilmember Marti Emerald
0TH DISTRICT - Council President Ben Hueso
APRIL 2009
Pacific Ocean
San Diego Bay
MEXICO
0 2 4 Miles
1
2
3
4
5
6
7
8

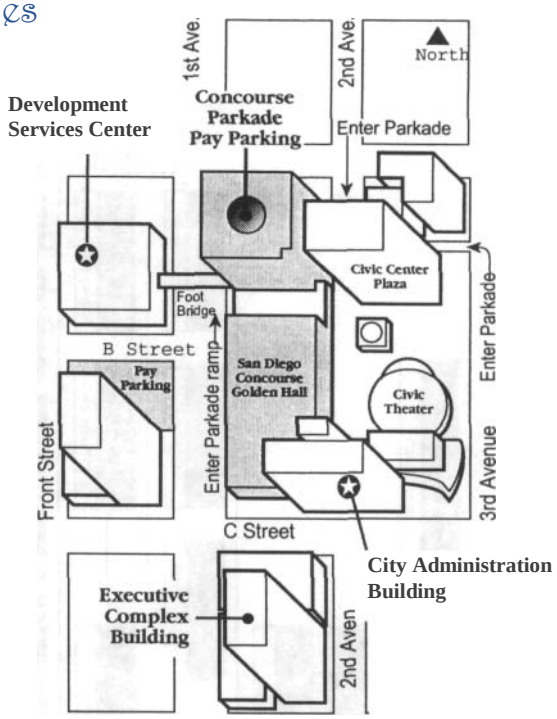
City Of San Diego
Facilities & Addresses

Directions to:
City Administration Building, Development Services Center, Civic Center Plaza and Executive Complex

- From Interstate 5 South:
  Exit Front Street, turn Right on 2nd Avenue and continue straight to A St.

- From Interstate 5 North:
  Exit 6th Avenue (turn left), continue to Ash Street, turn Right on Ash, continue to 2nd Avenue and turn left.

- From Highway 163:
  Exit Ash Street, and turn Left on 2nd Avenue.



CHARLES C. DAIL CONCOURSE AND VICINITY

CITY ADMINISTRATION BUILDING
202 C Street
San Diego, CA 92101

4th Floor Community Planning
General Plan
Historical Resources Board
Transportation Planning
5th Floor Planning Administration
MSCP
Park Planning

DEVELOPMENT SERVICES CENTER
1222 First Avenue
San Diego, CA 92101

2nd Floor Engineering Maps & Records
3rd Floor Development Services Reception
Development & Permit Information
Project Management
Permit Submittal and Issuance
4th Floor Building Development Review
5th Floor Land Development Review

CIVIC CENTER PLAZA
1200 Third Ave.
San Diego, CA 92101

1st Floor Treasurer's Cashier & Business License Tax, Employment Info.
14th Floor Economic Development
Redevelopment Agency

EXECUTIVE COMPLEX
1010 Second Avenue
San Diego, CA 92101

6th Floor Facilities Financing

WEB ADDRESSES

City of San Diego Website ..... http://www.sandiego.gov/
Development Services ..... http://www.sandiego.gov/development-services
City Planning & Community Investment..... http://www.sandiego.gov/cpci/index.shtml
General Plan Update ..... http://www.sandiego.gov/planning/genplan/index.shtml

The City Land Use Planning Process

General Plan Update

On March 10, 2008 the San Diego City Council unanimously approved a comprehensive update to the City's General Plan. The plan sets out a long-range vision and policy framework for how the City should plan for projected growth and development, provide public services, and maintain the qualities that define San Diego over the next 20 to 30 years. It represents a shift in focus from how to develop vacant land to how to design infill development and reinvest in existing communities. It has a strong sustainability focus through policies addressing transit/land use coordination; climate change; healthy, walkable communities; green buildings; clean technology industries; resource conservation and management; and urban forestry. In addition, the General Plan features protections for key industrial lands; strategies for providing urban parks; "toolboxes" to implement mobility strategies; and policies designed to further the preservation of San Diego's historical and cultural resources. The plan was structured to work in concert with the City's community plans.

The General Plan update incorporates the City of Villages strategy, which was developed over a three-year period and adopted as a part of the Strategic Framework Element in 2002. The City of Villages strategy is to focus growth into mixed-use villages that are pedestrian-friendly districts, of different scales, linked to the transit system. Each village will be unique to the community in which it is located, yet all villages will be pedestrian-friendly, and characterized by inviting, accessible and attractive streets and public spaces. Individual villages will offer a variety of housing types and affordability levels. The strategy draws upon the character and strengths of San Diego's natural environment, distinctive neighborhoods, commercial centers, institutions, and employment centers that together form the City as a whole.

The comprehensive plan update was prepared by City staff and benefited from input obtained through an extensive public outreach process. The public process included hundreds of public meetings, use of the City's public access television channel, development of an e-mail database with over 2,700 contacts, and more than 25 workshops/hearings (combined total) with the Planning Commission, Council Committees, and full City Council since 2003.

For more information, please visit our website at:
http://www.sandiego.gov/planning/genplan/index.shtml.

General Plan at a Glance:

Strategic Framework - an introductory section that describes the role and purpose of the General Plan, outlines the City of Villages strategy, presents ten Guiding Principles that helped to shape the General Plan, summarizes the plan's elements, and discusses how implementation will occur.

Land Use and Community Planning Element - contains policy direction for implementing the City of Villages strategy, provides citywide land use policies, and establishes community plans as integral components of the General Plan. It includes a Land Use and Streets Map, which is a compilation of adopted community plan land use and circulation system maps.

Mobility Element - advances a strategy for congestion relief and increased transportation choices in a manner that strengthens the City of Villages land use vision. Policies call for working proactively with regional agencies to plan and fund transportation projects/services that the City needs.

Urban Design Element - establishes a set of design principles from which future physical design decisions can be based. Policies call for respecting San Diego's natural topography and distinctive neighborhoods, providing public art, and encouraging the development of walkable, transit-oriented communities.

Public Facilities, Services and Safety Element - includes policies on the prioritization and provision of public facilities and services, evaluation of new growth, guidelines for implementing a financing strategy, and guidelines for the provision of specific facilities.

Recreation Element - seeks to acquire, develop, operate/maintain, increase and enhance public recreation opportunities and facilities throughout the City. The element contains population-based guidelines for park and recreation facilities and presents alternative strategies to meet those guidelines.

Economic Prosperity Element - includes policies aimed at supporting a diverse, innovative and sustainable local economy. The element includes policies to protect remaining industrial lands.

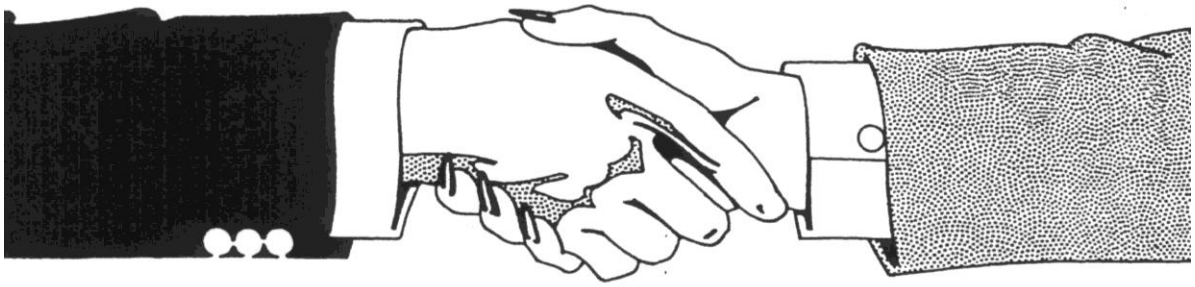
Conservation Element - calls for the City to be a model for sustainable development and conservation. Policies are to conserve natural resources; protect unique landforms; preserve and manage our open space and canyon systems, beaches and watercourses; prevent and reduce pollution; reduce the City's carbon footprint, and promote clean technology industries.

Historic Preservation Element - strives to guide the preservation, protection, restoration and rehabilitation of historical and cultural resources so that a clear sense of how the City gained its present form and substance can be maintained.

Noise Element - contains policies addressing compatible land uses and the incorporation of noise abatement measures for new uses to protect people from living and working in an

excessive noise environment. It includes a matrix that identifies compatible, conditionally compatible, and incompatible land uses by noise decibel level.

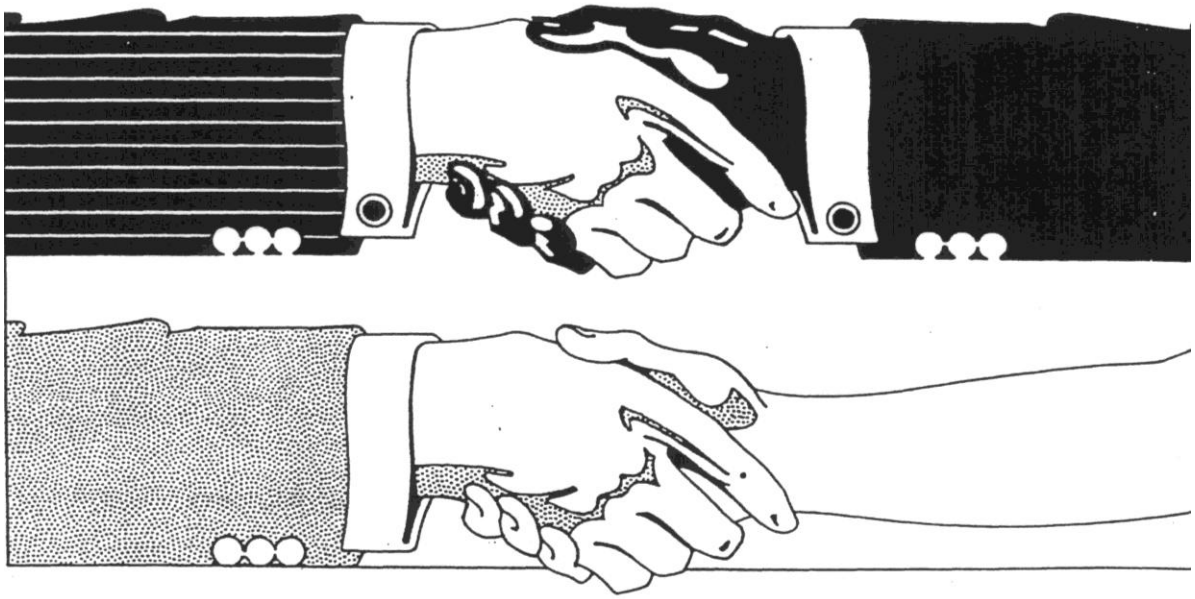
Housing Element - adopted under separate cover by the City Council in December 2006. This element contains specific measurable goals, policies and programs to address the City's critical housing needs.



THE COMMUNITY PLANNING PROCESS

A guide for the Citizen

2000



INTRODUCTION

Since its incorporation in 1850, San Diego has experienced steady growth. The need to plan for and to guide this growth has always been the responsibility of city government and citizens working together. In 1966, the City Council formalized this government-citizen relationship with the adoption of Council Policy 600-5. Under this policy, citizens who wish to participate in the planning process are able to form officially recognized planning committees. These committees work with the Planning Department to formulate and implement community plans and to advise the Planning Commission and the City Council on planning issues in their respective communities.

In an effort to assist planning committee members and other interested citizens in understanding the planning process, this report outlines some basic information. The following pages explain, in brief, the nature of community plans, the preparation of plans and the ways in which plans are implemented. The respective roles of city government and the planning committees and their relationship to each other is explained.

WHAT IS A COMMUNITY PLAN?

A community plan is a public document which contains specific proposals in a given community for future land uses and public improvements. The community plan provides a long-range physical development guideline for elected officials and citizens engaged in community development. The community plan recommendations are, however, guidelines which cannot be implemented by the adoption of the plan alone. Concurrent with or subsequent to plan adoption a series of Implementation programs must be begun if the recommendations of the plan are to become reality. Zoning controls, a public facilities financing plan, the Capital Improvements Program, and monitoring of new development projects by the community and the City are all methods of implementing community plans. These and other implementation methods are explained later in this document.

WHAT IS ZONING?

Zoning is the legislative method by which land use, intensity of development, and site design and architectural design are controlled. Some zones apply to all or many parts of the City while other zones, called planned districts, apply only to very specific sections of the City. This specialized zoning addresses issues of land development which are specific to the area designated as a planned district. A third type of zoning, called "overlay zones", add special regulations to the regulations of the underlying zone. The Hillside Review Overlay Zone and the Institutional Overlay Zone are two examples of this type of zone. All types of zoning promote the grouping of land uses which are compatible to one another and control development so that property can be adequately serviced by public facilities.

WHAT ARE THE CHARACTERISTICS OF A COMMUNITY PLAN?

A community plan must be all of the following:

1. **COMPREHENSIVE**: The plan should address all aspects of community development including: housing: transportation: commercial and industrial development; public facilities, such as schools, parks, libraries: urban design or the image of the community, and environmental issues, such as noise, hillside preservation, control of runoff and erosion.

2. **LONG-RANGE**: The plan should make recommendations which guide development over a long period of time. Development of a community is a process which takes many years and which is an ongoing process. The plan must be based on not only what the community is today, but what development factors will likely occur in the future.

3. **RELATED TO THE ENTIRE CITY**: Any community is only one segment of the City as a whole. The community plan must address not only issues within the community, but also citywide issues as they relate to the community. No community exists separately from neighboring communities or isolated from the rest of the City. The Progress Guide and General Plan provides the outline for development of the City as a whole, and each community plan must work within this outline to guide development in the individual communities.

4. **A VISION OF THE FUTURE**: As San Diego grows so does each of its component communities. The plan must be a guide for that growth. While the plan is based on existing conditions in the community, it cannot be a document which does no more than reflect the status quo. The planning process is based on the assumption that change will occur (as is inevitable in any urbanized society), and the plan must be a document that envisions what those changes will be. The plan must be a document which guides the community toward the future.

5. **IMPLEMENTABLE**: As stated earlier, the plan itself does not control development in the community. The recommendations of the plan must be implemented through the Zoning Ordinance, the Capital Improvements Program, a Public Facilities Financing Plan, monitoring of new projects, etc. The plan must identify what implementation methods are needed and must include recommendations for any new legislation which might be necessary to implement the plan.

THE PLANNING PROCESS

When preparing a community plan, several steps should be followed to develop recommendations which best guide the future development of the community. Community members and members of the Planning Department work together through these logical steps to develop the plans. While the community planning group provides invaluable information to the Planning Department staff to prepare the community plan document, the compilation by the Planning Department of all information including, but not limited to, the information provided by the community planning

committee, is essential if an effective community plan is to be achieved. The following are the essential steps for the preparation of a community plan:

1. FORMULATION OF GOALS AND OBJECTIVES

a. An overall goal for the future of the community is established. This goal should be a vision statement of how the community develops in the coming years. The established goal will be the guide for all of the recommendations of the community plan, and its formulation is an important community function..

b. Goals for each land use element of the plan are established. These goals are specific to each of the land use elements and support the overall community goal. The formulation of these goals is also an important function of the planning committee.

c. The objectives of the community plan are defined. Objectives are sets of specific desired effects or results, or statements of intent, necessary for the community to pursue in order to achieve the goals of the plan. The objectives are in turn achieved through the specific recommendations of the plan.

2. RESEARCH

a. Existing conditions in the community are identified. Population data, existing land use information, public facilities needs and opportunities for growth in the community must be identified. This is primarily the function of Planning Department staff using recorded data, field investigation and input from other City departments and government agencies.

b. Existing conditions in the community are compared and related to the City as a whole. The Planning Department staff evaluates the community as a part of the City to ensure that the community plan is an integral part of the citywide planning process and includes implementation of citywide policies.

3. DEVELOPMENT OF PROJECTIONS AND RECOMMENDATIONS

a. The appropriate level of development to be recommended for the community in the future is determined. The Planning Department together with community members, property owners and other interested persons and agencies, must determine how much and where the community should grow. Existing conditions data as well as citywide and community expectations for growth are analyzed to determine how the community should change and what must be done within the context of the community goals to accommodate that change.

b. Recommendations are developed to channel growth. Based on input from the community, property owners, other City departments and agencies, the Planning Department staff develops recommendations for changes in land use, transportation and public facilities. These recommendations are designed to guide growth and change in the community into the future.

4. PLAN DRAFT PREPARATION AND REVIEW

a. Planning Division staff prepares a first draft of the community plan. This draft includes issues, goals and objectives, existing conditions, recommendations for location and intensities of land use and public facilities needs, as well as implementation methods.

b. The plan draft is distributed to the community planning committee. City departments and other interested government agencies. The draft is discussed, reviewed and requests for revisions or issues with the plan draft are submitted in written form to the Planning Department.

c. An environmental review of the draft by the City determines whether or not any of the plan recommendations will have an environmental impact on the community or the City. If there are environmental impacts, an Environmental Impact Report will be prepared which will identify mitigation measures that may be necessary to adopt the plan. If there are no environmental impacts, a Negative Declaration will be prepared.

d. All recommended revisions or issues raised are investigated and considered, and the Issues are addressed to the extent possible in a second draft which is also distributed and reviewed. Additional drafts may or may not be necessary, depending on the number and complexity of issues in each individual community.

5. PUBLIC HEARINGS & ADOPTIONS

a. A public hearing before the Planning Commission is scheduled to discuss the draft plan. Notices are usually mailed to all property owners within the community as well as property owners outside the community whose property is within 300 feet of the community boundary. Notices are also published in a designated newspaper of general circulation.

b. Public testimony is given before the Planning Commission with discussion and response by the Planning Commission and Planning Department staff. The Planning Commission may refer the plan back to the Planning Department for changes or may recommend that a City Council hearing be set and that the City Council approve the plan.

c. A City Council hearing is scheduled by the City Clerk and notices are sent in the same manner as for the Planning Commission hearing.

d. Public testimony and discussion occur at the City Council hearing, and the City Council may refer the plan back to the Planning Department for changes or may approve the plan. If the plan is referred back for changes, a second City Council hearing must be held - once the City Council approves the plan. It is adopted and may not be amended except by the City Council through the public hearing process.

6. IMPLEMENTATION

a. Zoning in the community should be in conformance with the recommendations of the plan. Zoning is revised to conform to the plan either at the time of the adoption of the plan or a plan update, or soon thereafter. Since zoning is usually the most widespread tool used to implement the plan, it is very important that zoning conform to the recommendations of the plan. It is also very important that zoning be brought into conformance with the plan in as timely a manner as possible if the plan is to be effectively implemented.

b. Special land use regulations such as planned districts or overlay zones may also be used to implement a plan. These special regulations may be used instead of conventional citywide zoning or in addition to citywide zoning. Special regulations are used to implement plan recommendations that require special attention and which cannot be fully implemented through conventional zoning regulations.

   Special regulations may require that a discretionary permit be granted by the City. Such a permit may be approved or disapproved depending on an applicant's ability to meet design or improvement expectations of the community plan, such as providing open space areas which directly benefit the community and the City. Discretionary permit proposals may be reviewed by the planning committee which then makes a recommendation to the City regarding the proposal. The City, the applicant, and the community may not always agree about discretionary permit proposals, but reaching compromise solutions is one aspect of the planning process.

c. Plan amendments are sometimes applied for by property owners or proposed by the community. Any change to the community plan must go through the same analysis/ review/public hearing process that the original plan went through. At this time, the processing of plan amendments is guided by Council Policy 600-35 which requires a cumulative impact analysis of all proposed amendments. Consequently, plan amendments are grouped according to sectors of the City, and all of the proposed amendments within each sector are heard together.

d. Public Facilities Financing Plans are prepared to outline the major public facilities improvements needed in a community and to establish a schedule for the construction of those facilities. The plan also outlines the costs of the facilities and frequently sets up funding sources to pay for land acquisition, design and construction. Money may be paid into a fund, called a Facilities Benefit Assessment fund, through the collection of development fees which are paid as part of new construction permit fees. Public facilities financing plans are prepared for all communities.

CONCLUSION

The planning process is an ongoing process. Although the preparation of the plan document usually takes one to two years, the implementation of the plan continues over a period of many years. Once a plan is adopted, the community planning committee and the City must make sure

that development projects adhere to the plan recommendations and that the plan continues to be a valid projection of the future. The community planning committee and the citizens of the community in general must take the lead in advising the City over the years regarding the effectiveness of the plan. Continuity within the planning committee is very important and the planning committee and Planning Department staff must work to educate and train new planning committee members. Every member of a planning committee should be aware of what his or her role is in the planning process and should understand what is involved in the planning process. This guide is intended to be a part of this training.

SUMMARY

Role of the Planning Committee

1. **FORMULATION OF GOALS AND OBJECTIVES**
   - Study alternative goals and objectives
   - Establish general and specific goals and objectives

2. **RESEARCH**
   - Review data
   - Advise staff of specific problems
   - Review land use assumptions
   - Evaluate implications of assumptions
   - Inform public at large
   - Encourage citizen participation

3. **DEVELOPMENT OF PROJECTIONS AND RECOMMENDATIONS**
   - Recommend future levels of development which are appropriate to community needs and which fulfill the vision which the community has of itself for the future
   - Develop corresponding recommendations to channel growth at appropriate levels

4. **PLAN DRAFT PREPARATION AND REVIEW**
   - Review draft and identify points for discussion
   - Meet with Planning Department staff to discuss draft and ask questions
   - Suggest modifications to plan draft

5. **PUBLIC HEARINGS AND ADOPTION**
   - Encourage citizen participation, understanding and support
   - Participate in Planning Commission hearings
   - Participate in City Council hearings

6. **IMPLEMENTATION**
   - Promote public and private action programs
   - Review applications for specific projects
   - Participate in review of requests for plan amendments

COMMUNITY PLANNING PROCESS

PLAN PREPARATION

INITIATE PROCESS

The community plan update/amendment process can be initiated by: Planning Groups, Developers, Planning Dept., City Council.

↓

IDENTIFY ISSUES

Community issues/problems are identified by the Planning Groups.

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ANALYSIS OF EXISTING CONDITIONS

Existing conditions may include demographic date, land use, traffic, public facilities, community character, school enrollment, etc.

↓

FORMULATE GOALS, POLICIES AND OBJECTIVES

Plan policies will guide development and provide the needs required by future and existing residents. Environmental and traffic analysis initiated.

↓

PREPARE PLAN ELEMENTS AND EVALUATE ALTERNATIVES

Various scenarios for the ultimate development of the community require evaluation.

↓

FORMULATE RECOMMENDATIONS

The community plan process is designed to provide the specific recommendations necessary to resolve community problems.

↓

IMPLEMENTATION

Planning tools used to implement the recommendations set forth in the plan include zoning, financing, phasing, setting priorities, etc.

↓

PLAN REVISIONS

↓

FINAL PLAN

PUBLIC MEETINGS

COMMUNITY PLANNING GROUP MEETINGS

↓

COMMUNITY WORKSHOP

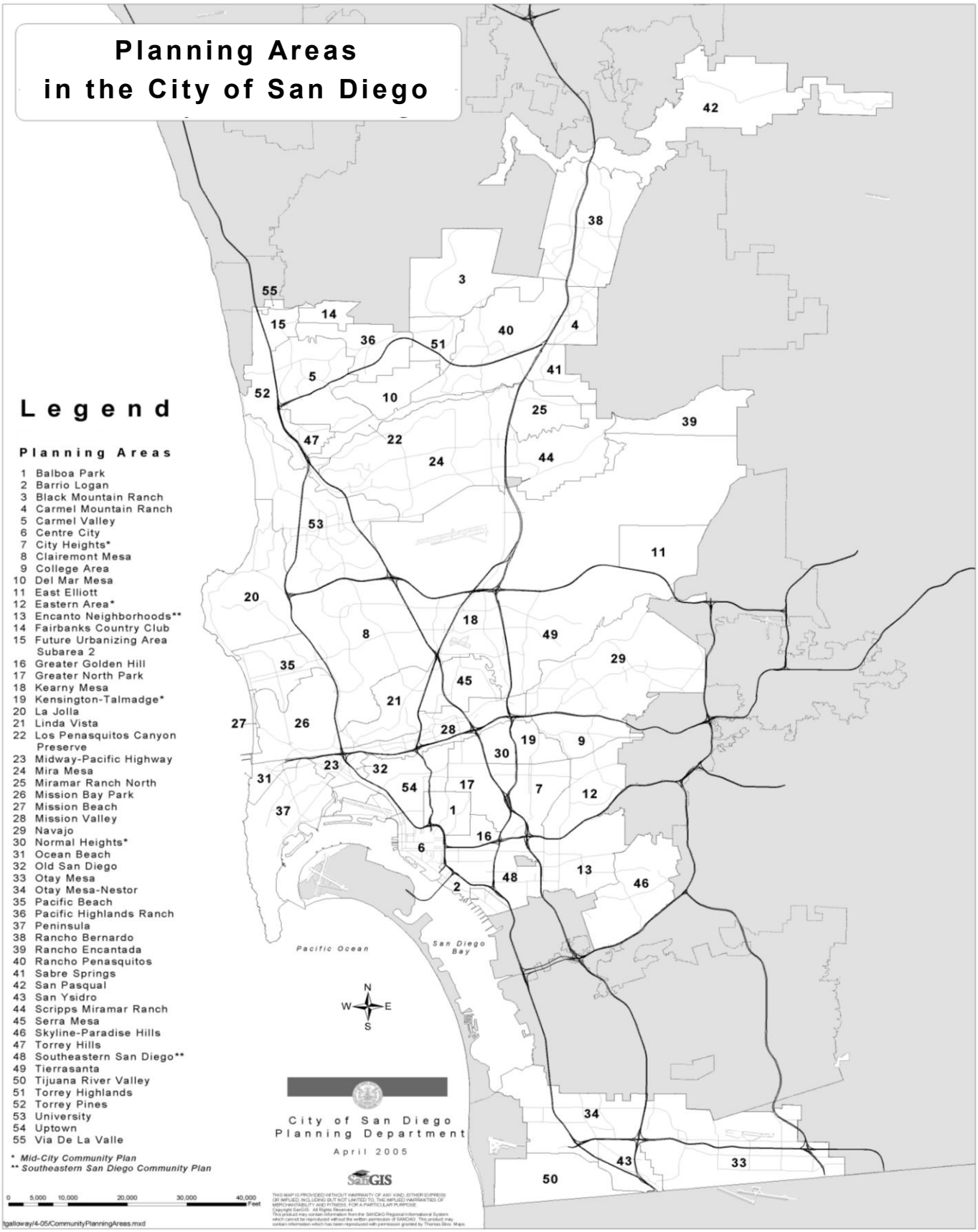
↓

PLANNING COMMISSION

↓

CITY COUNCIL

Community Planning Groups


Planning Areas
in the City of San Diego
Legend
Planning Areas
1 Balboa Park
2 Barrio Logan
3 Black Mountain Ranch
4 Carmel Mountain Ranch
5 Carmel Valley
6 Centre City
7 City Heights*
8 Clairemont Mesa
9 College Area
10 Del Mar Mesa
11 East Elliott
12 Eastern Area*
13 Encanto Neighborhoods**
14 Fairbanks Country Club
15 Future Urbanizing Area Subarea 2
16 Greater Golden Hill
17 Greater North Park
18 Kearny Mesa
19 Kensington-Talmadge*
20 La Jolla
21 Linda Vista
22 Los Penasquitos Canyon Preserve
23 Midway-Pacific Highway
24 Mira Mesa
25 Miramar Ranch North
26 Mission Bay Park
27 Mission Beach
28 Mission Valley
29 Navajo
30 Normal Heights*
31 Ocean Beach
32 Old San Diego
33 Otay Mesa
34 Otay Mesa-Nestor
35 Pacific Beach
36 Pacific Highlands Ranch
37 Peninsula
38 Rancho Bernardo
39 Rancho Encantada
40 Rancho Penasquitos
41 Sabre Springs
42 San Pasqual
43 San Ysidro
44 Scripps Miramar Ranch
45 Serra Mesa
46 Skyline-Paradise Hills
47 Torrey Hills
48 Southeastern San Diego**
49 Tierrasanta
50 Tijuana River Valley
51 Torrey Highlands
52 Torrey Pines
53 University
54 Uptown
55 Via De La Valle
* Mid-City Community Plan
** Southeastern San Diego Community Plan
Pacific Ocean
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CITY OF SAN DIEGO, CALIFORNIA

COUNCIL POLICY

CURRENT

SUBJECT:	STANDARD OPERATING PROCEDURES AND RESPONSIBILITIES OF RECOGNIZED COMMUNITY PLANNING GROUPS
POLICY NO.:	600-24
EFFECTIVE DATE:	05/22/2007

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. Council Policy 600-24 applies to the 12 to 20 elected or duly appointed members of a recognized community planning group, herein referred to as members.

The City does not direct or recommend the election of specified individual planning group 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. This Policy 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, 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 this Policy 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 this Policy 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, 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.

POLICY:

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 Council Policy 600-24 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.

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 may 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 this Policy 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," and any future amendments thereto, as discussed further in Article IX, Section 1.

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

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 a 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 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 City Attorney, respectively, for review and approval. The City shall review proposed bylaws amendments in a reasonable timeframe made known to the planning group. Any proposed amendments that are inconsistent with Council Policy 600-24 and the standardized bylaws shell, attached to this Policy, shall not be approved by the Mayor and City Attorney. Bylaws which deviate from this Policy and the shell shall be forwarded to the City Council President who shall docket the matter for Council consideration.

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 a 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 individuals of the community or duly appointed in the manner prescribed by Council Policy 600-24.

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.

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

(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 community planning area, or

(b) Resident, who is an individual whose primary address of residence is an address in the 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 community planning area.

On occasion, a planning group may deem it appropriate to designate appointed seats to better represent specific interests of the community. If used, a planning group's bylaws shall specify whether appointed seats make up one or more of the 12 to 20 voting planning group seats or are non-voting seats. Appointed seats are filled by the appointing agency or organization.

Demonstration of individual eligibility to vote as a property owner, resident, or local business or not-for-profit person, as described in (a) through (c) above may be further defined in planning group bylaws, for example, through an application showing evidence of qualifications or by 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. Individuals will be required to provide proof of eligibility in order to vote.

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.

Council Policy 600-24 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.

Section 6. A recognized community planning group member or 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.

Violations of the Brown Act may, in some circumstances, carry civil or criminal consequences as described in this Policy in 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 monthly meeting as established under Article VI, Section 2 below.

Section 2. Vacancies of elected seats that occur on a recognized community planning group shall be filled by the planning group in a manner specified by the bylaws of the planning group. Vacancies shall be filled as they occur 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 general election as described in Article V.

Vacancies of appointed seats shall be filled by the appointing agency in the manner specified in a planning group's bylaws.

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 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. General 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, a 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 general election, an eligible individual of the community must have documented attendance at a minimum of one of the planning group's last 12 meetings prior to the February noticed regular or special meeting of the full planning group membership 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, 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 offices of the Mayor and 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.

A 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 election~~s~~.

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.

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 Brown Act section 54953(a), it shall be the duty of all 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.

Planning group members shall conduct official business of the planning group in a public setting. It is recognized that the officers of a planning group may oversee administrative business of a 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 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. 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.

i. Regular Meeting 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 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 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 an action item.

ii. 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 item. (Brown Act section 54954.2)

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))

iii. 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.

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 5 days or less, the original meeting agenda is adequate.

iv. 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.

v. 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

    2. 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.

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.

vii. 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 and not-for-profit establishments within proximity to the proposed development.

A 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.

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.

ix. 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.

ix. 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 a 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.

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.

xii. Right to Record.

In accordance with Brown Act sections 54953.5 and 54953.6, any person attending a meeting of a 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 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.

i. Standing Subcommittees.

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).

ii. 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.

iii. Subcommittee Composition.

All 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.

All subcommittee recommendations must be brought forth to the full planning group for formal vote at a noticed public meeting. In no case may a 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 a recognized 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 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.

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.

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 recognized 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 1st of the following year. A cost-recovery fee may be charged for the cost of providing this service.

ii. 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. A cost-recovery fee may be charged for the cost of reproduction of any materials requested by an individual or individuals.

iii. 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 reflect the names for, against and abstaining when a vote is not unanimous. Recusals shall also be recorded. Minutes 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, 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.

Planning groups are not required to audio or videotape their meetings but if they do, in 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.

iv. Records Retention.

In accordance with Brown Act section 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 material 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 Council Policy 600-24. 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. A 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 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" and any future amendments thereto, as discussed further in Article X, Section 1.

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. A 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 a recognized community 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 a planning group, some other member may be selected as 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

Section 1. 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 Council Policy 600-24 are afforded certain protections for their activities within their identified scope of responsibilities. In addition however, there are certain exposures for not operating in compliance: penalties imposed per this Policy and penalties associated with non-compliance with the Brown Act provisions that are identified in this Policy.

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, 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 Council Policy 600-24, Article II, Section 1; their conduct was in conformance with this Policy and the bylaws of the planning group and all findings specified in the ordinance can be made.

Section 2. Brown Act Remedies

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.

The Brown Act includes civil remedies (Brown Act section 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

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.

(a) Alleged Violations by a Member of a Planning Group

In the case of an alleged violation of this Policy or a planning group's adopted bylaws by a planning group member, the planning group may conduct an investigation consistent with the Administrative Guidelines and the 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 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 or adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, and any future amendments thereto, as discussed further in Article IX, Section 1.

(b) Alleged Violations by a Planning Group

In case of an alleged violation of this Policy or adopted planning group bylaws by a 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 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 planning group recognized under this Policy. 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.

A planning group found to be out of compliance with the provisions of this Policy or with its adopted bylaws risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-17086 NS, and any amendments thereto.

Attachment: Bylaws Shell

HISTORY:

Adopted by Resolution R-216888 09/29/76
Amended by Resolution R-257382 10/25/82
Amended by Resolution R-273369 05/02/89
Amended by Resolution R-276245 07/30/90
Amended by Resolution R-300940 10/17/05
Amended by Resolution R-302671 05/22/07

CURRENT

***[CPG NAME]* Bylaws**
Amended *[insert date]*

ARTICLE I Name

Section 1. The official name of this organization is the *[insert CPG name]*.

Section 2. All activities of this organization shall be conducted in its official name.

Section 3. The community planning area boundaries for the *[insert CPG name*] are the boundaries of the *[insert community name]* community, as shown on Exhibit "A".

Section 4. Meetings of the *[insert CPG name]* shall be held within these boundaries, except that when the *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name*] 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 *[insert community name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]'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 *[insert community name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* shall consist of: INSERT a specific number between 12-20 and CHOOSE ONE OPTION: (A.) elected; or (B.) elected and appointed 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 *[insert CPG name]* shall, to the extent possible, be representative of the various geographic sections of the community and diversified community interests.

On the *[insert CPG name]* elected seats are filled: CHOOSE ONE OPTION: (A.) by any eligible member identified below. There is no further restriction on the distribution of seats among interests in the community; or (B.) by distribution of seats among the following interests that represent the community: ___ seats for property owners; ___ seats for residents; and ___ seats for business representatives. [go on to describe any further segmentation of these overall categories]; or (C.) by a geographic distribution of seats among [census tracts or neighborhoods or other geographic subdivisions] as follows: ___ seats for [area]; ___ seats for [area]; etc. [go on to describe any further segmentation of these geographic seats].

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 or not-for-profit owner, operator, or designee at a non-residential real property address in the community planning area.

An individual may become an eligible member of the community by: CHOOSE ONE OPTION: (A.) attending [insert one, two or three] meeting/s of the *[insert CPG name]* and submitting [identify whether demonstration of eligibility may be accomplished by an application and/or by documented meeting attendance] prior to the March general election; or (B.) demonstrating qualifications to be an eligible member of the community to the planning group Secretary or Election Committee prior to the March election or at the time of voting.

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 *[insert CPG name]* shall require proof of eligibility during elections.

INSERT IF APPLICABLE: in addition to elected members, the *[insert CPG name]* has ___ appointed seats to better represent specific interests of the community. This/these seat(s) are appointed by _____ [identify appointing agency]. Appointed seats are: CHOOSE ONE OPTION: (A.) counted in the ___ [insert number of members] planning group membership and vote on planning group business; or, (B.) are not counted in the ___ [insert number of members] planning group membership and function in an advisory capacity.

Section 3. Members of the *[insert CPG name]* shall be elected to serve for fixed terms of: CHOOSE ONE OPTION: (A.) 2 years; or (B.) 3 years; or (C.) 4 years with expiration dates during alternate years to provide continuity.

No person may serve on the planning group for more than: CHOOSE ONE OPTION: (A.) eight; or (B.) nine consecutive years.

The: CHOOSE ONE OPTION: (A.) eight; or (B.) nine 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: CHOOSE ONE OPTION: (A.) eight; or (B.) nine 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: CHOOSE ONE OPTION: (A.) eight; or (B.) nine 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 *[insert CPG name]* must retain eligibility during the entire term of service.

Section 5. A member of the *[insert CPG name]* found to be out of compliance with the provisions of Council Policy 600-24 or the planning groups 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 *[insert CPG name]* 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 *[insert CPG name]* 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 groups regular meetings.

Section 2. Vacancies that may occur on the *[insert CPG name]* 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 *[insert CPG name]* shall fill vacancies at the time the vacancies are declared [provide detail and timeframe]. Vacancies shall be filled by: CHOOSE ONE OPTION: (A.) selection by planning group members at the time the vacancies are declared. [provide detail and timeframe]; or (B.) an advertised general election pursuant to Article V. [provide detail and timeframe.

Section 3. When the *[insert CPG name]* 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 *[insert CPG name]* members shall be held during the month of March in accordance with the elections procedures found in Exhibit ___ of these bylaws.

The *[insert CPG name]'s* general elections shall be held: CHOOSE ONE OPTION: (A.) annually; or (B.) 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. 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: CHOOSE ONE OPTION: (A.) one; or (B.) two; or (C.) three meeting/s of the *[insert CPG name]*'s last 12 meetings prior to the February regular meeting preceding the election.

Section 2. The *[insert CPG name]* 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: CHOOSE ONE OPTION: (A.) eight; (B.) nine consecutive years to leave the group for at least one year.

The *[insert CPG name]* holds its election: CHOOSE ONE OPTION: (A.) at the March regular meeting. [provide details]; or (B.) at a special meeting in March. [provide details]; or (C.) at multiple locations the day of the regular March meeting [provide details]; or (D.) at multiple locations prior to the regular March meeting. [provide details]; or (E.) on multiple days prior to the regular March meeting. [provide details]; or (F.) utilizing a combination of mail-in ballots and voting at the regular March meeting. [provide details]

INCLUDE IF 'E' SELECTED: The *[insert CPG name]* shall submit procedures to vote on more than one day to the Mayor and the City Attorney 45 days in advance of the 1st day of voting for review and approval.

The *[insert CPG name]* 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 *[insert CPG name]* planning group's policy related to write-in candidates is that: CHOOSE ONE OPTION: (A.) write-in candidates are not allowed; or (B.) write-in candidates are allowed. If it is later determined that the write-in candidate is ineligible, any vote cast for an ineligible write-in candidate is an invalid vote and will not be counted.

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 *[insert CPG name]*'s election becomes final after announcing the election results: CHOOSE ONE OPTION: (A.) at the conclusion of the noticed, regular March monthly planning group meeting; or (B.) at a noticed, special meeting of the planning group prior to the start of the regular April monthly 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, including: CHOOSE ALL THAT APPLY: voting time/s; voting locations/s; voting eligibility; candidate eligibility; elections committee establishment and responsibilities; promotion of elections; counting votes [plurality, etc.]; ballots; write-in candidates; poll locations/s; mail-in ballots [if applicable]; managing polls and counting ballots; reporting election results to the Chair, and, election challenge criteria and procedures.

ARTICLE VI Community Planning Group and Planning Group Member Duties

Section 1. It is the duty of the *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* does not convene a regularly scheduled meeting, 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 within 24 hours after the time the 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 *[insert CPG name]* 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 *[insert CPG name]* planning group's chair: CHOOSE ONE OPTION: (A.) fully participates in planning group discussions and votes on all action items; or (B.) participates in discussions but does not vote except to make or break a tie; or (C.) does not participate in discussions or vote on 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 *[insert CPG name]* 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 *[insert CPG name]*, 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 *[insert CPG name]* and are prohibited under this bylaws.

(xii) RIGHT TO RECORD - Any person attending a meeting of the *[insert CPG name]* 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 *[insert CPG name]* may establish standing and ad hoc subcommittees when their operation contributes to more effective discussions at regular planning group meetings.

(i) STANDING SUBCOMMITTEES - Pursuant to the purpose of the *[insert CPG name*] as identified in Article II, Section 1, the planning group has established: CHOOSE ONE OPTION: (A.) no standing subcommittees but will create, as needed, an ad hoc subcommittee to address a particular planning or operational matter [such as the Elections subcommittee]; (B.) the following standing subcommittees [provide list including: number of members; duties; duration of subcommittee]; or (C.) a combination [provide information as in (A) or (B).

(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 *[insert CPG name]* 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 charge for the cost of reproducing any the materials requested by an individual or individuals.

(iii)MINUTES – For each planning group meeting, a report of *[insert CPG name]* 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 *[insert CPG name]* 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 – *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* shall be elected from and by the members of the planning group. Said officers shall consist of a Chairperson, Vice Chairperson and Secretary. OPTION: insert any other officer as defined by the planning group. The length of an officer's term shall be: OPTION: insert duration of term, 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. OPTION: insert any further duties as defined by planning group. Example duties would be setting the agenda, point of contact for development applicants, etc.

Section 3. Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall perform all the duties and responsibilities of the Chairperson. OPTION: insert any further duties as defined by planning group.

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. OPTION: insert any further duties as defined by planning group.

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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* procedures regarding community participation:

OPTION: Detail any community participation procedures the planning group has.

OPTION: List actions or state intent of planning group to grow interest in planning group activities and to encourage diversity.

NOTE: If it is necessary, separate procedures can be adopted by the planning group for topics in this Section.

(b) Planning Group Composition

The following are the *[insert CPG name]* procedures pursuant to Article III, Section 2 regarding planning group composition:

OPTION: If planning group anticipates conversion of seats from one category to another, detail here.

OPTION: If any seats are appointed [rather than elected], discuss appointment process here.

OPTION: Refer to form used for determining eligible community member

(c) Conduct of Meetings

The following are the *[insert CPG name]* procedures regarding conduct of planning group meetings:

OPTION: Discuss efforts by the planning group to notice meeting agendas.

OPTION: Discuss meeting operation, including public comment [when on the agenda and how much time], how consent items are handled, maintaining a civil meeting environment, how the public/audience participates in discussion items on the agenda; order of items on the agenda.

OPTION: Discuss specifics of subcommittee membership and operation.

OPTION: Discuss operation of the planning group's development review subcommittee operations.

OPTION: Discuss the Elections Subcommittee.

OPTION: Discuss any detail about the chair's voting or non-voting option that isn't discussed in Article VI, Section 5.

(d) Member and Planning Group Responsibilities

The following are the *[insert CPG name]* procedures regarding member and planning group responsibilities:

OPTION: Discuss how the planning group's positions may be represented to the City on planning issues that are not project review recommendations.

OPTION: Discuss internal bylaws amendment process, prior to submittal to the City staff.

OPTION: Discuss when procedures might be developed.

OPTION: Discuss any voluntary financial contributions, including purpose and use.

OPTION: Discuss any regular participation on other committees or with other organizations.

(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:

OPTION: Specifically detail procedures for ALL policies listed in Article V, Sections 1 and 2 related to planning group elections and voting.

ARTICLE IX Rights and Liabilities of Recognized Community Planning Groups

Section 1. Indemnification and Representation. The *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]*

In cases of alleged violations of the *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 *[insert CPG name]* 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 A: *[insert CPG name]* Boundary Map

Bylaws Shell Date: 6/1/07

ADMINISTRATIVE GUIDELINES

FOR IMPLEMENTATION OF
COUNCIL POLICY 600-24: Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups

Approved July 1991
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INTRODUCTION

History of the Guidelines
The Administrative Guidelines to Council Policy 600-24 [CP 600-24 Guidelines] were first prepared in July 1991. Since then they were revised in May 2001 and April 2006, both times following and corresponding to City Council revisions to Council Policy 600-24 [CP 600-24]. Similarly, this revision follows the May 2007 amendments to CP 600-24 and the format follows that of the Council Policy.

Objectives of the 2010 Administrative Guidelines Revisions
These revisions accomplish the following objectives:

- Revise the CP 600-24 Guidelines to correspond to the May 2007 amendments of CP 600-24.

- Assist community planning groups implementing CP 600-24 by:
    - Providing practical examples of how various planning groups have implemented CP 600-24.
    - Clarifying the meaning and application of various terms and phrases used in CP 600-24.
    - Providing cross references between CP 600-24 and the Administrative Guidelines.

- Convey the most recent interpretations of CP 600-24, and the Ralph M. Brown Act [Cal. Gov't Code § 54950 et. seq.] by the City Attorney.

BACKGROUND

The Background Section of CP 600-24 describes the scope of authority of planning groups as primarily making recommendations to the City on land use matters within the recognized area of jurisdiction for each planning group. This includes advising on the preparation of, adoption of, implementation of, or amendment to, the General Plan or Community Plan. (See also Community Plan Preparation Manual at: http://www.sandiego.gov/planning/genplan/statusreports.shtml).

One of the revisions to the Council Policy was to incorporate direction and information regarding Ralph M. Brown Act (Brown Act) compliance. In October 2006, the City Attorney determined that because the planning groups were established from legislative bodies, they would be subject to the California Open Meeting (Brown Act) State Law. To identify which provisions of CP 600-24 are a result of applying the Brown Act to the planning groups, all sections or sentences in CP 600-24 that are Brown Act requirements start with, "In accordance with the Brown Act Section . . . " These are constructed to ensure that following them will ensure Brown Act compliance.

PURPOSE

The Purpose of CP 600-24 is to identify responsibilities of and establish minimum operating procedures governing the conduct of officially recognized community planning groups.

POLICY

This section of Council Policy 600-24 discusses the requirement for community planning groups to create and operate within bylaws that are consistent with the Policy. The section explains that the bylaws shell appended to Council Policy 600-24 has some provisions that have been standardized for all planning groups. In addition, the bylaws shell is set up to allow selection of certain options within specific topic areas, e.g., establishment of representative membership categories or the number of planning seats between 12 and 20 members. Planning group bylaws must remain in conformance with the Council Policy in order for planning groups to maintain their official recognition by the City.

This Policy requires that any planning groups that are non-profit corporations must maintain corporate bylaws separate from planning group bylaws. There are a number of provisions typically included in corporate bylaws that may be contrary to the intent of the Policy. Examples include: proxy voting, holding meetings outside the jurisdictional boundary and the use of secret ballots. Any planning group that intends to become a non-profit corporation should discuss its intent with the City Attorney's office and Planning staff before starting the legal process of establishing a corporation.

Proposed amendments to adopted community planning group bylaws may be submitted to the City for review upon majority vote of the elected membership of the planning group. Bylaw amendments do not go into effect and may not be used until the City has approved the bylaws and notified the group of the effective date of the amendment. For a description of the bylaw approval process, refer to Article II, Section 7 of these Administrative Guidelines. Planning groups must operate within their adopted bylaws in order to maintain official recognition from the City Council.

These Administrative Guidelines are intended to explain and elaborate upon Council Policy 600-24 and give community planning groups additional guidance on how to operate in conformance with the Policy and the Brown Act. City staff is assigned to prepare and maintain the Administrative Guidelines working in consultation with the City Attorney's Office and the Community Planners Committee (CPC). Where the Policy, bylaws and Administrative Guidelines do not address a procedural area of concern, planning groups are encouraged to utilize Robert's Rules of Order, Newly Revised.

The Council Policy states that the City shall indemnify and the City Attorney shall defend Community Planning Groups and planning group members, subcommittee members, or former members thereof who operate in conformance with the Council Policy Ordinance No. O-19883, "An Ordinance Providing for Defense and Indemnification of Community Planning Groups". Planning group indemnification is further addressed in Article IX, Section 1 of the Council Policy and these Administrative Guidelines.

As stated above, community planning groups must operate in conformance with California's Open Meeting Law, the Ralph M. Brown Act. Planning groups shall ensure that all meetings are open to the public and adhere to the requirements of the Brown Act.

ARTICLE I Name

Article I of CP 600-24 explains the official name, the activities of, the boundaries of, and the official positions that may be taken by a planning group.

Section 1. Official Name
Section 1 states that there will be an official name of the planning group and that it is subject to approval by the City Council.

The official name of planning groups vary from group to group, for example, using the community "planning group", "planning committee", "community council", "advisory committee", or "planning board" is acceptable. The official name is the one approved and recognized by the City Council.

A planning group name change requires a bylaw amendment, while a community plan name change requires a Community/General Plan amendment.

A planning group will usually seek to change their official name when, for example:

- A community thinks a different name better represents the character of the community.
- The official name of the community planning area is changing concurrently with a community plan amendment/update.

Note that a planning group name change, if approved, may be inconsistent with the community name until the next Community/General Plan amendment.

Section 2. Activities
Section 2 states that all activities of the planning group shall be conducted in its official name.

When expressing opinions on matters outside the planning group responsibilities, individual planning group members should not identify themselves as members of the planning group, unless it is to qualify that they do not represent the planning group. Misrepresenting the planning group in any way can jeopardize individual eligibility for legal defense and indemnification pursuant to the "Ordinance Providing for Defense and Indemnification of Community Planning Groups" (O-19883).

Planning groups that convene as both the recognized planning group and as a separate, nonprofit corporation must convene as one body and clearly distinguish when they are acting as one and not the other.

Section 3. Boundaries
Section 3 states that the boundary for a recognized community planning group is based on the boundary of the applicable adopted community plan. Planning group meetings must meet within the boundaries of the community planning area. When there is no meeting facility within the community plan boundary, the planning group should attempt to find a facility as close as possible to the central population or business center of the planning group area.

Section 4. Official Positions
Section 4 protects the planning group duty to represent a community but also preserves the rights of members to express their personal views on issues of interest to them. Some planning groups designate one member such as the planning group chair, or other officer, to officially represent the planning group on all matters. Other planning groups designate various members such as committee chairs or others with particular subject matter expertise, to represent the planning group on particular issues. Planning groups may want to adopt bylaw provisions to outline who and how a member may represent the group.

When expressing opinions on matters within the assigned responsibilities of the planning group, individual planning group members, expressing personal positions on these same matters, must explicitly differentiate their opinion from the position of the planning group, and, state for the record, that they are not speaking for the entire planning group. Failure to make this qualification can jeopardize eligibility for legal defense and indemnification under the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19883).

ARTICLE II Purpose of Community Planning Group and General Provisions

Article II details how planning groups make recommendations on land use matters, review proposed development projects, solicit review assistance from the City, and amend their bylaws, and it also addresses the limits on planning group political activity.

Section 1. Recommendations on Land Use Matters
Section 1 affirms that the role of planning groups is to advise the City on land use matters and policies, as requested by the City.

Section 2. Reviewing Development Projects
Section 2 discusses the role of the planning group in the review of proposed development projects.

The roles of the Development Services Department, individual development project applicants, and the planning group are set forth in Information Bulletin 620 at: http://www.sandiego.gov/development-services/industry/infobulletinsnumb.shtml, Coordination of Project Management with Community Planning Committees.

A planning group generally should act only one time to provide a formal recommendation on a proposed development project. However, planning groups may hear an item several times for information and may also schedule a project as an action item to provide preliminary comments early in the process. At the time of formal recommendation, projects should be designed to a

"point of reasonable certainty" where the planning group vote can comfortably recommend approval, denial, or additional conditions such that the project is essentially the same one that will be considered by the Hearing Officer, the Planning Commission, or the City Council.

Some planning groups identify this "point of reasonable certainty" at the start of the public review period of the environmental document. Others identify this point as early as when Development Services Department issues its first or second Project Assessment Letter to the project applicant.

Some planning groups may refuse to act on a development project that has reached a "point of reasonable certainty" if it thinks there has not been ample and fair opportunity for community comment. To prevent this situation, some planning groups readily accept or seek out early informational presentations by project applicants, during the project development phase, especially on large, complex, or controversial projects.

Community planning groups may vote on projects more than once, when, for example:

- A project has been substantially revised either at the behest of the applicant, or as a result of the City project review process.

- The planning group has received incorrect or significant new information on project impacts to the community.

Changes in community planning group composition are not a valid reason to reconsider a prior vote.

Robert's Rules of Order specify different procedures for "reconsideration" and "amending or rescinding a motion previously adopted." "Reconsideration" occurs when the planning group decides to revote at the same meeting during which the original motion was voted upon. This may happen when the original motion was misunderstood by one or more members, when a member made a mistake in casting his or her vote, or additional information has caused one or more members to consider changing their position. To prevent abuse of the procedure, Robert's Rules requires that the motion "to reconsider" can only be made by a member who voted on the prevailing (winning) side. If a motion to reconsider passes, then the initial action is erased and the group debates and votes again on the issue.

When a community planning group wants to revote on a matter originally voted upon at a prior meeting, due to project revisions or new information, a motion to reverse or modify a previous position at a subsequent meeting can be made by any member. Robert's Rules specify various votes required for such a motion to pass, depending on whether there was prior notice. Since a community planning group is subject to the Brown Act, notice is required and the intent to bring the matter up again must be on the agenda. Since there must be advance notice, the motion to reverse or modify a previous position only requires a majority vote.

If key stakeholders demonstrate that they were denied the opportunity to participate in the planning group's consideration of the action, the chair may add an item to the draft agenda for

consideration by the planning group. This remedy is not available when newly elected members seek to reverse a previously-completed review process.

Section 3. City Assistance to Planning Groups
Section 3 states that planning groups who operate in compliance with CP 600-24 may be provided with assistance through the Mayor's Office. City Planning & Community Investment (CPCI), a Mayoral department, is the primary point of contact at the city regarding planning group operations. CPCI staff advises groups on policy matters, amendments to bylaws, CP 600-24 and Brown Act interpretations, and general operating issues. CPCI requests City Attorney input as necessary. In addition, community planners attend planning group meetings periodically. Planning groups should contact their assigned community planner with any inquiries or questions related to the above. Specific questions regarding development projects should be directed to the applicant and/or the Development Services Department.

Section 4. Nonpartisan and Nonsectarian
Section 4 states that a planning group may not under any circumstance discriminate against any person whether a planning group member or a member of the public. This means planning groups shall not discriminate based on race, color, sex, age, creed, national origin, sexual orientation, or physical or mental disability. Planning group meeting facilities must be accessible to persons with disabilities.

Section 5. Elections and Ballot Measures
Section 5 addresses how planning groups maintain independence, as elected, non-partisan advisors, to the City on local land use matters. Planning groups should not endorse activities unrelated to land use matters and policy.

CP 600-24 does not prohibit a planning group member from running for elective office, or from participating in political activities of their choosing. Planning group members running for elective office are prohibited from portraying what could be interpreted as a planning group endorsement on any election materials. However, service on a planning group contributes towards qualification for public elective office and such service, past or present, may be portrayed on any election materials. If a planning group member is serving on a planning group and running for elective office, election materials portraying such service should clearly state that the planning group has not endorsed the member.

If planning group members individually endorse candidates for elective public office they may not disclose their association with the planning group. Candidate means all candidates for public office on the election ballot within the City of San Diego.

A planning group as a whole may not endorse candidates for elective public office. The City Clerk regularly informs all candidates for public office within the City of San Diego about the responsibilities of planning groups to refrain from endorsing them. A candidate may nevertheless ask to make an election speech to a planning group. Planning groups may accept invitations, but should not actively seek out, presentations by candidates for any elective public office. If candidates for any public office seek to address a planning group, the planning group should invite all candidates for that position to address the planning group at the same meeting.

Planning groups as a whole may take positions on ballot measures. Presentations on the pros and cons of a ballot measure should be given to planning groups at the same meeting. Planning groups may set rules about what kinds of land use and citywide planning ballot measures they will consider for endorsement.

Section 6. Forfeiture of Rights
While planning groups are included as an integral part of the development project review process, there are established time frames within which any reviewer, including the planning group, must respond with their comments. Community planning groups should endeavor to work within established timeframes. Development Services has indicated a willingness to work cooperatively with planning groups and may grant extensions of review periods on a limited basis to groups who are working diligently to complete their review but are dealing with a need for critical information or planning group meetings that do not coincide with the project schedule. However, if a planning group consistently fails to respond to the City's request for planning group input on General Plan, community, specific or precise plan processes or fails to review and reply to the City regarding development projects, they may forfeit their rights to represent the community. This determination shall be made by the City Council based on recommendations by the Mayor's Office.

Section 7. Amendments to Bylaws
Section 7 states that any amendments proposed to adopted bylaws do not go into effect until they are reviewed and approved by the City. Proposed amendments to adopted community planning group bylaws may be submitted to the City for review upon majority vote of the elected membership of the planning group. Following receipt of a bylaw amendment request, Planning staff will review the amendment language for content and conformance with Council Policy 600-24, the bylaws shell and the Brown Act and submit the bylaws to the City Attorney's Office for review. Following City review, staff will work with the planning group on any needed changes. Bylaw amendments that conform to the Policy, bylaws shell and Brown Act will be approved administratively by signature of the Deputy Director of Planning and the Deputy City Attorney. Bylaws that deviate from the Council Policy, bylaws shell or Brown Act will be scheduled for consideration by the City Council. Following City Council action, Planning staff will work with the planning group on any needed changes resulting from Council action. Approval of bylaws with deviations will be through Council resolution.

ARTICLE III Community Planning Group Organizations

Article III addresses the structure and representation requirements of a planning group.

Section 1. Community Planning Group Size
Section 1 clarifies the number of elected or appointed members a planning group may select to operate. A planning group must consist of a specific number of members that is no less than 12 and no more than 20. This number must be fixed and included in its adopted bylaws. This number varies by community and should be chosen to balance continuity of membership with incorporating new members. City Council approval is needed to exceed the maximum number of 20 members. In order to maintain a broad range of community interests a planning group may

not have less than 12 members. When a planning group needs to adjust the number of member seats, the bylaws must be amended.

Section 2. Recognition of Members
Section 2 clarifies that the members of a recognized community planning group include those members who have been elected or appointed in accordance with Council Policy 600-24, these Administrative Guidelines, and the planning group bylaws.

Section 3. Representation of the Community
Section 3 addresses the goal for elected planning group members to be representative of the various geographic sections of the community, and diversified community interest. Some planning groups utilize a geographic distribution of their seats, or a combination of geographic or open seats. Other methods of insuring diversified community interests include reserving specified numbers of seats for specific organizations (homeowners, renters, businesses) or specific local interests (various districts, institutions, business associations). Categorization should be proposed through a bylaw amendment, subject to approval by the Mayor's Office and the City Attorney for consistency with the intent of the Policy's diverse representation.

When a planning group needs to adjust the categories and number of member seats, to reflect community composition, then the bylaws must be amended. The planning group should clarify the nature of the change.

The Council Policy states that to be an eligible planning group member an individual must be at least 18 years of age. The Council Policy requires affiliation with the community, as outlined below, but does not require US Citizenship.

To be an eligible member of the planning group an individual must be affiliated with that community as a property owner, a resident or local business person. A property owner must be a sole or partial owner or designee of a real property within the community planning area. Planning groups may want to outline in Article VIII of their bylaws or separate standing rules, how designation of property owner rights will be conveyed to a designee. Planning groups may want to request written documentation of any designees. Examples could include a letter from the property owner with an original signature, an e-mail to the Secretary or Chair or a form created by the Board signed by the property owner. A property owner need not reside in the community to be an eligible candidate. A resident is an individual who lives within the community, but who does not necessarily own the property in which they live.

Local business persons include: owners, operators, or designees of a non-residential real property address in the community. This may include no more than one business or non-profit owner, staff representative, or designee per business establishment. Planning groups may want to outline in Article VIII of their bylaws or separate standing rules, how a staff representative or business designee may be chosen and may want to request written documentation of any designees. For community planning groups that identify specific business seats, those seats must be reserved for the businesses found in commercial or industrial areas of the community. The growing number of individuals working from their homes has raised the level of interest in planning activities and has encouraged more business people working from home to run for seats

on planning groups. Individuals working from home may not be representative of the businesses with non-residential business addresses within the community and should not be selected for those seats. However, a planning group may designate a seat as a "home occupation" while retaining the representative number of non-residential business seats.

Planning groups may find that a community interest would be better represented by a planning group member filling a seat by appointment. Usually, having a limited number of appointed seats is consistent with CP 600-24. Appointments may be made by the planning group or by the entity that the seat represents, depending on the seat. If planning groups include an appointed seat, then the bylaws should clearly define the following:

- The reason for the appointed seat.
- Any special responsibilities of that seat.
- The level of participation of that seat in voting, meetings, and subcommittees.
- The length of the terms of service.
- Whether and how that seat may be converted to another category.
- Whether the planning group or the represented entity appoints the seat.

Section 4. Terms and Limits

The basic term limitation requirements in Council Policy 600-24 allow members to serve for up to eight or nine years, depending on the length of their fixed terms. Member's terms may be two, three, or four years in length. Members serving for two or four years are limited to a total of eight consecutive years on a recognized community planning group, while members serving three year terms are limited to nine consecutive years regardless of the number of different elected planning group seats a member has held during those years.

If a member has not reached their eight or nine years of service and is elected to a term that would carry their service beyond eight or nine years, they may fill the seat for the balance of their service period. For example a member could serve seven years and be elected to a three year term. The member may serve one (or two) years of the term but would need a one year break in service when they reach the eight (or nine) years of service.

Members who have reached the end of their allowed number of terms and years may, after a one year break in service, again serve on a planning group. Breaks in service of less than one year cause subsequent time to count as continuous time against the total number of years of service limits, although the time not in service may be subtracted. For example, a member could serve 7 years and six months, have a break in service for 6 months and return to serve for six more months for a total of 8 years of service. Upon reaching 8 (or 9) years of service the member would need to take a continuous one year break in service.

Members who have served more than eight or nine years may serve in excess of the term limits without a break in service, if a good faith effort has been made by the planning group to develop a list of potential new candidates that exceeds in number the seats that are open for election, and subject to the following:

1. If a candidate with service beyond eight or nine years is to appear on the ballot with new candidates, the ballot should identify that the candidate exceeds the planning group's allowable term limits and that the candidate must receive a two-thirds vote of all ballots cast by eligible community members participating in the regular election, to be elected. The ballot should also indicate that this candidate will not be seated if there are a sufficient number of new candidates to fill the vacant seats, i.e., a new candidate has priority over candidates exceeding the term limits.

2. After open seats are filled with new members, candidates with service beyond eight or nine years, who received a two-thirds vote, may be considered for remaining open seats, with the highest vote recipient exceeding the eight or nine year limitation taking the first open seat that they qualify for, etc.

3. No more than 25 percent of the total planning group membership can consist of members serving excess of the specified terms of service. At the time of the election, if 25 percent of the planning group is made up of members serving in excess of the specified terms of service, the candidate with service beyond eight or nine years may not even be considered.

If the planning group has specific categories of elected seats, and seats within particular categories remain open after an election, the planning group may consider adopting a procedure or bylaw provision which prescribes how those remaining seats may be filled, i.e., with a new candidate from another category or with a candidate with service beyond eight or nine years receiving two-thirds vote within that category.

A candidate with service beyond eight or nine years may be nominated to fill a mid-term vacancy only if there are no other nominations. For such a candidate to be elected a two-thirds vote is required and the 25 percent limitation is met with the seating of the candidate.

Election by a two-thirds majority to a term beyond eight or nine years should be considered "time on" for the purposes of counting continuous service. If an additional term is subsequently sought without a break in service, a two-thirds majority vote is again required.

Section 5. Eligibility to Serve

Section 5 states that a planning group member must retain eligibility during their entire term of service. A planning group member becomes ineligible when he or she no longer meets the eligibility requirements found in Art. III, Section 3 (i.e. property owner, resident, business person) or exceeds the number of allowable absences found in Art. IV, Section 1 of CP 600-24 and these Administrative Guidelines. When this occurs a planning group member should resign. Additionally, as the secretary becomes aware that a member is no longer eligible to serve they should notify the member and present documentation to this effect at a regularly scheduled meeting. If another board member becomes aware that a member is no longer eligible they should notify the secretary of this situation. Although the Council Policy states a planning group member "may" be removed upon determination of ineligibility, it is the planning group's duty to vote to remove the member who has become ineligible.

Section 6. Risk of Loss of Indemnification
Section 6 introduces the potential loss to planning groups and planning group members of legal defense and indemnification under the Ordinance O-19883 Providing for Defense and Indemnification of Community Planning Groups for violating CP 600-24, the bylaws, or the requirements of the Brown Act. Although the Council Policy lists the Ordinance as 0-17086 NS, this ordinance was revised in 2009 and planning groups should refer to O-19883 for up-to-date indemnification guidance. This section identifies that the Brown Act carries civil or criminal consequences which are more fully addressed in Article IX, Section 2. By implementing bylaws and operating within the Council Policy, planning groups are considered to be in substantial conformance with the Brown Act.

ARTICLE IV Vacancies

Section 1. Finding a Mid-Term Vacancy Exists
Section 1 addresses that a planning group shall find that a vacancy exists when a member resigns or has three consecutive absences or a fourth absence in the 12-month period of April through March of each year. Planning group chairs should consider contacting the affected member in advance of the meeting to determine the situation and whether the member wishes to resign. A determination that a vacancy exists should be placed on the planning group's agenda. While a member could potentially be re-elected to their own term, the planning group should consider whether the candidate can fulfill the meeting attendance requirement in the future prior to reinstating the member.

Section 2. Filling Mid-term Vacancies
Section 2 directs planning groups to fill a mid-term vacancy in accordance with their bylaws. Groups must fill their vacancies no later than 120 days following the termination of the vacancy. However, when the end of the 120 day period occurs within 90 days of the annual March election the vacancy should be included in the March election. A vacancy determined at the time of the election should only be added to the election if there is an adequate amount of time to declare the vacancy at a planning group meeting prior to the election; otherwise, the filling of the vacancy should be deferred to a later meeting or election within 120 days of the determination of the vacancy.

As discussed in Section 1, both the actions to find a vacancy and to remove a member, and the filling of a seat by election or appointment are matters that should be noticed on the agenda, in accordance with the Brown Act. Due to being on the agenda, these items may not be voted upon by secret ballot. A paper ballot may be used as long as planning group members identify themselves on the marked ballots which would be available for review upon request. As with regular elections, guidelines must be set for declaring the vacancy filled, and some period of time must be allowed for a challenge. Ballots must be retained as part of the meeting record. An objection to filling a vacancy is a challenge to the planning group's action on an agenda item and should be treated as an item for reconsideration.

Section 3. Timeframe to Fill a Vacancy
Council Policy 600-24 requires that vacancies shall be filled no later than 120 days following the date of determination of the vacancy. If the vacancy is not filled by this deadline it can affect the

membership or the continued operation of a planning group. If there are no qualified or available candidates to fill a vacancy, a planning group should consider amending their bylaws to reduce the number of members, but not to less than 12.

If a community planning group has difficulty filling a vacant residential seat by the deadline, the group should first try to fill the seat with an individual who qualifies for another residential category or district. If a planning group has difficulty filling a vacant non-residential seat by the deadline, the planning group should first try to fill the seat with an individual who qualifies for another non-residential category or district. Filling a vacancy in one category with a candidate from a different category is considered temporary and that seat should only be filled until the expiration of the term, and then reverts to the category identified in the bylaws.

If a planning group membership is on the verge of dropping below 12 due to one or more vacancies, the planning group should increase its efforts to recruit candidates. After a vacancy exists for 60 days, a planning group should report in writing to City staff and the City Council why the vacancy exists and what efforts have been made to fill it. If the vacancy exists after another 60 days (120 days from the date the vacancy was declared), the City should notify the planning group in writing that they will be placed on inactive status. While a planning group is on inactive status, the City suspends the planning group's formal advisory role. While the inactive planning group can continue to meet, it will not be in the capacity of a recognized planning group, the City will not send development projects for their review, and any action taken will not be considered a vote from a recognized community planning group. While on inactive status, a planning group should solicit new members and potential candidates for the next general election. The inactive planning group should follow the election procedures in the bylaws and conduct the next general election in order to gain at least 12 members and become active again. The time on inactive status counts toward the term limits of the elected members.

ARTICLE V Elections

Section 1. Election Procedures

Article V addresses planning group election procedures. The planning group must make the election process fair, open, objective, and accessible, to the entire community of eligible voters. CP 600-24 establishes a few mandatory election requirements but charges each planning group with the responsibility to adopt specific election procedures. Planning groups may find Roberts Rules of Order Newly Revised, Chapter VIII., Voting and Chapter IX., Nominations and Elections, useful to develop election procedures that will give the entire community confidence in planning group elections. Such confidence is more likely to result in trust, acceptance and in fewer election challenges.

General elections shall be held during the month of March every year or every other year. Planning groups should seek enough new candidates to exceed the number of seats open for election. Planning group bylaws may establish a minimum number of meetings required to have attended in order to be a candidate for election. However, candidates must have attended a minimum of one of the group's last 12 meetings prior to the February noticed regular or special meeting of the full planning group.

Planning groups are encouraged to adopt detailed election procedures within Article VIII of their bylaws. Planning groups should address the following election procedures in writing prior to the election:

- Verification of candidate eligibility prior to printing a ballot
- Creating a ballot with all candidates appropriately represented
- Handling of write-in candidates, if applicable
- Location(s) of polls, including managing multiple concurrent polling locations, if allowed
- Management of the polls
- Verification of voter eligibility (i.e. drivers license, utility bill)
- Setting election date(s)
- Setting voting time(s)
- Mail-in ballot procedures, if applicable
- Closing the polls
- Counting the ballots, including when, by whom, and how to account for a candidate continuing beyond eight or nine consecutive years of service
- Establishing a plurality voting system (i.e., those with the highest votes win)
- Ballot record keeping
- Tie-breaking procedures
- Election challenge procedures
- Timing of installation of newly elected members
- Maintaining confidentiality of secret written ballots
- Prohibition of electioneering (actively trying to convince voters to vote for a specific candidate at the time of the election)

When a group plans to provide the opportunity to vote on more than one date in March these procedures shall be outlined in their adopted bylaws. If the group wants to use this option and it is not in the adopted bylaws then the voting procedures for such an election will be submitted to the offices of the Mayor and City Attorney, respectively, for review and approval at least 45 days in advance of the first day of voting.

Section 2. Publicity for Elections

Planning groups shall demonstrate a good faith effort to publicize planning group elections and candidate eligibility requirements. They may use their own websites, posting notices at libraries and grocery stores, sending emails, and placing a notice in the community newspaper. In addition, the City uses TV24 and the City's website to publicize the planning group election season. Notices on TV24 begin in the fall of each year, indicating that planning group elections are in March and that planning groups may have minimum attendance requirements to be eligible to vote or run for election.

Section 3. Ballots
Voting in an election by secret ballot is allowed even though voting by board members to fill a vacancy at a noticed planning group meeting (as discussed in Article IV, Section 1) must be public. An election that is held separately from a Brown Act-noticed meeting does not constitute a "meeting" of a planning group and is therefore not subject to the public meeting requirements. Note that the selection of officers by a planning group cannot be by secret ballot. Ballots shall be available for a specified period at the election.

A proxy is the authority given by one person to another to vote in his/her stead. Per Robert's Rules of Orders Newly Revised, proxy voting in incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and non-transferable. In this section, Council Policy 600-24 states that proxy voting in elections is not allowed under any circumstances.

Section 4. Finalizing Election Results
An election becomes final after announcing the election results at a noticed planning group meeting unless explicitly stated otherwise in the planning group's bylaws. Time must be allowed for voting to be concluded, votes counted, results announced, and for a challenge to be submitted to the Election Subcommittee. The ability and criteria to challenge the election must be clarified as part of the publicity of the election. This allows for the seating of new planning group members in April as required by the Council Policy 600-24.

ARTICLE VI Community Planning Group and Planning Group Member Duties

Section 1. Duty to Work Cooperatively and in a Public Setting
Section 1 describes that it is the duty of a community planning group to work cooperatively with the Mayor's staff. This section further describes that all meetings, in accordance with the Brown Act, must be open to any member of the public that wishes to attend. This includes any meeting of the planning group, including regular meetings, special meetings and subcommittee meetings. Furthermore, if the planning group desires to hold a retreat outside a regularly scheduled meeting, it must be noticed as a meeting of the planning group and be open to the public.

The council policy acknowledges that some administrative functions of the planning group, such as assembling of the draft agenda, may be overseen by the officers of the group. However, all substantive discussions about agenda items should occur at the noticed planning group meeting. Finally, the last paragraph of Article VI, Section 1 advises planning groups and individual members to refrain from conduct that is detrimental to planning group operations.

Section 2. General Meeting Procedures
Section 2 of Council Policy 600-24 provides extensive guidance on general meeting procedures, subcommittee operations, abstentions and recusals, as well as the duty to maintain meeting documents and records.

(a) Meeting Procedures

i. Regular Meeting Agenda Posting

Meeting agendas should be posted at least 72 hours before the meeting in accordance with the Brown Act. The agenda should be posted at the meeting facility or at another public place freely accessible to the general public. The agenda may also be posted at other locations, such as grocery stores and/or a community website, and as a courtesy, the City will also post planning group agendas on the City's website and on TV24. Agendas should be provided to the City no later than the Wednesday prior to the week of the planning group meeting. If a planning group agenda is not received in time to include it on TV24, the meeting location date and time will be displayed.

The posting at the meeting location should be located in a manner that is freely accessible to the public 24 hours per day. For instance, if a planning group meets at a public facility such as a library, the agenda should be posted in a window that is visible 24 hours per day. If posting at the meeting location is not possible, the agenda may be posted at another nearby location that is freely accessible to the public and visible 24 hours per day. Planning groups should be consistent in where agendas are posted. If 24 hour posting is not possible, i.e. if the agenda can only be posted indoors in a facility that is only accessible during specified hours, the agenda should be posted further in advance so that it is available for public inspection for no less than a total of 72 hours.

The planning group agenda should include the date, time and location of the meeting, a brief description of each agenda item, and whether the item is an information or action item. The brief description need not include more than 20 words unless the item is particularly complex. For development projects, the description should include, at a minimum, the name of the project, location, proposed discretionary actions and a summary of what is proposed.

Agendas distributed and posted in advance are considered proposed or draft agendas. Planning groups should include an item to approve the agenda as the first order of business at a meeting. A motion can be made to adopt the agenda, delete items from the agenda or rearrange items on the agenda. As outlined in Article VI, Section 2, viii, items may be added to the agenda that came to the City and planning group's attention subsequent to posting of the agenda if there is a need to take immediate action and may be added by two-thirds vote of the membership. If less than two-thirds are present and there is a need to take immediate action, then every member must vote to add the item. This provision should only be used in limited circumstances when there was not an ability to properly notice the item.

ii. Public Comment

This section states that members of the public must be afforded the opportunity to comment on agenda and non-agenda items during regular and special meetings. Public comment on items that are not on the agenda, but are within the scope of the planning group, must be accommodated at the beginning of the meeting, pursuant to the Brown

Act. Where there is confusion about whether an item is within the purview of the planning group, the group should allow the comment. Members may respond to the comment to seek clarification or ask factual questions but should not engage in dialogue on any item not on the agenda. In order to efficiently manage their meetings, planning groups may establish reasonable time limits for public comment.

iii. Adjournments

Meetings of a planning group may be adjourned to a future date in advance of a meeting (i.e. the group is in recess in August) or on the day of the meeting because less than a quorum was present. If a planning group knows in advance that a regular meeting will not be held they should post a "Notice of Adjournment," to a future date at the regular meeting location 72 hours in advance of when the meeting would have been held.

If a meeting is adjourned because a quorum is not present, or is lost during the meeting, a notice of adjournment should be posted at the meeting location within 24 hours of the meeting. The notice should state the date and time of the next regular or special meeting. This section further states that if the next meeting is held within 5 days or less from the meeting, the original agenda may be used, if more than 5 days, a new regular or special meeting agenda should be prepared.

iv. Continued Items

If a planning group takes action to continue an agenda item to a future meeting, and if that meeting is less than 5 days in the future, no new agenda needs to be prepared. To continue an agenda item more than 5 days, i.e. to the next regular planning group meeting, that future agenda must contain an entry for the item. A planning group may use its discretion to trail an item until a later time during a meeting or continue items to a future date.

v. Consent Agenda

Consent agendas group items and subject them to a single vote. Consent agendas allow for more efficient use of meeting time and enable planning groups to focus on the more substantive topics. Consent agenda items usually appear near the beginning of the regular meeting agenda. This allows items to be easily moved to the regular agenda, if necessary. Many planning groups place non-controversial development proposals on a consent agenda with the condition that if there is any public or member comment about the item it is automatically moved to the regular agenda for full discussion.

vi. Quorum and Public Attendance

Before calling a meeting to order the chair must check that a quorum is present to conduct business. The only actions that can be taken in the absence of a quorum are to: 1) fix the time to adjourn or recess, or 2) take measures to obtain a quorum, for example, contacting members during a recess and asking them to attend. The chair should

immediately call the meeting to order, announce the absence of a quorum, and entertain a motion to adjourn to either the next regular meeting, to which the agenda items would trail, or to a special meeting, if any item is time sensitive, or both as each item warrants.

Without a quorum, business cannot be transacted, however, by entertaining a motion to adjourn; the planning group has met its obligation to hold its regular meeting. The prohibition against transacting business in the absence of a quorum cannot be waived, even by unanimous consent. If the chair or any member notices the apparent absence of a quorum, a point of order should be raised to that effect. At that time, the meeting should be stopped in order for the chair to assess whether a quorum is expected to return.

The chair should confirm the presence of a quorum prior to calling for a vote on any action. If a member questions the presence of a quorum, it must be done at the time a vote on a motion is to be taken. A member may not, at some later time, question the validity of an action on the grounds that a quorum was not present when the vote was taken.

This section prohibits mandatory attendance rosters; however a planning group may provide voluntary sign-in sheets clearly identified as such, to allow potential planning group member candidates to meet the minimum attendance requirements of Council Policy 600-24, Art. V, Sec. 1, or to create mailing lists to increase community participation. No admittance fee may be charged to enter a planning group meeting. This is true no matter who is charging the fee, whether it is the planning group, a building owner or operator, or any other entity.

vii. Development Project Review

Planning groups are sent project packages for review from the Development Services Department in accordance with Bulletin 620. Project packages include a comprehensive set of information such as a cover letter, cycle issues report, a site plan, and other plans and background information as needed for project review. As outlined in the Council Policy, planning groups cannot require applicants to submit additional information and materials as a condition of placing an item on their agenda. However, if during project review the group identifies additional materials that would aid in their review they may make a request of the project applicant to provide them, if available.

The planning group shall notify the project applicant or representative each time their project is reviewed or placed on the agenda by the planning group or a subcommittee. Notification to the applicant should be made well in advance of the meeting and consideration to move the item to another meeting should be given if requested by the applicant. Attendance by the applicant is at their discretion.

It is the planning groups' duty to allow participation of affected property owners, residents, businesses and not for profit establishments within proximity to or with interest in the proposed development.

viii. Action on Agenda Items

There are restrictions on adding an agenda item to a published (72 hours prior to the meeting) agenda. An agenda item may be added only if it is an issue that came to the attention of the planning group after the agenda was posted. In addition, the item may be added only if two-thirds of the filled seats of the planning group vote to add the item because there is a need to take an immediate action. If less than two-thirds are present, every member in attendance must vote to place the item on the agenda. In advance of the meeting, the planning group may want to consult City staff or the City Attorney to determine if there is a need for an "immediate action"; it may be that the reason for the sense of urgency is that there is a scheduled hearing date or the project review cycle is closing. If time permits, check with City staff or the Development Project Manager to determine if there is flexibility in the deadline given.

A key Brown Act provision of this subsection is the prohibition on proxy voting and secret ballots on actions taken by the planning group. These methods of determining support or opposition to an agenda item are prohibited. There must be open discussions and voting. Telephone or email polling, or other means of absentee voting, are also prohibited by the Brown Act.

Actions on agenda items shall reflect the official position of the planning group. Planning groups may include rules of standing order or operating procedures to guide the roles and responsibilities of planning group members when representing a planning group's position to the City and/or to the public. Members are advised to refrain from identifying themselves as members of a planning group when expressing positions on matters either not voted upon, or outside the scope of duties of planning groups.

An action of a planning group should be approved by a vote of the planning group. In the case where the chair files a timely appeal on a project that a planning group has voted against during a regular meeting following proper procedures, the chair should report on the action at the next meeting of the planning group. In some cases a confirmation vote may be appropriate as a follow-up action. Community planning groups should consider adding a provision in their bylaws addressing procedures and authority for appeal.

If a project has been substantially revised since a prior vote by the planning group, or a planning group received incorrect or additional information, the revised project may be placed on the agenda for a re-vote.

ix. Collective Concurrence

The attempt to develop a collective concurrence among a majority of the members, also known as conducting a serial meeting, outside of a meeting held in accordance with the Brown Act requirements, is a prohibited meeting. A serial meeting is best described as a series of discussions or deliberations held between one member and any other member(s), that does not comply with the Brown Act's public noticing and comment requirements, for the purpose of or with the result of developing a concurrence between a majority of

the members regarding an action to be taken.

This type of serial discussion does not allow for public notice and participation in the decision-making process, and therefore violates the purpose of the Brown Act. The use of intermediaries or technological devices for this purpose is also prohibited. Although contact between one member and one other would not be a majority of the membership, the communication could continue in a chain fashion, and result in a collective concurrence. Alternatively, one member could contact several others individually, and develop a collective concurrence in that fashion. Because one party to the communication may unknowingly participate in what becomes a collective concurrence, the better practice is to engage in all discussions about matters within the board's jurisdiction at a noticed public meeting.

Members of the community planning board may receive staff briefings, so long as the comments or positions of the members are not communicated to other planning group board members.

x. Special Meetings

Special meetings are those meetings that are scheduled at times or dates other than at regularly held meetings. A special meeting can be called by a planning group Chair or a majority of planning group members, and must have a specified purpose. It should be limited to only the item that required the meeting to be set, and public testimony on that item must be allowed. The non-agenda public comment required on a regular meeting's agenda may be waived. Written notice is required to all planning group members, local newspapers and radio and television stations that have requested notice 24 hours prior to the meeting along with a 24 hour agenda posting similar to the requirement for a regular meeting.

xi. Emergency Meetings

The purpose of emergency meetings is for matters related to public health and safety. Since these issues are outside the purview of planning groups, emergency meetings are prohibited.

xii. Right to Record

The Brown Act requires that anyone in attendance at a planning group meeting may record the meeting if it can be done without disruption to the meeting. The recording can either be videotape or audiotape. This recording does not have to be shared with a planning group, however if a planning group records a meeting, the recording must be made available to the public upon request.

xiii. Disorderly Conduct

The Brown Act states that in extreme circumstances, the planning group may cause an

individual to be removed from a meeting if the Chair cannot maintain orderly conduct of the meeting. The meeting room may be cleared if necessary. The meeting may continue (with any press remaining) without an audience or with non-disruptive individuals readmitted.

(b) Subcommittees

i. Standing Subcommittees

Standing subcommittees are generally those in place for an extended period of time that meet regularly on a particular topic. Examples of common planning group standing subcommittees include project review subcommittees and transportation subcommittees. Standing subcommittees must be noticed and held in a publicly accessible location in accordance with Brown Act provisions for regular meetings.

ii. Ad Hoc Subcommittees

Ad Hoc subcommittees are those established for a finite period of time to deal with a special issue or topic such as elections. While not subject to the Brown Act if made up entirely of members of a planning group and consituting less than a quorum, Council Policy 600-24 requires that all ad hoc subcommittee meetings be open to the public and, at a minimum, be noticed on a website or listed on the regular planning group agenda.

iii. Subcommittee Composition

This section states that all subcommittees must be comprised of a majority of planning group members. Non-planning group members on the subcommittee should demonstrate an understanding of their role on the subcommittee, the limitations on their role, and the ability to be defended and indemnified in their planning group role. In order to be indemnified by the City under O-19883, Ordinance Providing for Defense and Indemnification of Community Planning Groups, non-planning group subcommittee members must be identified in the planning group minutes as appointed or elected subcommittee members and must attend the first COW available to them either electronically or in person within sixty (60) days of their appointment.

iv. Recommendations

Planning group subcommittees should schedule consideration of items far enough in advance for the planning group to have time to review subcommittee recommendations and consider the matter. Subcommittee recommendations may not be forwarded directly to the City without a formal vote of the full planning group. However, many planning groups find it useful to place subcommittee recommendations on the planning group consent agenda which then can be acted upon or removed for discussion depending on the amount of additional deliberation required.

(c) Abstentions and Recusals

There are two legitimate situations that may prohibit a member from voting. They are recusals and abstentions.

i. Recusals

Recusal is required when a member of a planning group has a readily identifiable, distinguishable, direct economic interest in any project or matter being considered by the planning group. This applies to all planning group member seats including categorized and non-voting seats. If a member has a direct economic conflict, the member must:

1. Disclose the economic interest.
2. Recuse before the item is discussed.
3. Physically leave the planning group seating area.

A recusing member, who is also a member of the applicant team, may assist in the presentation of the project to the planning group.

The planning group chair should ask for recusals before starting any substantive discussion on an action item. The presence of the recusing member in the room in which the meeting occurs does not count toward a quorum for the item that the member recuses on. The vote on the item will not reflect the recusing member at all.

The duty to recuse due to a direct economic interest must be determined on a case-by-case basis. However, there are some common examples that have arisen in planning groups:

- An owner, or part owner, of all or part of the subject property, business or development.
- The project architect, engineer, sales agent, or other team member.
- An employee, in any capacity, of a company, or subcontractor, or representative which is part of the project team.
- A former member of the project team that has received significant compensation for project team work within the past twelve months.

When determining whether to recuse from an item, members should err on the side of caution but situations may arise where a member wishes to contact their community planner for advice. It is expected that planning group members will act in good faith to fulfill their authorized duties. If a conflict is suspected, but it is not recognized by a member, a **two-thirds** vote of the planning group, taken before the item is discussed, can determine that a member should recuse. If the member refuses to recuse, the planning group should make it a part of the public record that a vote of the planning group considered the member ineligible to participate. The participation of the member will be deemed void and the vote of the member not counted toward the planning group recommendation. The refusal by a member to recuse from the planning group discussion and vote may result in discipline of the member under Council Policy 600-24, Article IX 3(a).

In general, members will not have to recuse themselves from large scale planning policy issues, matters related to land use plans such as community plans, specific plans, and precise plans. Even though actions of planning group members are governed by Council Policy 600-24, state law can be drawn upon for guidance to assist the member in determining whether they have a direct economic interest. State regulations find no disqualifying conflict of interest if the decision affects the member's economic interest in a manner which is indistinguishable from the manner in which the decision will affect the public generally. Relevant factors to determine ground for recusal include:

1. Whether the decision affects a significant segment of the public. As a general rule, this means if the decision affects:
   - 10 percent of residents and homeowners in the community, or
   - 25 percent of similar business owners in the community.

2. Whether the decision will affect the same type of economic interest as the public generally, and in a similar manner.

3. Whether, despite affecting the public in general, the decision "uniquely benefits" the member in which case there could be ground for recusal. A member is uniquely benefitted if they as an individual stand to gain direct financial benefit from the proposed action.

ii. Abstentions

Abstention is voluntary but strongly recommended where a member has legitimate, non-economic, personal interests in the outcome that would, at minimum, give the appearance of impropriety, or cast doubt on their ability to make a fair decision, or a member lacks sufficient information upon which to cast a vote. The vote on the item will reflect the abstaining member as an abstention since they are still counted in a planning group quorum for that item, regardless of when they declare their abstention.

An abstention should normally be declared prior to the start of the item. The member should declare the abstention and the reason for the abstention. If a planning group member realizes they need to abstain in the middle of a discussion item, they should immediately announce that fact and not participate in the item any further. It is inappropriate for a planning group member to participate in a planning group debate, ask questions, express opinions, perhaps even make the motion or the second, and then abstain from voting.

If there are multiple abstentions due to a lack of information, the planning group should consider a continuance in order to receive additional information. There should be agreement among the planning group members that more information is necessary to allow the planning group to make an informed decision, and the group should be as specific as possible about what information would assist it in formulating its

recommendation.

The need to abstain is generally determined on a case by case basis. However, there are some common examples of abstention:

- A member lives adjacent to a proposed project, does not have an economic interest in the project, but wishes to participate as a concerned neighbor rather than a member of the planning group.

- A member has a personal relationship with the project team which may be perceived as a bias towards the project.

(d) Meeting Documents and Records

i. Agenda by Mail

As previously discussed, the official Brown Act notice of a meeting is the physical posting of the agenda in a place accessible to the public at least 72 hours in advance of the meeting. In addition, planning groups generally mail and/or email the agenda to planning group members and other interested parties in advance of the meeting. The Brown Act states that requests for mailed copies of the regular agenda and any accompanying material must be granted although a cost-recovery fee may be charge for providing this service. A request to receive agendas and materials may be made once for each calendar year but must be renewed by January 1st of the following year. Mailed agendas/materials must be distributed when the agenda is posted, or upon distribution to the planning group, whichever occurs first.

ii. Agenda at Meeting

Any written documents, including agendas, project plans, project assessment letters, and environmental documents must be made available to the public at the time they are made available to the planning group. Planning groups may establish a procedure for ensuring the availability of documents such as by making project materials available for review at the nearest library branch and/or by referring individuals to the Development Services Department; however, all project review documents should be accessible for public review at planning group meetings. A cost-recovery fee may be charged for the cost of reproduction of any materials requested by the public.

iii. Minutes

Minutes must be provided to the City within 14 days of approval. Minutes should include attendance of planning group members, a recordation of the votes, and may include a listing of individuals who voluntarily sign into the meeting.

iv. Records Retention

The City Planning & Community Investment Department is developing a procedure to maintain planning group materials following the meetings. Although not the official Brown Act notice, CPCI posts agendas and minutes on the City's website when they are received in a timely manner.

Section 3. Community Outreach
Section 3 addresses the duty of planning groups to seek out broad community participation. Planning groups should consider a variety of outreach efforts such as creating a planning group website, networking with other active local organizations, placing articles in local newspapers, etc.

Planning groups are strongly encouraged to coordinate outreach with CPCI by sending:

- Announcements about planning group meetings, and elections, to be posted on the City's TV24 television station. As stated, CPCI must receive meeting agendas one week before the meeting to be posted in time.

- Updates about the planning group for distribution on the CPCI general interest e-mail list. This covers a broader swath of the city than any one planning group mailing list. It may capture the interest of community members who have been more involved in citywide matters.

Section 4. Planning Group Roster and Annual Report
This section addresses the duty of planning groups to maintain current rosters and prepare annual reports for CPCI.

Planning groups may keep two sets of elected membership rosters:

- A roster for City use-only. *See* example at Attachment A
- A summary roster to respond to public inquiry. *See* example at Attachment B.

City Use-Only Roster
- Member Name
- Home Address
- Telephone and Fax Numbers
- E-mail address
- Start Date of Service
- Term Expiration Date
- Eligibility Category
- Seat Category, if any.

Public Roster
Same but excluding home address, telephone and fax numbers, and E-mail address.

Providing this information gives CPCI the ability to determine compliance with CP 600-24 rules governing eligibility to serve, and it allows CPCI to efficiently transmit information on projects,

training sessions, and other City meetings and functions that may be of interest to particular planning groups. Most planning groups collect roster information from application forms used to recruit prospective planning group candidates.

Annual reports should be five pages or less, and should include the following topics:

- Introduction
- Administrative Matters
- Community Plan Preparation and Implementation
- Special Projects
- Summary of Project Review
- Planning Group Objectives
- Attach Meeting Minutes for Past Year
- Roster Summary

A sample annual report format is provided at Attachment C. At minimum, the annual report should include a summary list of accomplishments and objectives, and major actions on large projects and policy matters. While the annual report may be prepared by a single member or a subcommittee of the planning group, it must be discussed and voted on by the planning group as a whole before being forwarded to CPCI by the end of March each year.

Section 5. Financial Contributions
This section prohibits planning groups from requiring the payment of any dues or fees; however, they may accept voluntary financial contributions. Some planning groups have community fundraisers to defray administrative costs. The City recommends against collecting voluntary financial contributions at regular intervals because it creates a perception that contributions are required to participate in the planning group. Contributions may be anonymous.

Planning groups and planning group members should not request or accept in-kind gifts, or contributions from individuals presenting projects to the planning group. It may be acceptable, for a business in the community to provide meeting space for the planning group, as long as the location is open and accessible to the public. To avoid potential conflicts of interest, the planning group must also determine if the business donating the space makes the space available to the public generally. If not, the planning group should not meet at that location. If so, then the planning group should meet elsewhere whenever an agenda item arises that would impact the business donating the space.

Section 6. Community Orientation Workshop
Section 6 requires planning group members to be “COW-certified” by attending an annual Community Orientation Workshop (commonly referred to as “the COW”) within 12 months of being elected or appointed to the planning group. The purpose of the training is to ensure compliance with CP 600-24 and the Brown Act, and to strengthen legal defense and indemnification of members under the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19833). In addition to the annual COW meeting, planning group members may now meet this requirement by taking the on-line Electronic COW, or E-COW.

Topics covered at the COW and in the E-COW include the basics of planning practice, an overview of the City's governmental structure, the role of the General Plan and Community Plans, the discretionary and ministerial permit process, the California Environmental Quality Act, the regulatory and enforcement functions of the City, and the rules and regulations governing the City's planning group process, as embodied in CP 600-24.

It is the duty of each planning group to notify CPCI of the election or appointment of new members and the duty of the new member to attend the first available session. Non-planning group members on subcommittees must attend a COW or take the E-COW to be indemnified by the City.

ARTICLE VII Planning Group Officers

Section 1. Officers
Section 1 contains basic information about selecting the officers and establishing their terms and duties.

Sections 2. Chairperson
Section 2 discusses the basic responsibilities of the chairperson.

Section 3. Vice Chairperson
Sections 3 discusses the basic responsibilities of the vice chair.

Section 4. Secretary
Section 4 discusses the responsibilities of the secretary. Secretaries may seek assistance from others with the following duties:

- To act as the group parliamentary procedure expert and so monitor meeting procedures related to motions, voting, and public speakers.

- To collect and assemble materials from meetings for records retention.

Anyone providing assistance to planning group officers should be a planning group member, or COW-certified, to ensure the officers and group will be eligible for legal defense and indemnification under the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19883).

Section 5. Community Planners Committee
Section 5 discusses how planning groups represent themselves on the Community Planners Committee (CPC). Attachment D is the form used to convey CPC representative information to the CPC chair. If neither the representative, nor the designated alternate, can attend a CPC meeting the planning group may send a substitute, who may speak but not vote on behalf of the planning group.

Section 6. Dissemination of Information
Section 6 stresses that CPC representatives have a duty to report CPC actions back to their planning groups. The CPC representative should forward copies of the CPC meeting agenda and minutes to the secretary for circulation to all the planning group members. Planning group members may also review CPC agendas, minutes, and back up materials for the CPC meetings on the CPCI website at www.sandiego.gov/planning/community/cpc.

ARTICLE VIII Planning Group Policies and Procedures

Article VIII provides a framework for planning groups to develop procedures and policies tailored to the particular needs of their community planning areas.

ARTICLE IX Rights and Liabilities of Recognized Community Planning Groups

Article IX addresses enforcement of CP 600-24 and the Brown Act, emphasizing that planning groups govern themselves and their members to encourage compliance.

Section 1. Indemnification and Representation
Section 1 requires planning group members to comply with CP 600-24, and their own adopted planning group bylaws to qualify for representation and legal defense pursuant to the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19883).

Section 2. Brown Act Remedies
Section 2 addresses Brown Act remedies and violations. As with other CP 600-24 provisions, the preferred remedy following a valid complaint is self-correction. If a planning group receives a written complaint alleging a Brown Act violation, it should be forwarded to CPCI within 5 business days, for review and referral to the City Attorney, to ensure the correct procedures are followed, all issues are addressed, and remedies are enacted in a timely manner. When deciding whether to self-correct, planning groups should err on the side of caution, since self-correction requires little effort, will likely not change the resulting vote, but will ensure maximum public participation and statutory compliance. When a planning group forwards a complaint to CPCI it should state whether the planning group has already decided to proceed with self-correction.

Section 3. Council Policy 600-24 Violations and Remedies
Section 3 discusses how planning groups address violations by individual members of the planning group and by the planning group as a whole. Violations should be lodged by written complaint.

(a) Alleged Violations by a Member of the Planning Group.

It is the responsibility of the planning group, not the City, to address alleged violations of CP 600-24 by individual members. CP 600-24 does not contemplate either CPCI or the City Attorney taking decisive action against planning group members for violations of CP 600-24, although CPCI may, upon request by a planning group, offer advice on how to proceed, based on experience with how other planning groups have addresses similar situations. Planning groups are authorized to conduct an investigation, and where feasible take corrective action, as is

deemed appropriate by the group. Investigation procedures are outlined and incorporated into the standard planning group Bylaws Shell attached to CP 600-24.

When corrective action is not feasible, removal of a planning group member may be necessary. There may be extenuating circumstances where the benefit of removing a planning group member without any doubt outweighs attempting to continue to operate with that member. Removal must be considered with extraordinary care and thoroughness by the entire planning group, and must adhere to the following procedures.

a. Any action by a planning group to discipline or remove a planning group member must occur at a scheduled planning group meeting and be noticed on the agenda as an action item.

b. Due to the significant nature of removing an elected member, and to ensure a fair and public process, standardized procedures for conducting an investigation and hearing are provided in the standardized Bylaws Shell. These procedures detail the following topics. Additional procedures would have to be approved as bylaws amendments. *See* Article II, Section 7.

    1. Documenting a violation.
    2. Conducting an investigation.
    3. Presenting a violation to the planning group.
    4. Recourse for a member who is removed.

(b) Alleged Violations by a Planning Group

It is the responsibility of CPCI to investigate, and attempt to resolve, alleged violations against the multiple members or against the entire planning group.

The phrase “investigation by the Mayor’s office,” as used in this subsection, does not mean a formal criminal or civil investigation. It refers to an informal process, shaped by the nature of the allegations, and will usually involve discussions with individual members, or with the entire planning group, as well as discussions with the planning group members and others, and review of planning group minutes, correspondence, or other documents. CPCI may offer advice on how to proceed, based on their experience with how other planning groups have addressed similar situations, and may discuss the matter with the CPC.

ATTACHMENTS

A Sample Planning Group City Roster

B Sample Planning Group Public Roster

C Sample Planning Group Annual Report

D Community Planners Committee Membership Data Form

E Council Policy Ordinance No. O-19883, "An Ordinance Providing for Defense and Indemnification of Community Planning Groups"

Attachment A

XXX Planning Group
City Use Roster – Month, Year

Chair
Name Telephone Number Fax Number
Address
City, State Zip Code Term expiration Seat (if applicable)
Email Address Initial Term Date with Uninterrupted Service

Vice Chair
Name Telephone Number Fax Number
Address
City, State Zip Code Term expiration Seat (if applicable)
Email Address Initial Term Date with Uninterrupted Service

Secretary
Name Telephone Number Fax Number
Address
City, State Zip Code Term expiration Seat (if applicable)
Email Address Initial Term Date with Uninterrupted Service

Treasurer
Name Telephone Number Fax Number
Address
City, State Zip Code Term expiration Seat (if applicable)
Email Address Initial Term Date with Uninterrupted Service

Elected Members [list each individually]

Name Telephone Number Fax Number
Address
City, State Zip Code Term expiration Seat (if applicable)
Email Address Initial Term Date with Uninterrupted Service

Community Planner
Name Phone Number Fax Number
San Diego Planning Department
202 "C" Street, MS-4A
San Diego, CA 92101
Email Address

Last updated XXX

Attachment B

XXX Planning Group
Public Roster - Month, Year

Chair

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration/Initial Term Date	Seat (if applicable)
Email Address		

Vice Chair

Name	Term Expiration/ Initial Term Date	Seat (if applicable)

Secretary

Name	Term Expiration/ Initial Term Date	Seat (if applicable)

Treasurer

Name	Term Expiration/ Initial Term Date	Seat (if applicable)

Elected Members

List Each Name	Term Expiration/ Initial Term Date	Seat (if applicable)

Community Planner

Name	Phone Number	Fax Number
San Diego Planning Department		
202 “C” Street, MS-4A		
San Diego, CA 92101		
Email Address		

XXX Community Planning Group meets monthly on the XXX Day of each month at Location.

For more information on XXX Community Planning Group, contact Name, Chairperson, at phone number/email address.

Last updated XXX

Attachment C

ANNUAL REPORT OF THE
XXX PLANNING GROUP
Month, Year – Month, Year

Section I. Introduction.

Include the name of the planning group, its officers and any subcommittees.

Section II. Administrative Issues.

Include the number of meetings held, membership changes, numbers and categories of membership, revisions to the planning group's bylaws, procedures and/or policies.

Section III. Community Plan Preparation and Implementation.

Provide a chronology of participation on a plan update or amendments, ordinance preparation/amendments and rezones, public facilities financing plan, etc. Include, if possible, specifics on key actions taken (dates and results of votes).

Section IV. Special Projects.

Document any special projects discussed and voted on by the planning group. Include specifics on any actions taken. Projects could include policy items, City or regional task forces, General Plan meetings, or political candidate as well as ballot forums.

Section V. Summary of Project Review.

Document the planning group's review and/or actions taken on major discretionary projects. List this information by project name and location if possible. Discretionary projects include variances, street vacations, planned development permits and coastal development permits.

Section VI. Planning Group Objectives.

Address any or all of the above categories. Discussions might include how the planning group operates or interacts or special projects that the planning group would like to pursue.

Section VII. Roster Summary

Provide a summary of the initial roster with any additions and/or deletions along with a final roster.

Attachment D

Community Planners Committee Membership Data Form

COMMUNITY PLANNERS COMMITTEE (CPC) MEMBERSHIP DATA

Date:

Planning Group Name:

Chairperson's Name:

Chairperson's Address:

Email:

Chairperson, please check one box below:

☐ I am the CPC Representative ☐ I am not the CPC Representative

If the Chairperson is <u>not</u> the CPC Representative, please list the designated representative below:

The Planning Group's action on designated the CPC Representative as:
Date

Name:

Address:

Email:

Alternate CPC Representative:

The Planning Group's action on designated the Alternate CPC Representative as:
Date

Name:

Address:

Email:

Pursuant to the Community Planners Committee By-laws, this information must be received in order for any community planning group member to maintain active membership and voting eligibility rights in the Community Planners Committee. The completed form can be emailed to CPCommittee@sandiego.gov or faxed to (619) 234-6478. If you have any questions, please contact Diane Maglaras (619) 236-7067.

Attachment E

COUNCIL POLICY ORDINANCE No. O-19883, "AN ORDINANCE PROVIDING FOR THE DEFENCE AND INDEMNIFICATION OF COMMUNITY PLANNING GROUPS."

51

(O-2009-154)
COR. COPY

ORDINANCE NUMBER O-19883 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 28 2009

AN ORDINANCE PROVIDING FOR DEFENSE AND INDEMNIFICATION OF COMMUNITY PLANNING GROUPS.

WHEREAS, the successful implementation of the General Plan of the City of San Diego requires the thoughtful and deliberate development and implementation of community plans; and

WHEREAS, the development of community plans requires the cooperation and participation of citizens who have the personal knowledge of the needs and aspirations of their respective communities; and

WHEREAS, the City Council has adopted Council Policy 600-5 entitled "Community Plans" which provides, in part, that citizens' groups be established for the purpose of providing a formal organizational structure for coordination and communication with City planning staff; that said citizens' organizations shall contain as broad a base of local representation as is feasible and practical; and that groups be aware of their duties and responsibilities in the planning process and express a willingness to accept such responsibilities; and

WHEREAS, the City Council has adopted Council Policy 600-9 entitled "Community Planners Committee" which provides, in part, that, in an advisory capacity, the Community Planners Committee [CPC] shall participate in reviewing and recommending to appropriate bodies actions deemed necessary and desirable for the timely and continued effectuation of goals, objectives and proposals contained in the General Plan and that it shall serve in an advisory capacity to the community planning groups with a primary goal of achieving maximum coordination of planning matters on a comprehensive or citywide basis, and promotion of solutions of matters of mutual concern shared among the communities of San Diego; and

WHEREAS, the City Council has adopted Council Policy 600-24 entitled "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups," which provides a procedure under which citizens who are interested in participating in the planning process in an advisory capacity may form organizations and request recognition, in their advisory capacity, by the City Council as community planning groups; and

WHEREAS, community planning groups devote countless hours of their time and substantial private resources in assisting the City of San Diego in the development and implementation of community plans and the General Plan; and

WHEREAS, both community planning group members and non-members serve together on subcommittees of community planning groups and perform a necessary function in the planning process; and

WHEREAS, the voluntary efforts of community planning groups and subcommittee members are of inestimable value to the citizens of the City of San Diego; and

WHEREAS, recent developments have caused community planning groups not committee members and the CPC to become concerned about possible exposure to litigation arising from participation in the planning process; and

WHEREAS, the concerns about personal exposure to litigation continue to jeopardize the vitality of the planning process and, unless eliminated, may cause the collapse of the process that provides essential citizen participation; and

WHEREAS, the Council of the City of San Diego finds and declares that the provision of defense and immunity of any community planning group, or the elected or appointed members, subcommittee members, or former members thereof, acting in conformance with Council Policy 600-24, would constitute expenditure of public funds which serves the highest public interest and purpose; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. Except as hereinafter provided, the City of San Diego shall provide for the defense and indemnity of the following: the CPC established by Council Policy 600-9, and any community planning group, including its subcommittees, established pursuant to Council Policy 600-24, both entities hereafter referred to as "group"; and the duly elected or appointed members, subcommittee members, or former members, hereafter also referred to as "people" or "person," thereof against any claim or action against such group, member, or former member, if all of the following circumstances exist:

A. The person is, or was, a duly-elected or appointed member of a group recognized and operating in accordance with Council Policy 600-9 or Council Policy 600-24;

B. The person attended a Community Orientation Workshop [COW] conducted by the City of San Diego, prior to participating in the activity which gave rise to the claim or action against the group, member, or former member; or, if a COW was not yet available, prior to the person's participation at his or her first group meeting, the person read the Community Orientation Workshop Handbook and certified on the record at that meeting that the person completed such review, and then attended the first COW available to that person. Upon the availability of the COW electronically, a person shall be required to attend the COW or participate in the electronic version within sixty (60) days of being duly elected or appointed in order to qualify for the indemnity and defense provided herein;

C. The alleged act or omission occurred or was authorized during a lawful meeting of the group or subcommittee thereof;

D. The alleged act or omission was within the reasonable scope of duties of a group as described in Council Policies 600-5, 600-6, 600-9 and 600-24, and was not in

violation of any of those Council Policies, or any provision of the bylaws adopted by the group and approved and/or adopted by the appropriately-designated City officials or City entities;

E. The person or group made a request in writing to the City Attorney for defense and indemnification no later than ten (10) working days from being served or notified of such legal papers;

F. The person or group performed his, her or its duties in good faith with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances;

G. The person or group reasonably cooperates with the City Attorney in the defense of the claim or action; and

H. The person's or group's actions or failures to act were not due to actual fraud, corruption, actual malice or bad faith.

I. Any person who is a member of a subcommittee, and is identified on the record and within the minutes upon their election or appointment, or during the first planning group meeting that occurs after that person joins the subcommittee, whichever is earlier.

Section 2. In the event the City Attorney determines that a person or group is not entitled to or should not receive defense and indemnification under this ordinance, the City Attorney shall promptly advise the City Council and the person or group. The City Attorney shall not withdraw from such defense, and the City shall not deny such indemnification, under this section without the approval of the City Council. Nothing contained herein relieves the City of San Diego from its obligations under Section 1 to provide a defense and indemnification under the

conditions specified. The City of San Diego may provide a defense to a person or group under a reservation of rights.

Section 3. The provisions of this ordinance apply only to members, subcommittee members, or former members of groups established and recognized by the City Council pursuant to Council Policy 600-9 and Council Policy 600-24.

Section 4. Defense and indemnification shall not be provided by the City of San Diego in any administrative or judicial proceeding initiated by a group, its members, or its subcommittee members, against the City of San Diego, its agencies or representatives or any other party or organization nor shall representation and indemnification be provided to a group, its members, or its subcommittee members, against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by a group, its members, or its subcommittee members.

Section 5. In no event shall defense or indemnification be provided against a claim or judgment for punitive damages.

Section 6. This ordinance does not constitute an admission or a waiver of the position of the City of San Diego that groups and the members thereof are not officers, employees or servants of the City of San Diego.

Section 7. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Andrea Contreras Dixon
Deputy City Attorney

ACD:hm
05/22/09
COR. COPY 07/06/09
Or.Dept: City Attorney
O-2009-154
MMS #7405

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 21 2009.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 7-28-09
(date)

_____
JERRY SANDERS, Mayor

Vetoed: _____
(date)

_____
JERRY SANDERS, Mayor

O-19883

Passed by the Council of The City of San Diego on JUL 21 2009, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	☒	☐	☐	☐
Kevin Faulconer	☒	☐	☐	☐
Todd Gloria	☒	☐	☐	☐
Anthony Young	☒	☐	☐	☐
Carl DeMaio.	☒	☐	☐	☐
Donna Frye	☒	☐	☐	☐
Marti Emerald	☒	☐	☐	☐
Ben Hueso	☒	☐	☐	☐

Date of final passage JUL 28 2009.

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Sara Richardson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUL 07 2009, and on JUL 28 2009.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By Sara Richardson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O-19883

SUBJECT: COMMUNITY PLANNERS COMMITTEE
POLICY NO.: 600-09
EFFECTIVE DATE: February 20, 1975

BACKGROUND:

The increasing involvement of citizens of San Diego in planning programs is unique for many reasons, the more notable of which include the extent to which positive accomplishments are already emerging from this process coupled with the broadening citywide realization of the future benefits of insuring a better city that are possible from such efforts. The City Council, in early recognition of these advantages, established in 1965 Policy 600-05, clearly indicating official encouragement and support of citizen participation.

The adoption in 1967 of the Progress Guide and General Plan for the City of San Diego, the subsequent establishment in 1968 of Policy 600-07 setting forth a procedure for periodic review of the General Plan, the previously stated progress experienced in formulating, adopting and implementing community plans, all combine to illustrate the growing need to insure coordination between the General Plan, the many Community Plans and the many interrelated efforts required for their effectuation. Such coordination must be insured on a comprehensive citywide basis. Effort to insure this comprehensive coordination should maximize the invaluable knowledge, experience and dedication towards community planning and development already demonstrated by San Diego citizens. To this end, a citizens organization should be formed with principal focus upon the General Plan and citywide issues related to it in a way that would assist the City Council, Planning Commission and Planning Department and the City Manager in guiding future growth of the City. Establishment of this citizens organization would represent a continuation of the original concept of citizen involvement utilized in initially formulating the General Plan.

PURPOSE:

The purpose of this Policy is to establish a citizens organization responsible in an advisory capacity to the City on those matters related to the General Plan and respective Community Plans.

POLICY:

It shall be the policy of the City to provide on a continuing basis a citizens committee responsible for advising the City Council, Planning Commission and Planning Department, City Manager and other appropriate agencies on those matters related to the General Plan, its amendment, implementation, and coordination with Community Plans and related planning and development programs.

1. This citizens organization shall be composed of the chairman, or officially designated representative, or alternate of each of the community planning committees as recognized under City Council Policy 600-05, and shall be known as the “Community Planners Committee.”

2. In its advisory capacity, this citizens organization shall participate in reviewing and recommending to appropriate bodies actions deemed necessary and desirable for the timely and continued effectuation of goals, objectives and proposals contained in the General Plan.

3. This citizens organization shall be responsible for participating in an advisory capacity in the comprehensive review of the General Plan as prescribed in City Council Policy 600-07.

4. In the discharge of its responsibility in the five-year comprehensive review of the General Plan, this citizens organization shall function as a nucleus committee to which augmentation may be necessary and desirable to insure maximum utilization of local citizen resources. Selection of such augmentation shall be the responsibility of the Mayor and City Council and shall be only of such duration as is necessary to complete the preparation of General Plan revisions for recommendation to the Planning Commission and City Council for adoption.

5. This citizens organization shall undertake such other studies or make such recommendations on citywide issues related to the General Plan as may be requested by the City Council, Planning Commission and Planning Department, City Manager or other official City agency.

6. This citizens organization shall serve in an advisory capacity to the community planning committees officially recognized under City Council Policy 600-05 primarily to achieve the desired objective of insuring maximum coordination on a comprehensive or citywide basis and promotion of solutions of matters of mutual concern shared among the communities of San Diego.

7. To insure the successful discharge of the above functions, the citizens organization shall adopt rules of procedure calling for meeting schedules, methods of conduct of business and related matters as appropriate. Incidental staff clerical and related assistance as may be required shall be the responsibility of the Planning Department.

HISTORY:

Adopted by Resolution R-199050 02/12/1970
Amended by Resolution R-212667 02/20/1975

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OFFICE OF

THE CITY ATTORNEY

CITY OF SAN DIEGO

Michael J. Aguirre

CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

MEMORANDUM OF LAW

DATE: October 27, 2006

TO: William Anderson, Director
City Planning and Community Investment Department

FROM: City Attorney

SUBJECT: Application of the Brown Act to Meetings of Community Planning Groups and the Community Planners Committee

INTRODUCTION

In March 2000, this Office issued a Memorandum of Law to the Long Range Community Planning Director of the City of San Diego, concluding that the Ralph M. Brown Act [Act] did not apply to San Diego's recognized Community Planning Groups [CPGs]. In 2006, this Office must reverse this conclusion based on more recent California law that broadens what it means to "create" a legislative body that will be governed by the Act.

The Act is California's "Open Meeting Law." Its purpose is to assist the public's participation in local governmental decisions. To do that it establishes rules to ensure the actions and deliberations of public bodies, including certain advisory bodies, occur openly with public access and input.

Community Planning Groups, recognized by the San Diego City Council, are governed by Council Policy 600-24, first enacted in 1976. Since then, the Policy has been amended four times, most recently in October 2005. All versions of the Council Policy have consistently provided in some manner that: "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." Council Policy 600-24. The Policy's purpose is ". . . to identify responsibilities and to establish minimum operating procedures governing the conduct of planning groups when they operate in their officially recognized capacity." *Ibid.* The most recent amendment of the Policy reinforces this purpose by directing the City Planning Director in consultation with the Community Planners Committee [CPC] to prepare and maintain Administrative Guidelines for the CPGs. The Administrative Guidelines do not currently require specific compliance with the Act, but do require the meetings of the CPGs be open to the public "[i]n the spirit of open

meetings and community participation." Administrative Guidelines for Implementation of Council Policy 600-24 § 3.2 (April 26, 2006).

The Community Planners Committee [CPC] is governed by Council Policy 600-9. The Policy was enacted in 1970, and amended in 1975. Its express purpose is to "establish a citizens organization responsible in an advisory capacity to the City on those matters related to the General Plan and respective Community Plans." The CPC is to advise the City Council, Planning Commission, Planning Department, City Manager and other appropriate agencies on those matters related to the General Plan, its amendment, implementation and coordination with Community Plans and related planning and development programs." It is also asked to make recommendations to appropriate bodies, including the CPGs, to effectuate goals and proposals in the General Plan, and to undertake studies requested by the City Council, Planning Commission and Planning Department. The CPC consists of the chair or other official designee from each of the CPGs.

QUESTION PRESENTED

Does the Ralph M. Brown Act govern the meetings of San Diego's "recognized" Community Planning Groups and the Community Planners Committee?

SHORT ANSWER

Yes. The recognized Community Planning Groups and the Community Planners Committee are legislative bodies of the City of San Diego. Each body was created by the City Council's Policy that governs it. Accordingly, the meetings of these legislative bodies are subject to the Ralph M. Brown Act.

DISCUSSION

I. The Ralph M. Brown Act Applies To The Meetings Of Legislative Bodies Of Local Agencies.

The Ralph M. Brown Act was enacted in 1953. Cal. Gov't Code §§ 54950 – 54963.[1] It specifically requires that "[a]ll meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided." § 54953(a). The City of San Diego is a local agency within the meaning of the Act. § 54951.[2] "Meetings" governed by the Act are further defined as "any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains." § 54952.2(a).

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[1] Future section references are to the California Government Code unless indicated otherwise.
[2] Section 54951 states: "As used in this chapter, 'local agency' means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency."

The Act defines what types of groups or entities may be legislative bodies of a local agency in section 54952. The determinative factor is whether the CPGs and the CPC are "legislative bodies" of the City as that term is defined. If they are, their meetings must be governed by the Act.

II. The Brown Act Must Be Broadly Construed.

By its notice and open meeting requirements, the "Act . . . serves to facilitate public participation in all phases of local government decisionmaking and to curb misuse of the democratic process by secret legislation of public bodies. [Citation]." *Epstein v. Hollywood Entertainment District II,* 87 Cal. App. 4th 862, 868 (2001). Established case law and voter enactments occurring in 2004 also require courts to interpret the Act liberally in favor of openness in conducting public business. *Shapiro v. San Diego City Council,* 96 Cal. App. 4th 904, 917 (2002); Cal. Const. art. I, § 3(b)(2); San Diego Charter § 216.1(b)(2).

III. The Definition of Advisory Legislative Bodies Under The Act.

The main issue is whether the CPGs and CPC meet the legal definition of a legislative body set forth in section 54952(b) of the Act. That section defines a legislative body, in part, as "[a] commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, *created by* charter, ordinance, *resolution*, or *formal action* of a legislative body." [Emphasis added]. Plainly, the CPGs and CPC are advisory bodies to the City Council and to other City Departments. The City Council of San Diego is the legislative body of the City of San Diego. San Diego Charter § 11. The question is whether the City Council legally created these advisory bodies by resolution or formal action.

A. Resolution or Formal Action.

Section 54952(b) requires a City Council to take some action in order to "create" an advisory body that meets the definition of a legislative body. The section provides that action may be by "resolution" or by other "formal" action. The enactment of a formal policy by a legislative body that creates an advisory body also legally qualifies as a "formal action" under the Act. *Frazer v. Dixon Unified School District*, 18 Cal. App. 4th 781, 782 (1993). This Office concludes that either the passage of the resolutions enacting Council Policies 600-24 and 600-9, or the adoption of the Council Policies themselves meet this legal requirement.

B. The Legal Meaning and Definition of "Created By."

International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc., 69 Cal. App. 4th 287 (1999) provided a legal definition for the phrase "created by" as it is used in section 54952 of the Act. In this case, the Los Angeles City Charter gave the City Council the authority to appoint members to the Harbor Commission and to overturn any of its actions. The case involved a lawsuit by a union against a private corporation (LAXT) established with the assistance of the Harbor Department and approval of the Los Angeles Harbor Commission. The court was asked whether this private corporation was a legislative body created by the Los Angeles City Council and therefore subject to the Act.

In holding that it was, the court accepted the common definition of "to create" as meaning "to bring into existence." *International Longshoremen's,* 69 Cal. App. 4th at 295 (1999). Significantly, the court did not require the elected legislative body's participation in the creation process to be exclusive. The City Council needed only to play a role or be involved in bringing the corporation into existence with the Harbor Commission to create the corporation under the Act. *Id.* at 295, 296. The court found the City Council had played such a role because the private corporation could not have been created "without the express or implied approval of the City Council." The Harbor Department had created the corporation with the Commission's approval. But the City Council had overall authority over the Harbor Commission, and had acted to approve the Department's contract with the corporation and to approve an extended lease of City land to be used by the corporation. Thus, the court decided the corporation was "created by" the City Council and subject to the Act.

Epstein v. Hollywood Entertainment District II, 87 Cal. App. 4th 862 (2001) further broadened and clarified the legal meaning of "created by" as used in section 54952. This case involved the Los Angeles City Council's creation of a Business Improvement District [BID]. Thereafter a group of citizens voluntarily formed a private corporation. The Council designated that corporation to operate the BID. The City Council had no direct or implied authority to appoint any members of the corporation they selected to operate the BID. Yet, the court found the City Council had "created" the corporation within the legal meaning of section 54952. The operative BID, created by the City Council, "was the *raison d'être* for the [corporation]; by giving the BID the legal breath of life, the City breathed life into the [corporation] as well." *Id.* at 873; *see also,* 85 Op. Cal. Att'y Gen. 55 (2002) [City Council played a role in creating private corporation whose board was appointed by a different agency.]

Based on this legal authority, a City Council creates an advisory body under section 54952(b) if the Council's formal action or resolution "plays a role" in the creation of the advisory body, it is "involved in" bringing the advisory body into existence, or it creates the *raison d'être* for the advisory body.

IV. The City Council "Created" the Community Planners Committee and the Community Planning Groups.

A. The Recognized Community Planning Groups.

The memorandum of law our Office produced in 2000 concluded that community planning groups do not meet the Act's definition of a legislative body because the City does not create them or annually appoint their membership, but simply recognizes them.[3] However, in 2001, the *Epstein* case clarified that a City Council can "create" a legislative body under the Act, even though the Council does not have the power to appoint members. *See also* 85 Op. Cal. Att'y Gen. 55 (2002) [City Council played a role in creating private corporation whose board

[3] The 2000 memorandum also implies the need for some delegation of authority in the creation of an advisory body for it to be a legislative body. We disagree. Section 54952(b) requires no delegation of authority to the legislative bodies it defines. This is in contrast to the legislative bodies defined in section 54952(c)(1)(A), which do require the intent to lawfully delegate authority.

was appointed by a different agency.] The legal test is now much easier to meet. It is simply whether the City Council played a role in the creation of the CPGs. Accordingly, this Office believes a court would conclude the City Council did play a role in the creation of the CPGs when it enacted Council Policy 600-24.

Council Policy 600-24's language sends a mixed message. The Policy concludes that the CPGs are "private organizations." However, it also says the CPGs were "formed and recognized by the City Council." This office concludes the former statement should have no impact on question whether the City Council legally created these advisory bodies. Ultimately, that "is . . . a question of law." *Epstein,* 87 Cal. App. 4th at 876. The requirements for the CPGs set forth in Council Policy 600-24 support the conclusion the City Council played a role in their creation.

Although there is no requirement that the Council appoint members to these groups to meet the legal definition, the Council Policy still requires the City Council to approve the groups' initial members and bylaws by resolution for them to gain "recognized" status. The City Council also sets the purposes for the CPGs' meetings by imposing official duties on them and significantly regulating their conduct in the mandatory minimum bylaws it imposes. The Council retains ultimate authority over the CPGs by reserving to itself the authority to approve the initial members and bylaws of a CPG, without which there is no recognized status; to approve any amendments to a group's bylaws; and to terminate a group's official recognition status. The City Planning Department's website expressly directs citizens who wish to participate in the planning process to form officially-recognized planning groups; the City's Planning Department provides support and training for the groups; and the City has under certain circumstances agreed to indemnify group members who may be sued performing the services they provide to the City.[4]

By creating a sub-set of community planning groups that are officially recognized by the City Council in this Council Policy, the City Council provided their *raison d'être.* When it gave Council Policy 600-24, the "legal breath of life," the City Council also breathed legal life into the CPGs as "legislative bodies" within the meaning of section 54952(b), as the law is currently interpreted. Accordingly, each recognized Community Planning Group meets the definition of a legislative body under the Brown Act and the meetings of each are subject to that Act.

B. The Community Planners Committee.

Council Policy 600-9 was enacted by City Council resolution for the express purpose of establishing the CPC as a City advisory body. The Policy designates the members of the CPC as the chairpersons of, or other members selected by, the CPGs. The body is advisory to the City Council, other City agencies and departments, and to the CPGs. The City Planning Department provides support to this committee. The City Council has the inherent authority to repeal the resolution creating this Policy, and the CPC would cease to exist. *See* 6 McQuillin Mun. Corp. § 21.10 (3rd ed. 2006).

The sole purpose of this Policy, passed by City Council resolution, is to create this committee: without it the CPC would not exist. Council Policy 600-9 did not simply play a role in the committee's creation, it played the only role. Accordingly, this Office concludes the City

[4] *See* San Diego Ordinance O-17086 (April 25, 1988).

Council created the Community Planners Committee, making it a legislative body within the meaning of section 54952(b) of the Act, and that its meetings are subject to the Act.

V. Standing Committees of the CPGs and the CPC Legislative Bodies.

The Council Policies do not require either the CPGs or the CPC to create standing committees. However, because the CPGs and the CPCs are considered legislative bodies under the Act, if they create standing committees, those committees will also become legislative bodies under section 54952(b), requiring them to meet Act provisions.

The remainder of section 54952(b) provides:

> However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

There are two types of committees discussed in this portion of section 54952(b): (1) ad hoc or temporary advisory committees, and (2) standing committees.

Ad hoc committees are *not* subject to the Act's requirements so long as they are advisory only; they are composed solely of members of the legislative body; they consist of less than a quorum of the legislative body; and they have a defined purpose and time frame to accomplish that purpose. *See Joiner v. City of Sebastopol*, 125 Cal. App. 3d 799, 805 (1981)

Standing committees *are* subject to the Act. They are either those committees which have "continuing subject matter jurisdiction" *or* "a meeting schedule fixed" by some formal action of the legislative body. For example, these could be executive committees, rules committees, budget or finance committees, or any committee designated to meet at a certain regular time by the legislative body. For other examples, please see *The Brown Act: Open Meetings For Legislative Bodies*, Office of the California Attorney General, Civil Law Division (2003) at pages 5 to 6.

CONCLUSION AND RECOMMENDATIONS

The recognized Community Planning Groups created by Council Policy 600-24 and the Community Planning Committee created by Council Policy 600-9 are legislative bodies of the City of San Diego. Thus, their meetings are governed by the provisions of the Ralph M. Brown Act. Should the CPC or any CPG create standing committees, the meetings of those committees must also comply with the Act.

The City Council's creation of these advisory bodies triggered the application of the Brown Act to them and the City Council's repeal of the policies and ordinances involved would end that application. This Office does not recommend that course of action. The CPGs and the CPC provide valuable information and services to the City of San Diego. Their performance and

conduct are enhanced by the requirements set forth in the Council Policies and Administrative Guidelines that have been enacted and promulgated.

The City Attorney recommends the Policies and Guidelines be amended to require the CPGs and the CPC to hold their meetings, the meetings of any executive boards and standing committees, in compliance with the Act. This Office also recommends the Planning Department inform the CPGs and CPC of our conclusion and request they implement procedures to comply with the Act.

The CPGs and CPC already conduct their meetings publicly and comply with many of the Act's requirements. For example, under Council Policy 600-24 the CPGs must prohibit proxy or absentee voting, allow participation of property owners affected by a development and for public comment on any proposed development under review, conduct their business and hold substantive discussions on noticed agenda items in a public setting, and must prohibit serial or secret meetings. This conclusion should not substantially impact the meeting procedures of these bodies.

The Attorney General's excellent free manual "The Brown Act: Open Meetings For Legislative Bodies (2003)" is available at its website http://caag.state.ca.us/publications/#opengovernment . This Office will prepare a general summary of the Act's requirements that are not currently required by Council Policy 600-24 to assist in their implementation. This Office will also assist the Planning Department in providing additional guidance to these groups and to the CPC. The City Attorney expects the CPGs and the CPC will substantially comply with the Act's requirements.

MICHAEL J. AGUIRRE, City Attorney

By
Michael J. Aguirre
City Attorney

JAK:pev:jab
cc: Honorable Mayor Sanders
Councilmembers
Betsy McCullough, Deputy Director
ML-2006-26

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: October 27, 2009

TO: Mary Wright, Planning Division Deputy Director, City Planning & Community Investment

FROM: City Attorney

SUBJECT: Community Planning Groups Review of CEQA Documents

INTRODUCTION

The City Planning & Community Investment Department has requested an opinion as to whether Community Planning Groups [CPGs] must consider California Environmental Quality Act [CEQA] documents prior to making recommendations on development projects. Two CEQA Guidelines sections govern the duties of advisory bodies to review and consider environmental documents prior to making recommendations on projects, CEQA Guidelines sections 15025 and 15074.[1] Some have argued that CEQA Guidelines section 15074 requires that CPGs review CEQA documents before making recommendations on development projects.

QUESTION PRESENTED

Must CPGs review CEQA documents prior to making recommendations on development projects?

SHORT ANSWER

CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

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[1] All references to CEQA Guidelines are to the current California Code of Regulations, title 14, sections 15000-15387. The CEQA Guidelines are afforded "great weight" by the courts. *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 n. 2 (1988).

BACKGROUND

I. CEQA

The first CEQA Guidelines section to treat advisory body review of CEQA documents is section 15025, which is found within Article 2, entitled "General Responsibilities." This Guidelines section governs what specific functions the City may delegate to its staff to administer CEQA. CEQA Guidelines section 15025 states that "[w]here an advisory body such as a planning commission is required to make a recommendation on a project to the decisionmaking body, the advisory body shall also review and consider the EIR or Negative Declaration in draft or final form." CEQA Guidelines § 15025(c).

The second CEQA Guidelines section concerning advisory body review is found in Article 6, which governs the negative declaration process. There, CEQA Guidelines section 15074 states that "[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation." CEQA Guidelines § 15074(a).[2] Note that this CEQA Guidelines section concerns only negative declarations; it does not mention EIRs.

II. COUNCIL POLICY 600-24

City Council Policy 600-24 recognizes CPGs and governs their conduct. The Policy's Background statement reads:

> 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.

See Council Policy 600-24 Background. This statement establishes that the primary purpose of CPGs is to assist the City with community plans and other planning activities. It also demonstrates that reviewing a development project is a secondary function of CPGs that they perform "as requested by the City." *Id.* Furthermore, the Council Policy does not require CPGs to make recommendations on all development projects. The Policy's language only states that CPGs "*advise* on other land use matters *as requested* by the City or other governmental agencies." *Id.* (emphasis added).

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[2] Neither CEQA Guidelines section treats exemptions from CEQA. Therefore, there is no basis for asserting that CPGs are required to review determinations that a project is exempt from CEQA.

That the primary purpose of CPGs is to assist the City with planning issues, rather than development project review, is further demonstrated by the duties imposed by the Policy on CPGs and their members. According to the Policy: "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." Council Policy 600-24 art. VI, section 1. This section, governing the duties of CPGs, makes no mention of development project review.

ANALYSIS

I. CEQA GUIDELINE SECTION 15025 DOES NOT REQUIRE THAT CPGS REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS ON DEVELOPMENT PROJECTS.

The mandates of CEQA Guidelines section 15025 do not apply to CPGs. Two elements of CEQA Guidelines section 15025 renders its requirement that advisory bodies review CEQA documents prior to making recommendations on projects inapplicable to CPGs. First, CEQA Guideline section 15025's requirement applies only to an "advisory body such as a planning commission . . . ." CEQA Guidelines § 15025(c). As discussed below, CPGs are not advisory bodies like planning commissions. Second, CEQA Guidelines section 15025 requires CEQA review only "[w]here an advisory body . . . is required to make a recommendation on a project." *Id.* As mentioned above, and discussed below, CPGs are not required to make recommendations on all development projects.

A. <u>CEQA Guidelines Section 15025 Does Not Apply Because CPGs Are Not Advisory Bodies Under this Section.</u>

CEQA Guidelines section 15025 qualifies an "advisory body" to which its requirements apply with the phrase "such as a planning commission." CPGs, while they may be advisory bodies, differ from a planning commission in a number of important respects. These significant differences render the requirements of CEQA Guidelines section 15025 inapplicable to CPGs.

CPGs have no delegated authority to take actions on behalf of the City. Council Policy 600-24 Background. In contrast, the City's Planning Commission, as with most other planning commissions throughout the state, has been delegated significant decision making authority. Cal. Gov't Code § 65101; San Diego Charter § 41(c); SDMC § 111.0202. Not only does the City's Planning Commission decide many land use matters outright, it also hears appeals of matters decided by City staff, and is required to make recommendations to City Council on other matters. San Diego Charter § 41(c); SDMC § 112.0507 ("An application for a permit, map, or other matter acted upon in accordance with Process Four may be approved, conditionally approved, or denied by the Planning Commission."); SDMC § 112.0506 ("The Hearing Officer's decision may be appealed to the Planning Commission"); SDMC § 112.0509 (b) ("Before the City Council decision, the Planning Commission shall hold a public hearing to consider the

application . . . . At the conclusion of the public hearing, the Planning Commission shall make a written recommendation to the City Council to approve, conditionally approve, or deny the application.").

CPGs differ from an "advisory board such as a planning commission" for the additional reason that they are not created by law. The Planning Commission was created via the City Charter. San Diego Charter § 41(c). In contrast, CPGs are a creation of city policy only and "are voluntarily created and maintained by members of communities within the City." Council Policy 600-24 Background. Therefore, the requirements of CEQA Guidelines section 15025, which concern the delegation of authority within a local agency such as the City, do not apply to CPGs.

B. <u>CEQA Guidelines Section 15025 Does Not Apply For the Additional Reason that CPGs Are Not Required to Make Recommendations on All Development Projects.</u>

Even if CPGs were advisory bodies "such as a planning commission," CEQA Guidelines section 15025 would not require that they review CEQA documents before making recommendations on all development projects. CEQA Guideline section 15025 requires that an advisory body review EIRs and negative declarations only if the body is required to make a recommendation on the project for which those documents have been prepared. As stated above, Council Policy 600-24 does not require that CPGs make recommendations on all development projects. Rather, it states that CPGs make recommendations on specific projects at the request of the City.[3] Accordingly, even if CEQA Guidelines section 15025 applied to CPGs as advisory bodies, they would be required to review CEQA documents only if their recommendations were sought by the City.

This conclusion is supported by the only published case to examine the requirements of CEQA Guidelines section 15025(c). *See Tracy First v. City of Tracy*, 177 Cal. App. 4th 1 (2009) ("*Tracy First*"). In *Tracy First*, the court examined whether the City of Tracy's planning commission had complied with the requirement that it review an EIR associated with a zoning action before making a recommendation to the Tracy city council. In conducting this analysis, the court noted that "because the City's municipal ordinances required the planning commission to review zoning decisions and make a recommendation to the city council before the city council could act," CEQA Guidelines section 15025(c) applied. *Tracy First*, 177 Cal. App. 4th at 9. In contrast, nowhere does the San Diego Municipal Code require CPGs to make recommendations on development projects before City Council can act. Therefore, under this

[3] There are three exceptions. The Centre City, San Ysidro, and Southeastern San Diego Planned District Ordinances [PDOs] require certain community planning groups to provide recommendations concerning certain development permits. *See* SDMC § 156.0303(e)(1)(B)(ii) (requiring the Centre City Advisory Committee to make recommendations on projects of greater than 100,000 ft^2 gross floor area or 50 dwelling units requiring Centre City Development Permits); SDMC § 1518.0202(e) (requiring the San Ysidro Community Planning Committee to provide recommendations on San Ysidro Development Permits); SDMC § 1519.0204 (requiring that the "recognized planning group with responsibility for the area in which the project is proposed" in the Southeastern San Diego Planned District review discretionary permits).

case, CPGs would not be required to review CEQA documents prior to making a recommendation under CEQA Guidelines section 15025 unless requested to do so by the City.

II. CEQA GUIDELINE SECTION 15074 DOES NOT REQUIRE THAT CPGS REVIEW CEQA DOCUMENTS PRIOR TO MAKING RECOMMENDATIONS ON DEVELOPMENT PROJECTS.

A. The Language of CEQA Guidelines Section 15074

CEQA Guidelines section 15074 states that "[a]ny advisory body of a public agency making a recommendation to the decisionmaking body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation." CEQA Guidelines § 15074(a). This CEQA Guidelines section does not qualify advisory bodies, as does CEQA Guideline section 15025, as those "such as [] planning commission[s]" and those that are required to make recommendations on projects.

This difference in the language between the Guidelines sections presents a question as to what advisory bodies are covered by CEQA Guidelines section 15074. Neither CEQA nor its Guidelines provide a definition of advisory body. Cal. Pub. Res. Code §§ 21060 to 21072 (statutory definitions); CEQA Guidelines §§ 15350 to 15387 (CEQA Guidelines definitions). No court has squarely addressed the issue of what constitutes an advisory body for purposes of CEQA Guidelines section 15074. Nor has the California Resources Agency provided guidance regarding what advisory bodies are covered by CEQA Guidelines section 15074.

B. Rules of Statutory Construction Determine that CEQA Guidelines Section 15074 Does Not Apply to CPGs.

Given that CEQA, the CEQA Guidelines, and the courts have not defined the term "advisory body" for purposes of CEQA, we turn to principles of statutory construction to determine whether CPGs should be considered advisory bodies for purposes of CEQA Guidelines section 15074. *Head v. Civil Service Comm'n of San Diego County,* 50 Cal. App. 4th 240, 243 (Cal. App. 4 Dist. 1996) ("'Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies.'") (quoting *Cal. Drive-In Restaurant Assn. v. Clark,* 22 Cal. 2d 287, 292 (1943)).

Interpretation of "advisory body" in the CEQA Guidelines begins with the fundamental principle that "[t]he objective of statutory construction is to determine the intent of the enacting body so that the law may receive the interpretation that best effectuates that intent." *Fitch v. Select Products Co.*, 36 Cal. 4th 812, 818 (2005) (citing *Hassan v. Mercy American River Hospital*, 31 Cal. 4th 709, 715 (2003)). To ascertain that intent, one "turn[s] first to the words of the statute, giving them their usual and ordinary meaning." *Nolan v. City of Anaheim*, 33 Cal. 4th 335, 340 (2004) (citing *People v. Trevino*, 26 Cal. 4th 237, 240 (2001)).

In the face of ambiguity, however, the usual and ordinary meaning of the words is not enough. "[T]he purpose of statutory construction is not merely to declare the plain meaning of the words used; the purpose is to understand the intent of the lawmakers, and the goal of that inquiry, in turn, is to give maximum effect to that intent." *Rossi v. Brown*, 9 Cal. 4th 688, 716 (1995) (Mosk, J. dissenting). To effectuate this goal, "[s]tatutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible." *Dyna-Med, Inc. v. Fair Employment & Housing Com.*, 43 Cal. 3d 1379, 1386-1387 (1987) (citing *California Mfrs. Assn. v. Public Utilities Comm'n*, 24 Cal. 3d 836, 844 (1979)). Furthermore, "[i]t is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. v. Andrews,* 534 U.S. 19, 31 (2001) (quotations and citations omitted); *see also Williams v. Superior Court of San Bernardino County*, 5 Cal. 4th 337, 357 (1993) ("An interpretation that renders statutory language a nullity is obviously to be avoided.").

These rules require that the term "advisory body" be given the same meaning in both CEQA Guidelines sections 15025 and 15074. This is required to harmonize the CEQA Guidelines sections. CEQA Guidelines section 15025 covers both EIRs and negative declarations. CEQA Guidelines section 15074 covers negative declarations. Thus, interpreting the term advisory body consistently in both CEQA Guidelines sections is necessary to prevent an impermissible conflict with respect to the same subject. *Dyna-Med, Inc.,* 43 Cal. 3d at 1386-1387 ("Statutes or statutory sections relating to the same subject must be harmonized . . . with each other, to the extent possible.").

The rules of statutory construction also mandate that the term "advisory body" be interpreted consistently with its meaning in CEQA Guidelines section 15025; *i.e.*, an advisory body such as a planning commission that is required to make a recommendation. This is required to avoid nullifying the language of CEQA Guidelines section 15025. Interpreting "advisory body" for purposes of both CEQA Guidelines sections to mean *any* advisory body, whether or not like a planning commission and whether or not required to make a recommendation, would render those qualifying phrases in Guidelines section 15025 superfluous, which is forbidden. *TRW Inc.,* 534 U.S. at 31; *Williams*, 5 Cal. 4th at 357. The advisory bodies required to review CEQA documents for purposes of *both* Guidelines sections 15025 *and* 15074 are therefore advisory bodies such as planning commissions that are required to make recommendations on projects. It necessarily follows that CPGs are not required by CEQA Guidelines sections 15025 or 15074 to review CEQA documents prior to making recommendations on development projects.

The only case to mention CEQA Guidelines section 15074 in reference to an advisory body supports this conclusion. The court in *Nasha L.L.C. v. City of Los Angeles* stated in its recitation of the facts, without analysis, that the Mulholland Design Review Board [Mulholland DRB] was an "advisory body" to which CEQA Guidelines section 15074 applied for purposes of its review of a proposed project. *Nasha L.L.C.,* 125 Cal. App. 4th 470, 475 (2004).

This decision did not expand the boundaries of the term advisory body in CEQA Guidelines section 15074 beyond that in CEQA Guidelines section 15025. The City of Los Angeles established the Mulholland DRB via ordinance as an official advisory board. The Los Angeles City Council empowered the Board to review projects falling within the Mulholland Scenic Parkway Specific Plan, and required that the Mulholland DRB make recommendations concerning those projects. *See* Mulholland Scenic Parkway Specific Plan *at* <http://cityplanning.lacity.org/complan/specplan/sparea/mulholpage. htm> (click on "Text" link) (visited June 19, 2009). The City of Los Angeles' formal creation of the Mulholland DRB and delegation to it of responsibilities for project review are attributes of advisory bodies such as planning commissions that are required to review CEQA documents under Guidelines section 15025. The requirement that the Mulholland DRB make recommendations on development projects puts it squarely within the bounds of CEQA Guidelines section 15025 as well. As discussed above, CPGs share none of these attributes.[4]

CONCLUSION

For the reasons stated above, CPGs are not required by law to review CEQA documents prior to making recommendations on development projects.

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[4] This opinion counsels that the La Jolla Shores Advisory Board [LJSAB], in contrast to CPGs, may be required to review CEQA documents before making recommendations on development projects. The LJSAB is similar to the Mulholland Design Review Board in that the LJSAB was established by ordinance of the City of San Diego. SDMC § 1510.0105. On the other hand, the LJSAB differs from the Mulholland DRB in that the La Jolla Shores PDO requires that the LJSAB make recommendations only on permits referred to it by the City. SDMC § 1510.0105 (b).