

June 10, 2022

Honorable Vivian Moreno
Chair, Land Use and Housing Committee
202 C Street
San Diego, CA 92110

Re: Proposed Amendments to Council Policy 600-24
Oppose Unless Amended

Dear Committee Chair Moreno:

On May 24, 2022, the Community Planners Committee (CPC), which is composed of the leaders of San Diego's Community Planning Groups, voted to Oppose Unless Amended the proposed amendments to Council Policy 600-24 authored by Council Member Joe LaCava. The CPC has collaborated with Council Member LaCava on his proposal and believes the concerns raised in this letter can be resolved by amendments.

Our concerns involve two portions of the proposal:

- I. Remove the imposition of fees for appeals by the Community Planning Groups.

Council Member LaCava's proposal would require Community Planning Groups (CPGs) to pay the same fee for appeals as private appellants. However, CPGs are not just like private appellants.

CPGs are recognized by the City of San Diego as the official voice of their communities in land use matters. (City Attorney Report to the Land Use and Housing Committee, December 3, 2019, p. 1.) The San Diego City Council has found that CPGs devote countless uncompensated hours to assist the City in developing and implementing community plans and the General Plan. It further determined that CPGs perform a necessary function in the planning process, and that CPGs are "of inestimable value to the citizens of the City of San Diego." (San Diego Ordinance 0-19833 (July 28, 2009); City Attorney Report of December 3, 2019, p. 7.)

Moreover, CPGs are not allowed to charge fees to fund appeals, unlike private appellants for whom fee payment is a cost of doing business. For example, CPGs are prohibited from imposing membership dues. Particularly for CPGs representing less affluent communities, the LaCava proposal would place CPGs at a worse position than other appellants. It would effectively disarm those planning groups.

Even in court proceedings where filing fees are required, court rules provide for fee waivers for those without sufficient funds, so as not to close the courthouse doors to those who seek redress. The United States Supreme Court has the *in forma pauperis* fee waiver process which has been used in groundbreaking decisions. CPGs are in an analogous situation.

In addition, because CPGs rarely file appeals, this is not a matter of abuse of the process. Instead, the proposal is a solution in search of a problem. The Committee should reject that part of the proposal.

II. Imposing a two-year break for serving on CPGs

Council Member LaCava proposes that the existing term limits for service on CPGs also require a two-year gap before a termed-out member may seek election. The proposal would exacerbate the difficulty in recruiting members for CPGs when the community wants to have those persons on the board. Even in lobbying regulations there is only a one-year gap required for lobbying former colleagues. No advocacy group has suggested that the two-year gap is needed.

Please note that the City Attorney's Office, in analyzing proposals to amend Council Policy 600-24, stated that the two-year gap "recommendation impermissibly intrudes on the internal operations and governance of an independent entity." (City Attorney report of November 9, 2020, Attachment C, p. 3.)¹ The two-year gap proposal for serving on CPGs should be removed.

The CPC urges the Committee to delete the two above-referenced portions of the proposal. They are not critical to the other portions of the amendments to Council Policy 600-24. This will remove the CPC's Opposition to the proposal.

¹ CPGs are not created by ordinance. Their members are not City employees and are not appointed by the Mayor. Instead, the City Council defines CPGs as independent "private organizations" which the Council, by resolution, formally recognizes. CPGs have a legal status separate from the City. (City Attorney Report of December 3, 2019, pp. 2-3.)

Please feel free to contact the CPC regarding this letter of Opposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas W. Reed". The signature is fluid and cursive, with the first name "Nicholas" written in a larger, more prominent script than the last name "W. Reed".

NICHOLAS REED

Acting Chair

Community Planners Committee

Cc: Hon. Joe LaCava
Hon. Stephen Whitburn
Hon. Chris Cate