

Community Orientation Workshop Handbook

COW 2017

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.*

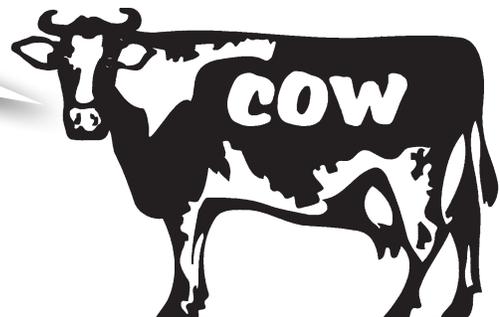


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COW 2017





THE CITY OF SAN DIEGO

May 5, 2017

Community Planning Group Members:

Thank you for participating in the City's Community Orientation Workshop (COW). 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. In order to be indemnified by the City, a person must attend the COW or participate in the electronic version (ECOW) within 60 days of being duly elected or appointed.

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,

Jeff Murphy
Director
Planning Department

Planning Department

1010 Second Avenue, MS 413 • San Diego, CA 92101
Tel (619) 235-5200 Fax (619) 533-5951

COW 2017



CITY OF SAN DIEGO

GENERAL INFORMATION

KEY CITY OF SAN DIEGO DECISION FORUMS

THE MAYOR

Effective 2010, voters in the City of San Diego (City) made permanent the Strong Mayor form of government. 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 nine 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, 7, and 9 elected in 2016, 2020, etc., Districts 2, 4, 6 and 8 elected in 2014, 2018, 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 nine standing committees to facilitate the legislative process. Generally, the committees meet 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. Below is a list of the standing Council Committees:

- Audit Committee
- Budget and Government Efficiency Committee
- Budget Review Committee
- Economic Development and Intergovernmental Relations Committee
- Environment Committee
- Infrastructure Committee
- Rules Committee
- Public Safety and Livable Neighborhoods Committee
- Smart Growth and Land Use Committee

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



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 nine Councilmembers, the City Attorney, the City Clerk and interested citizens.

Council Meeting Procedures

At least five members of the nine-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 Council President is responsible for running the meeting.

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/city-clerk/officialdocs/legisdocs/dockets.shtml>.

Many of the legislative and policy 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. In addition, live broadcasting of City Council meetings is available at: <http://www.sandiego.gov/>.

PLANNING COMMISSION

Duties:

The Planning Commission consists of seven members appointed by the Mayor and confirmed by the City Council. Planning Commissioners may be appointed to up to two, four-year terms. The Planning Commission conducts hearings on special use permits, all rezoning, all community plans, and the General Plan. The Planning Commission acts as the decision maker for permits, maps, and other matters in accordance with the discretionary decision-making procedures of the Land Development Code. Considerations of land use ordinances and such other improvements as



City Council may, or by ordinance, determine is also within the purview of the Planning Commission. 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:

The Historical Resources Board consists of eleven members and 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/planning/programs/historical/board/index.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. The Housing Commission can approve plans, specifications, agreements, expenditures and such other matters as the Housing Authority may from time to time delegate by resolution. The web site for the Housing Commission is: <http://www.sdhc.org/>.

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:

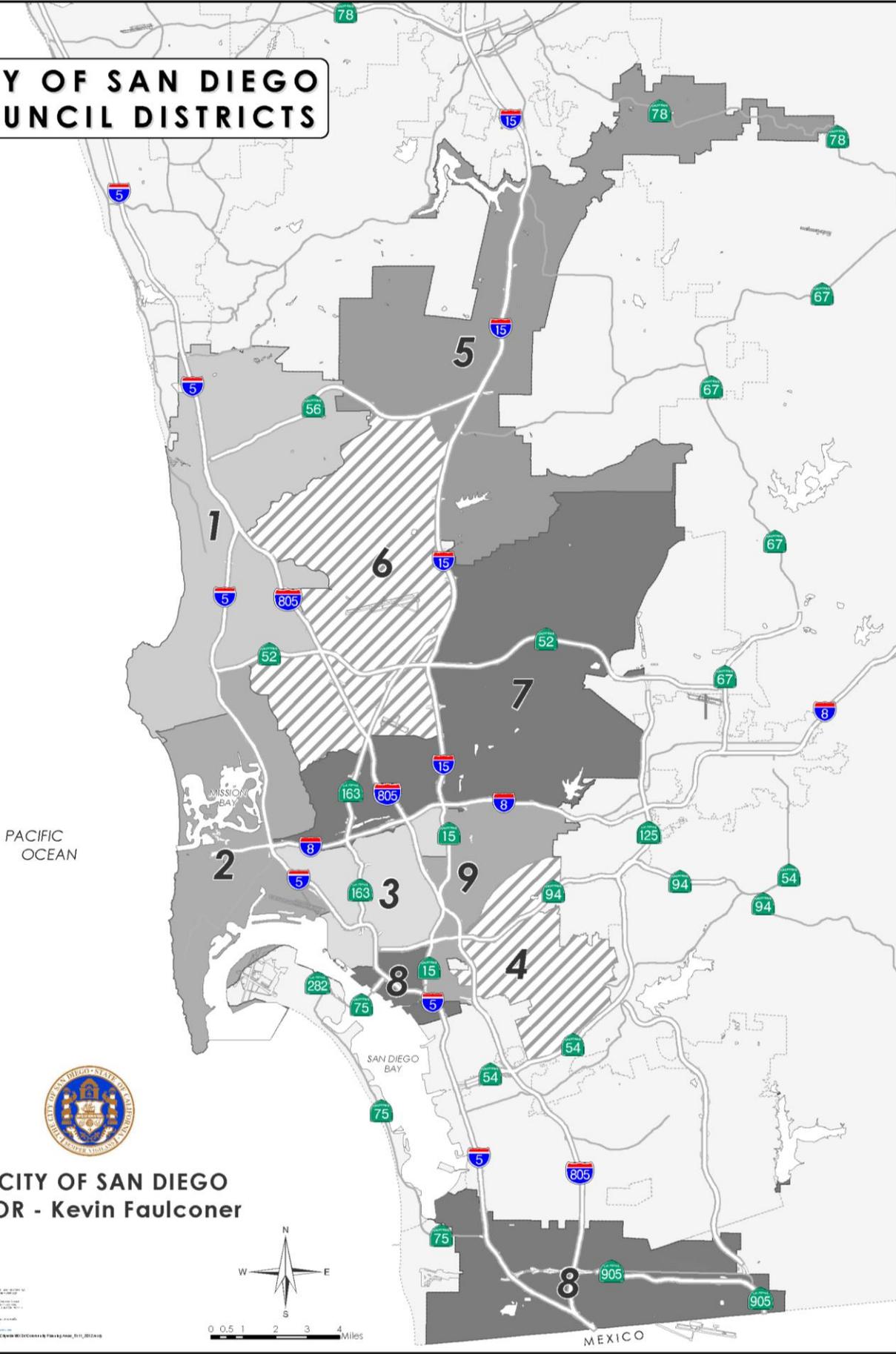
The Hearing Officer acts as the decision maker for permits, maps, and other matters in accordance with the decision-making procedures of the Land Development Code. The Hearing Officer presides at a public hearing and makes an impartial decision on a permit, map, or other matter based on the application, 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 Strong Mayor form of government.



CITY OF SAN DIEGO COUNCIL DISTRICTS

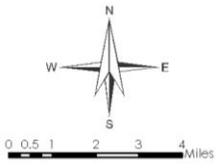


PACIFIC OCEAN



THE CITY OF SAN DIEGO
MAYOR - Kevin Faulconer

SanGIS
SanGIS is a web-based GIS application that provides a user-friendly interface for viewing and analyzing spatial data. It is designed to be accessible to a wide range of users, from casual viewers to power users. The application is built on a robust GIS engine and provides a variety of tools for data exploration and analysis. It is a valuable resource for the City of San Diego and its residents.

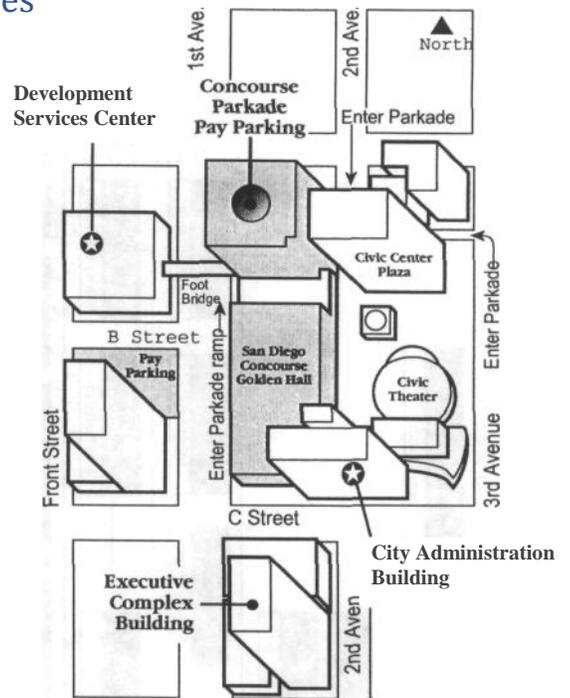


City Of San Diego Facilities & Addresses

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

EXECUTIVE COMPLEX

1010 Second Avenue
San Diego, CA 92101

Planning Department

6th Floor Facilities Financing

11th Floor Community Planning
General Plan

12th Floor Mobility Planning
Planning Administration
Park Planning
Historical Resources
MSCP, CEQA Policy and Review

CIVIC CENTER PLAZA

1200 Third Ave.

1st Floor Treasurer’s Cashier &
Business License Tax,
Employment Info.

14th Floor Economic Development,

WEB ADDRESSES

- City of San Diego Website <http://www.sandiego.gov/>
 Development Services <http://www.sandiego.gov/development-services>
 Planning Department <http://www.sandiego.gov/planning/>



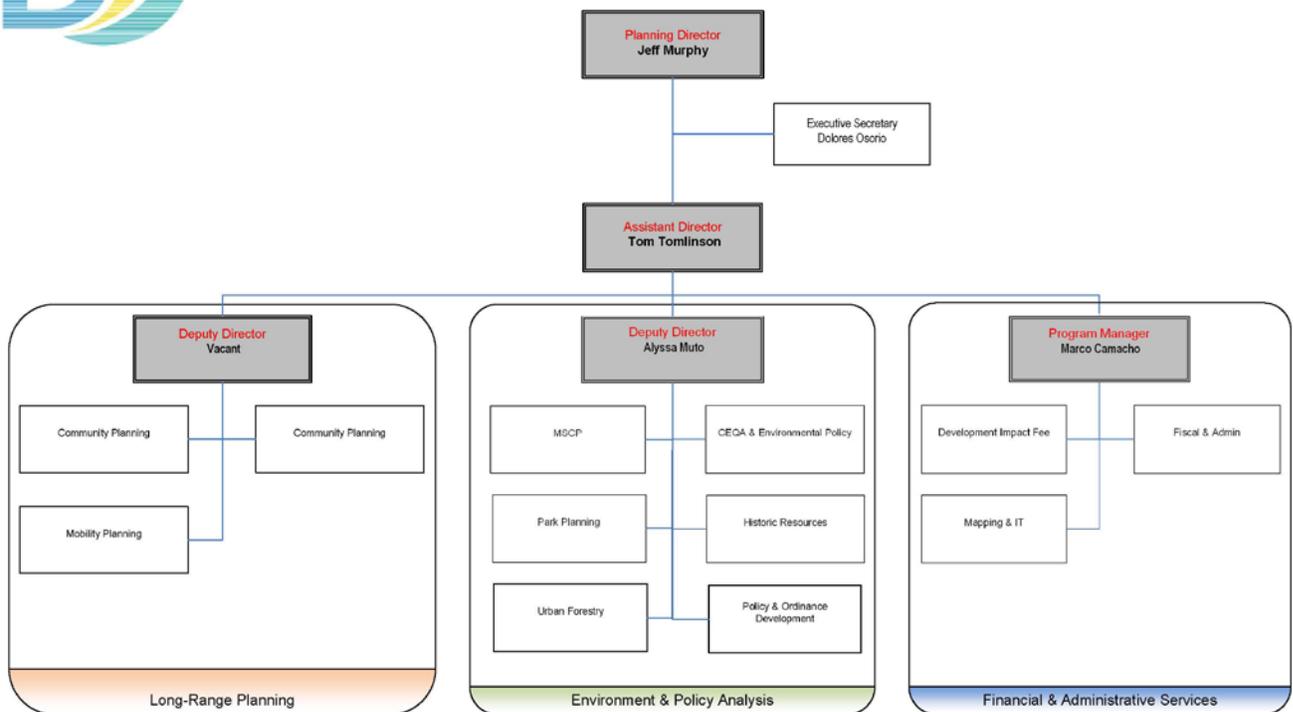
Planning Department Organization Chart

The Planning Department is responsible for updating the City's 52 community plans and facilities financing plans on a regular basis. The Environment & Policy Analysis Division is responsible for updating the City's California Environmental Quality Act (CEQA) significance thresholds, conducting CEQA analysis on community plans and city capital projects, and coordinating CEQA practices citywide. The Division also includes historic resources policies, the Multiple Species Conservation Plan, urban forestry and park planning efforts which are closely linked to community plan updates and facilities financing efforts.



Neighborhood Services Branch PLANNING DEPARTMENT

Fiscal Year 2017



5/2/2017



How to Contact Your Planner

Staff from the Planning Department is assigned various community planning areas and the corresponding planning groups. Planning staff is available to provide assistance on operational issues and a variety of land use matters. Planners assigned to Community Planning Groups (CPG) typically attend meetings on a quarterly basis, but may attend more frequently if requested for a specific issue or project or during a community plan update process. Other City staff within the Planning Department that work with community planning groups includes Facilities Financing staff who are responsible for processing amendments and updates to the Impact Fee Studies, and park planning staff.

As staff assignments do change, please refer to the Community Planning Group Contact List located on the City's website for your assigned staff contact:

<https://www.sandiego.gov/planning/community/contacts>



Open DSD

The City of San Diego is committed to serving the public and improving how information is provided to its citizens. The City of San Diego's Development Services Department (DSD) has released to the public its Project Tracking System (PTS) in web-based format. PTS is an in-house software system used to both manage and track the City's land development permit processing functions. OpenDSD provides online access to permit data through internet browsers as well as to those who wish to query the permit data with software.

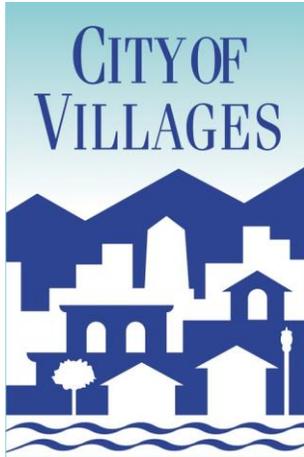
The scope of the data published exceeds that of any other city. The breadth of the release is intended to cover land development permit application, issuance, inspection, and completion. A variety of information including timelines, scope, decisions, and costs will all be provided online. In addition, Code Enforcement case activity is also provided. This data includes permit information dating back to 2003 as well as code enforcement cases since 2011. Personal identifying information such as the phone numbers of individuals doing business with the City is not provided.

Access OpenDSD through the City's website:

<http://www.sandiego.gov/development-services/opensd/>



THE CITY LAND USE PLANNING PROCESS



General Plan

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 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 General Plan 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.

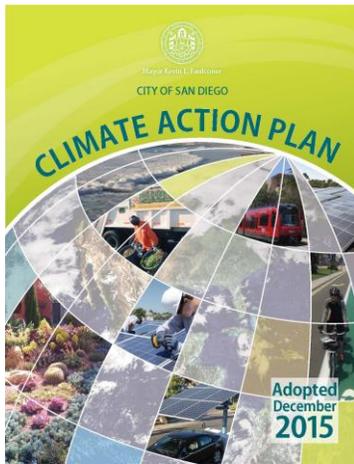
Historic Preservation Element - strives to guide the preservation, protection, restoration and rehabilitation of historical and cultural resources so that a clear sense of how the City gained its present form and substance can be maintained.

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 - The City of San Diego updated the Housing Element in March 2013 for the Fifth Cycle (2013-2020). In accordance with the State of California Department of Housing and Community Development (HCD), the City must have a certified Housing Element. The Housing Element serves as a policy guide to address the comprehensive housing needs of the City. It is one of ten elements of the City of San Diego's General Plan, provided under separate cover, and is mandated by the State of California Government Code.



Climate Action Plan

In December of 2015, the San Diego City Council unanimously adopted an ambitious Climate Action Plans (CAP). The CAP demonstrates how the City will reduce citywide greenhouse gas (GHG) emissions by 25% in 2020 and 50% in 2035. The City of San Diego's CAP identifies five bold strategies to achieve its goals: energy and water efficient buildings; clean and renewable energy; bicycling, walking, transit and land use; zero waste; and climate resiliency. The strategies provide a roadmap for reaching the City's 2020 and 2035 GHG reduction targets and include specific actions which will be monitored on an annual basis to ensure the City is meeting its goals.

To achieve its goals, the CAP sets ambitious actions and targets for implementation. The CAP calls for the implementation of the City's General Plan City of Villages strategy of walkable and pedestrian-friendly neighborhoods with a mixture of uses that revitalize existing areas while retaining their individual character. The transportation mode share target is intended to reduce vehicle miles traveled by achieving 50% of commuter trips taken by transit, walking, and bicycling by 2035. The CAP also calls for the City to achieve a 100% renewable energy supply by 2035 and the implementation of the City's Zero Waste strategy. The City recognizes that some degree of climate change will occur, so the CAP calls for the city to prepare climate resiliency strategy to avoid the worst impacts of climate change.





The Community Planning Process A Guide for the Citizen



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, allowing citizens who wish to participate in the planning process are able to form officially recognized planning committees. These committees work with Planning staff 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 component of the City's General Plan, adopted by the City Council, which contains specific proposals in a given community for future land uses and public improvements. Community plans represent a significant and vital component of the Land Use Element since they contain more detailed land use designations and site-specific policy recommendations than is possible at the citywide level. This structure is necessary because of the City's diverse geography, development patterns, and cultural and ethnic communities, and other variations. Community plans 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 a key tool used to implement community plan land uses. The Land Development Code provisions within the Municipal Code stipulate permitted uses, intensity of development, and site design and architectural design. Some zones apply to all or many parts of the City while other zones, contained within 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 supplemental regulations to the regulations of the underlying zone. The Coastal Overlay Zone and the Community Plan Implementation Overlay Zone are two examples of this type of zone.



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 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 COMMUNITY PLAN UPDATE PROCESS

The general purpose of the community plan update program is to revise community plans to reflect current conditions and the long-term vision for the communities. Community plan updates ensure the community's land use policies are consistent with the General Plan, infrastructure strategies, and the provision and financing of public facilities commensurate with the land uses.

Plan updates require significant City resources, staff time and funding. There are several factors that help determine the need for updating a plan. The most common reasons for initiating an update to a community plan are as follows:

- Age of the Community Plan
- Number of Community Plan amendments
- Growth Potential
- Transit (Light Rail Transit & Bus Rapid Transit)
- Parks Deficit
- Prime Industrial Lands

The process of preparing or updating community plans is a highly collaborative one. Staff recognizes the importance of community participation and the sharing of knowledge and ideas that stimulates the public process. Plan updates are also complex and require collaboration with technical and professional expertise from different City departments and among consultant teams. Planning staff identifies and coordinates with other staff members and planning consultants to set expectations and responsibilities for accomplishing tasks related to the update. Planning staff manages the community plan update process with the recognized community planning groups serving as the major partners in the process.

The Community Plan Preparation manual serves as a guide and companion manual to the City of San Diego's General Plan when preparing or updating community plans. The manual was a collaborative effort between staff and members of the Community Planners Committee. The comprehensive document provides detailed information regarding public participation, the drafting of the plan, implementation, environmental review, and the adoption of the plan. The document can be found on the City's website, and should be used by staff and the public in the community plan update process. The Manual can be accessed online at the address below:

<http://www.sandiego.gov/planning/genplan/pdf/generalplan/cityofsandiegocppm.pdf>



COMMUNITY PLAN UPDATE COMPONENTS

Provided below is a brief list of components involved in updating a community plan. A more thorough discussion is located in the manual.

Table 1-1 General Community Plan Update Timeline (Actual duration of update components will vary)
Possible Community Plan Update Components
Community Plan Update
Contracting
Establish a Community Plan Update Advisory Committee & Develop a Public Outreach Strategy
Public Meetings and Planning Commission Workshops Community Workshops/Charrette
Existing conditions data gathering and analysis
Mobility/Traffic Studies and Forecasting
Developing and drafting plan policies Drafts of Community Plan
Zoning updates
Environmental Impact Review (EIR) process - screenchecks, Draft EIR, public review & Final
Public Facilities Financing Plan Update - Conducted on a separate timeline, but concurrent with Community Plan Update Process
Planning Commission and City Council approval process Schedule first hearing



SUMMARY OF COMMUNITY PLANNING GROUP ROLE IN COMMUNITY PLAN UPDATE PROCESS

Role of the Planning Committee

1. FORMULATION OF GOALS AND OBJECTIVES

- Create community vision for the future using Guiding Principles of the General Plan
- Consider alternative goals and objectives
- Establish general and specific goals and objectives

2. RESEARCH

- Review data and advise staff of specific problems
- Review land use assumptions and evaluate implications of assumptions
- Inform public at large of process to 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 that the community created at the beginning of the process
- Develop corresponding recommendations to channel growth at appropriate levels

4. PLAN DRAFT PREPARATION AND REVIEW

- Review draft and identify points for discussion
- Public meetings with staff present 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 and City Council hearings

6. IMPLEMENTATION

- Help staff establish zoning program to implement land use designations and policies
- Review Public Facilities Financing Plan Updates
- Promote public and private action programs
- Review development applications for specific projects
- Participate in review of requests for plan amendments

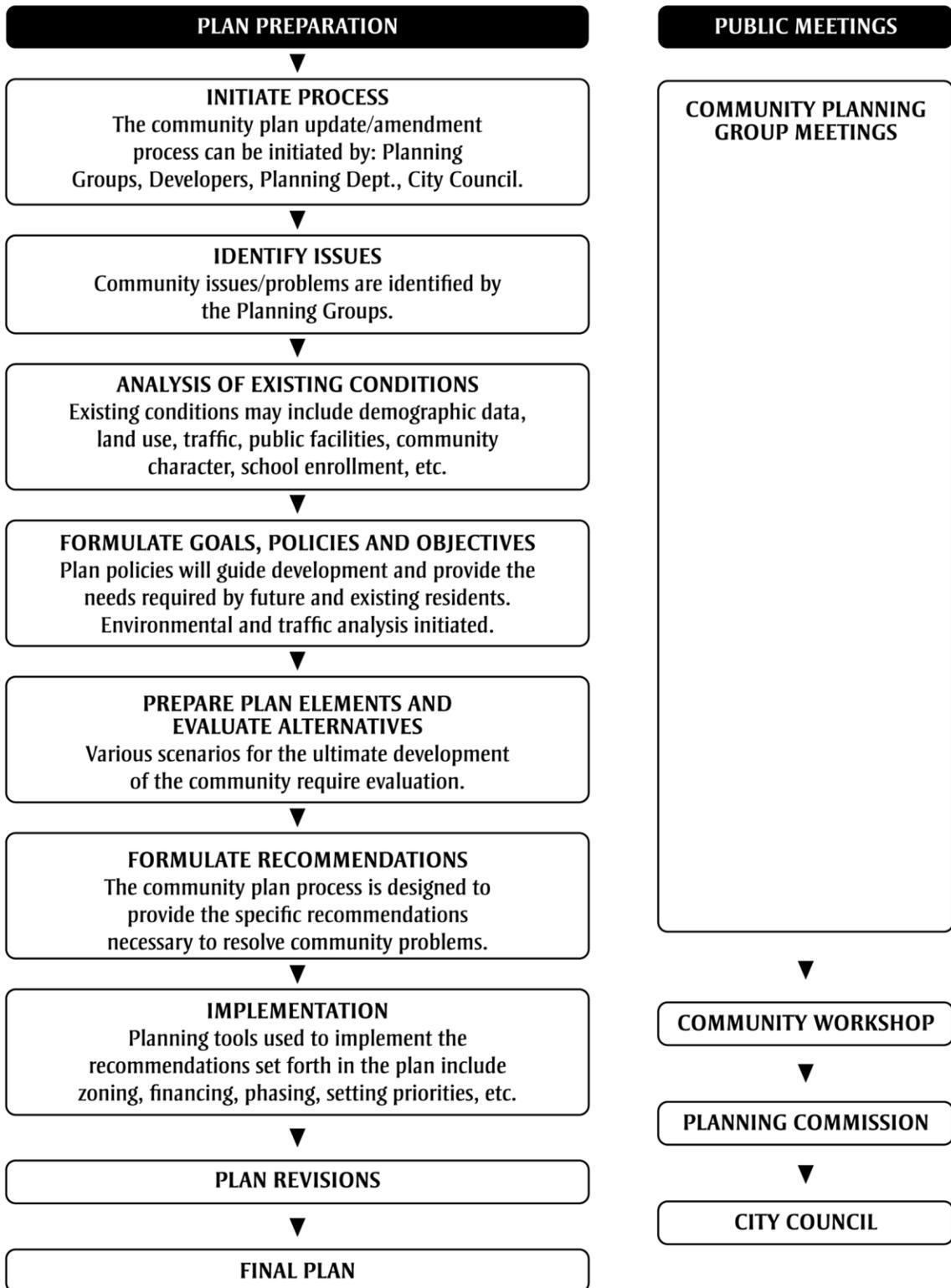


CONCLUSION

The planning process is a continuous process. Although the preparation of the plan document usually occurs in a limited time period, the implementation of the plan continues over a period of many years. Once a plan is adopted, the community planning group 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 group 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 group is very important and the planning group and staff must work to educate and train new planning group members. Every member of a planning group should be aware of what their role is in the planning process and should understand what is involved. This guide is intended to be a part of this training.



COMMUNITY PLANNING PROCESS



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

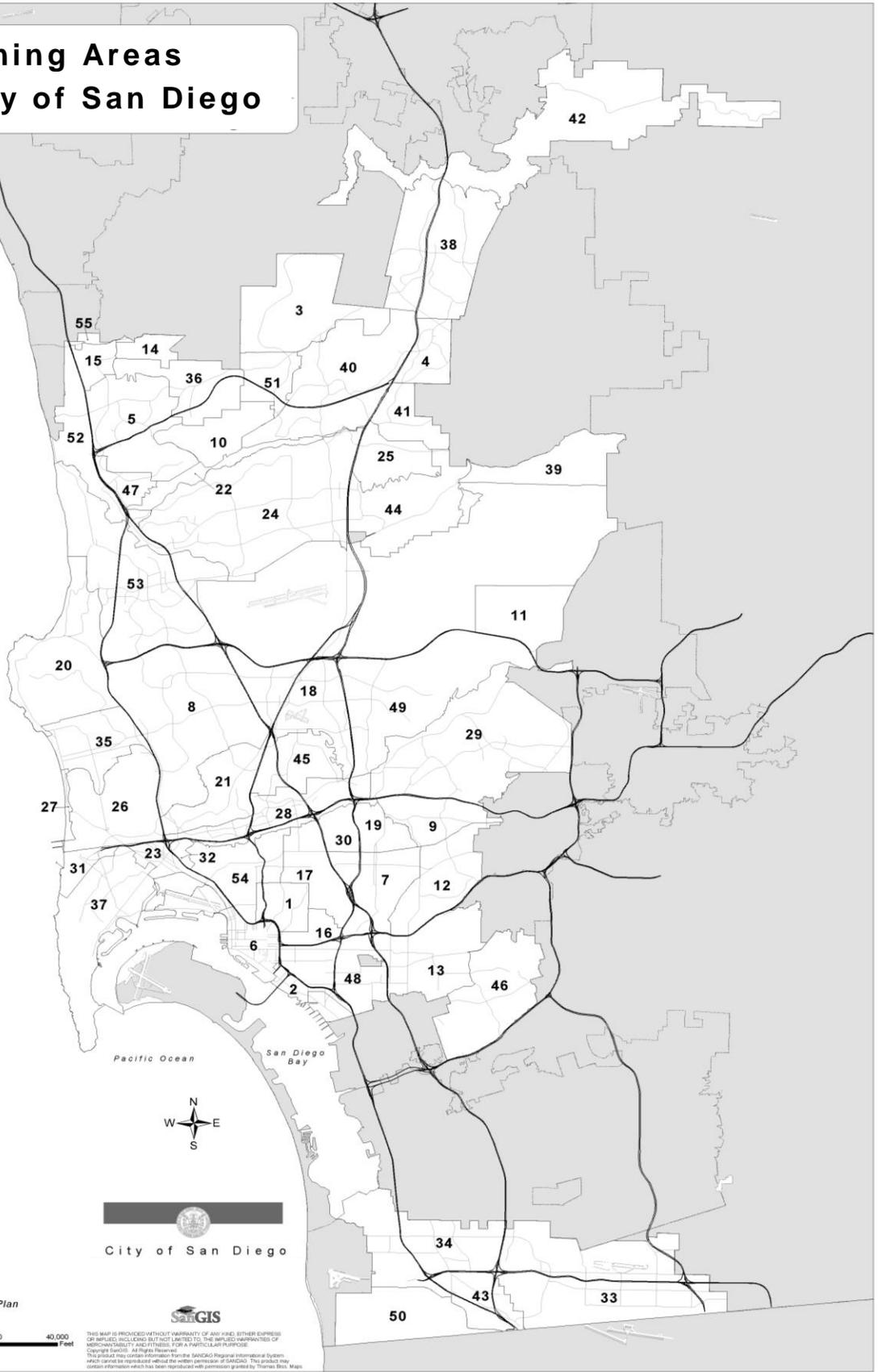
* Mid-City Community Plan
 ** Southeastern San Diego Community Plan



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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

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SUBJECT: STANDARD OPERATING PROCEDURES AND RESPONSIBILITIES
OF RECOGNIZED COMMUNITY PLANNING GROUPS
POLICY NO.: 600-24
EFFECTIVE DATE: November 14, 2014

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. Community planning groups also advise on associated matters as described in Article II, and on other land use matters as requested by the City or other governmental agencies.

The Community Planners Committee (CPC), comprised of a representative of each recognized community planning group, was formed in 1970 to advise on the "new" 1967 General Plan and has since continued in its vital role advising the City on planning issues of citywide significance and in the development of subsequent General Plans and their amendments and implementation. The CPC is separately authorized under Council Policy 600-09.

Community planning groups are private organizations; however, to be recognized by the City as the official voice of their community, groups must adhere to Council Policy 600-24 as well as their City-approved bylaws. The City does not direct or recommend the election of specific individual members following the initial recognition of the community planning group, nor does the City appoint members to groups, or recommend removal of individual members of a group. The City does not delegate legal authority to community planning groups to take actions on behalf of the City. Community planning groups are voluntarily created and maintained by members of communities within the City. Council Policy 600-24 was created to establish minimum standards and provide guidance for organizations operating as City Council officially recognized community planning groups (herein after referred to as "community planning groups").

Community planning groups are advisory bodies created by an action of the City Council, and are subject to California's Open Meeting Law, the Ralph M. Brown Act ("Brown Act") (California Government Code Sections 54950 through 54963).

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Bylaws of community planning groups shall conform to Council Policy 600-24 unless alternative bylaws language for specific provisions is approved by the City Council.

PURPOSE:

The purpose of Council Policy 600-24 is to identify responsibilities and to establish minimum operating procedures governing the conduct of community planning groups when they operate in their official capacity. Council Policy 600-24 applies to the elected or appointed members of community planning groups (herein after referred to as “members”), and who are more fully described in Article III.

POLICY:

It is the policy of the City Council to require each 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 community 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 community planning group, and the initial members and terms of each group seat and member, will be submitted for approval by resolution of the City Council.

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

Amendments to adopted bylaws may be proposed to the City by a two-thirds vote of the voting members of a community planning group. Amendments shall be approved by the Mayor's Office and City Attorney if determined to conform to Council Policy 600-24. Bylaws amendments that cannot be approved by the Mayor's Office and City Attorney will be taken to the City Council for consideration. A community planning group's proposed revisions to their adopted bylaws 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 community planning group to comply with the approved operating procedures and responsibilities further detailed in Article VIII of this Policy will be cause for the City Council to withdraw the group's official recognition.

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As Council Policy 600-24 is amended from time to time, the City Council shall state whether community planning group bylaws must be amended to conform to the amended Council Policy and whether previously approved community-specific deviations to community planning group bylaws will govern.

Community planning groups must utilize Council Policy 600-24 and their adopted bylaws to guide their operations. City staff will prepare and maintain Administrative Guidelines in consultation with the CPC. The Administrative Guidelines are intended to explain this Policy's minimum standard operating procedures and responsibilities of community planning groups. The Administrative Guidelines provide the community planning groups with explanations and recommendations for individually-adopted bylaws and group procedures. The latest version of Robert's Rules of Order (Robert's Rules) should be used when this Policy, the Administrative Guidelines, and community 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 community planning group or its individual members in accordance with Ordinance No. O-19883 NS, adopted July 28, 2009, entitled "An Ordinance Providing for Defense and Indemnification of Community Planning Groups" as discussed further in Article IX, Section 1, and any future amendments thereto.

The intent of the Brown Act, as stated in section 54950, 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 community planning groups operating pursuant to Council Policy 600-24. Accordingly, community planning groups shall ensure that all meetings are open to the public, properly noticed, and conducted in compliance with each of the Brown Act provisions as identified in this Policy.

ARTICLE I Name

- Section 1. A 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 community planning group shall be conducted in its official name.

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Section 3. A boundary for a 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 community 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 community planning group's oversight, and may identify an area either smaller than, or more encompassing than, an adopted community plan.

Changes to the boundaries of a community planning group's area of authority shall only be made when approved by the City Council. Consideration shall be given by the Council as to whether a community plan amendment or update is being processed that changes the community plan boundaries.

The community planning area boundaries which are applicable to each 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 community planning groups shall be held within its 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 community planning group shall not be established or determined by any organization other than that group, nor by any individual member of the community planning group other than one authorized to do so by the group.

ARTICLE II Purpose of Community Planning Groups and General Provisions

Section 1. Community planning groups have been formed and recognized by the City Council to make recommendations to the City Council, Planning Commission, City staff and other governmental agencies on 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 matters as requested by the City or other governmental agencies, including all elements of the General Plan and adopted community plans.

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Community planning groups may be called upon to advise on, or participate in, additional efforts such as CIP infrastructure needs identification discussed in Council Policy 000-32. Pursuant to the provisions of Council Policy 600-33, a community planning group will be asked to review a park general development plan or capital improvements within the park only if there is no City-recognized park advisory group.

Section 2. A community planning group reviewing individual development projects should focus such review on conformance with the Land Development Code, 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 community 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 merit further evaluation by a community 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 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 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. Community planning groups shall not take part in, officially or unofficially, or lend its influence in, the election of any candidate for political office. Community planning group members shall not identify affiliation with their group when endorsing candidates for public office. Community planning groups may take a position on a ballot measure.

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- Section 6. A community planning group's consistent 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 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 community planning group may propose amendments to its bylaws by two-thirds vote of the voting members of the community planning group. Proposed amendments shall be submitted to the offices of the Mayor and to the City Attorney for review and approval. Any proposed amendments that are inconsistent with the standardized bylaws shell, attached to this Policy, shall be scheduled for consideration by City Council.

ARTICLE III Community Planning Group Organizations

- Section 1. A 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.

For the purpose of assuring better representation of unique or diverse community interests, a community planning group may create separate "appointed seats". Where appointed seats are created, a community planning group's bylaws must specify the rights and duties of those appointed members, such as whether the appointed members may vote and count toward a quorum of the group. Elected community planning group members, plus those appointed members who vote, together constitute the "voting members of the community planning group."

- Section 2. For the purposes of Council Policy 600-24, the original members of a community planning group shall consist of those approved on the date of official recognition of the group by the City Council. Additional members shall thereafter be elected by eligible community members in the manner prescribed by this Policy.

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Section 3. Members of community planning groups shall, to the extent possible, be representative of the various geographic sections of the community and diversified community interests. Community planning group members shall be elected by and from eligible members of the community. To be an eligible community member an individual must be at least 18 years of age, and shall be affiliated with the community as a:

- (1) property owner, who is an individual identified as the sole or partial owner of record, or their designee, of a real property (either developed or undeveloped), within the community planning area, or
- (2) resident, who is an individual whose primary address of residence is an address in the community planning area, or
- (3) local business person, who is a local business owner, operator, or designee at a non-residential real property address in the community planning area; only one representative of a particular establishment may hold a seat on the community planning group at one time.

Demonstration of individual eligibility to vote as a property owner, resident, or local business person, as described in (1) through (3) above, may be achieved through an application showing evidence of qualifications. Eligibility (and demonstration of eligibility) to vote may be further defined in community planning group bylaws. This may include minimum attendance requirements. Once eligibility to vote in an election is established, an individual remains eligible until he or she does not meet the eligibility requirements.

Section 4. Members of community planning groups 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 original group members for a new group. No person may serve on a community 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 community planning group member, an individual who had served for eight or nine consecutive years shall again be eligible for election to the group.

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Council Policy 600-24 provides an exception for community planning groups to retain some members who have already served for eight or nine consecutive years to continue on the group without a break in service if not enough new members are found to fill all vacant seats as follows:

A community 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 (1) there are fewer candidates than vacant seats, and (2) 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 community planning group serving more than eight or nine consecutive years shall in no case exceed twenty-five percent of the elected members of the group.

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 community planning group must retain eligibility during the entire term of service. A community planning group member will be removed from the group upon a majority vote of the voting members of the group to ratify the findings of the Secretary that the member is no longer eligible to serve. Prior to the community planning group meeting at which this vote occurs, the Secretary shall provide the group with documentation of the ineligibility and shall notify the member in question. Ineligibility may be due to not meeting the membership qualifications found in Article III, Section 3, or in Article IV, Section 1 of this Policy and in the community planning group's adopted bylaws.

Section 6. A community planning group or member found to be out of compliance with the provisions of Council Policy 600-24, or with the group's adopted bylaws, risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-19883 NS, and any future amendments thereto.

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

ARTICLE IV Vacancies

Section 1. A 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 meetings as established under Article VI, Section 2 below.

A vacancy may also exist following a vote of a community planning group as described in Article III, Section 5, related to ineligibility, or following conclusion of a member-removal process conducted under Article IX based on this Policy or adopted bylaws violations.

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

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

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

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Section 3. When a community planning group is unable to fill a vacancy within the 120 days, as specified above, and there are more than twelve members in good standing, the group may either leave the seat vacant until the next regular 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 community planning group has less than 12 members in good standing, the group shall report in writing the efforts made to fill the vacancy to the City. If, after 60 additional days, the community planning group membership has not reached 12 members, the group will be deemed inactive and the City shall notify the City Council that the community planning group will be inactive until it has attained at least 12 members in good standing. The City shall assist with the community planning group election in the attempt to regain the minimum Policy membership requirement of 12 members.

ARTICLE V Elections

Section 1. Elections of community planning group members shall be held during the month of March in accordance with procedures specified in adopted group bylaws. Community planning groups shall hold elections every year or every other year. In the election process, community planning groups shall seek enough new candidates to exceed the number of seats open for election in order to allow those who have served for eight or nine consecutive years to leave the group for at least one year.

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

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

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

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

Section 3. Voting to elect new community planning group members shall be by secret written ballot. A community planning group may establish bylaw provisions to address procedures for mailing in ballots for elections if the 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 community planning group meeting at which the election will be held.

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

ARTICLE VI Community Planning Group and Member Duties

Section 1. It shall be the duty of a community planning group to cooperatively work with the Mayor’s staff throughout the planning process, including but not limited to the formation of long-range community goals, objectives and proposals or the revision thereto for inclusion in a General or Community Plan.

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

Community planning groups and their members shall conduct official business in a public setting. It is recognized that the officers of a community planning group may oversee administrative business of the 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 community planning group meetings.

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It shall be the duty of a community planning group as a whole, and of each individual member, to refrain from conduct that is detrimental to the 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 community planning group's agenda.

Section 2. Community planning groups and their 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 community planning group member to attend all planning group meetings.

- (1) **Regular Agenda Posting.** In accordance with Brown Act section 54954.2(a), at least 72 hours before a regular meeting, the agenda containing a brief general description of each agenda item 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 community planning group regarding that item, for example, stating that the item is an information item only or it is an action item.

If a community planning group maintains a website, the agenda should also be posted on that website at least 72 hours in advance of the meeting.

Community planning groups shall offer their agendas to the City for posting on the City's website.

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(2) **Public Comment**

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

(3) **Adjournments and Continuances.** In accordance with Brown Act section 54955, community 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 a community 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 shorter, the original meeting agenda is adequate.

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- (4) **Continued Items.** In accordance with Brown Act section 54955.1, if an item is continued from a prior regular meeting to a subsequent meeting more than 5 days from the original meeting, a new agenda must be prepared as if a regular meeting; otherwise the original meeting agenda is adequate.
- (5) **Consent Agenda.** For items to be considered for a “Consent Agenda” all of the following are required:
1. A subcommittee of the community planning group has discussed the item at a noticed subcommittee meeting,
 2. All interested members of the public were given an opportunity to address the subcommittee, and
 3. The item has not substantially changed since the subcommittee’s consideration.

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

- (6) **Quorum and Public Attendance.** Council Policy 600-24 defines a quorum as a majority of non-vacant seats of a community 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 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 community planning group, to register or provide any other information. Any attendance list or request for information shall clearly state that completion of such information is voluntary. No member of the public may be charged a fee for admittance.

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- (7) **Development Project Review.** Community 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 community planning group, when reviewing development projects, to allow participation of affected property owners, residents and business establishments in proximity to the proposed development.

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

- (8) **Action On Agenda Items.**
- (a) 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 voting members of a community planning group, or every member if less than two-thirds of the voting members of a community planning group 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 community planning group subsequent to the agenda being posted.
- (b) Voting requirements vary by subject of the action:
- (1) Removing an elected or appointed community planning group member in accordance with Article IX of this Policy requires a two-thirds vote of the voting members of a community planning group. A community planning group may adopt into its bylaws a substitute method to remove an appointed member.

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- (2) Approving an amendment to adopted bylaws requires a two-thirds vote of the voting members of a community planning group.
- (3) A ratifying vote to remove a member due to ineligibility in accordance with Article III, Section 5 of this Policy requires a majority vote of the voting members of a community planning group.
- (4) Approval of a community plan update or a community plan amendment requires a majority vote of the voting members of a community planning group.
- (5) All other group actions, including subcommittee votes, only require a simple majority of the voting members of the community planning group in attendance when a quorum is present.

In accordance with Brown Act section 54953(c), community 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.

In accordance with the Brown Act section 54953(c), all actions taken by community planning groups, including votes, must be taken in public.

Positions on agenda items shall be established only by the votes taken by the voting members of a community planning group as identified in Article III, Section 1 of this Policy.

- (9) **Collective Concurrence.** In accordance with Brown Act section 54952.2, any attempt to develop a collective concurrence of the members of a community planning group as to action to be taken on an item by members of the 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.

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- (10) **Special Meetings.** In accordance with Brown Act section 54956, the chair of a community planning group, or a majority of 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 community 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 group secretary a written waiver of notice at, or prior to the time of, the meeting.

Written notice shall be delivered to each local newspaper of general circulation and radio or television station requesting notice in writing at least 24 hours before the time of the meeting. The notice shall identify the business to be transacted or discussed at the meeting. No other business shall be considered at this meeting.

Public testimony on agenda items must be allowed; however, the non- agenda public comment period may be waived.

- (11) **Emergency Meetings.** Brown Act section 54956 describes emergency meetings for matters related to public health and safety. These matters are outside of the purview of community planning groups and are prohibited under Council Policy 600-24.
- (12) **Right To Record.** In accordance with Brown Act sections 54953.5 and 54953.6, any person attending a meeting of a community planning group must be allowed to record or photograph the proceedings in the absence of a reasonable finding by the group that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the meeting.
- (13) **Disorderly Conduct.** In accordance with Brown Act section 54957.9, in the event that any community 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 group may first cause removal of the individual or individuals.

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If that is unsuccessful then the community 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 community planning group may also readmit an individual or individuals who were not responsible for the disruption.

(b) Subcommittees

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

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

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(4) **Recommendations.** All committee and subcommittee recommendations must be brought forward in writing for a community planning group vote at a noticed public meeting. In no case may a committee or subcommittee recommendation be forwarded directly to the City as the official recommendation of the community planning group without a vote taken at a scheduled group meeting.

(c) **Abstentions and Recusals**

(1) **Recusals.** Any member of a community planning group with a direct economic interest in any project that comes before the group or its committees or subcommittees must: (1) disclose to the group that economic interest, (2) must recuse himself or herself from voting, and (3) must not participate in any manner as a member of the group for that item on the agenda. Situations requiring recusals are described in the Administrative Guidelines.

(2) **Abstentions.** In limited circumstances, from time to time, community 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. Situations allowing abstentions are described in the Administrative Guidelines.

(d) **Meeting Documents and Records**

(1) **Agenda by Mail.** In accordance with Brown Act section 54954.1, requests to mail copies of a regular agenda, and any accompanying material, shall be granted. Such materials shall be mailed when the agenda is posted, or upon distribution to a majority of the members of a 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.

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- (2) **Agenda at Meeting.** In accordance with Brown Act section 54957.5, any written documentation, prepared or provided by City staff, applicants, or community planning group members that is distributed at a group meeting shall be made available upon request for public inspection without delay. If such material is distributed at a community 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 community planning group members, or is received from a member of the public during public testimony on an agenda item, then the material shall be made available for public inspection at the conclusion of the meeting. Further, the community planning group may charge for the cost of reproduction of any materials requested by an individual or individuals.
- (3) **Minutes.** For each community planning group meeting, a report of member attendance and a copy of approved minutes shall be retained by the group, and shall be available for public inspection. A copy of the draft minutes should be made available for public inspection as soon as possible but no later than the group's next scheduled meeting.

The minutes of each community planning group's meetings shall include the group members who constituted a quorum at that meeting. In accordance with the Brown Act section 54953(c)(2), the votes taken on each action item shall include: group members who voted for, against or abstained on the item. In addition, for each action item the record should include 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 group. If an applicant did not appear before the community planning group when an action was being taken on their project, the meeting minutes must indicate the date when and type of notification (e.g., electronic, telephonic, fax) that was provided to the applicant requesting his or her appearance at the group meeting.

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A copy of the approved minutes shall be submitted to the City within 14 days after approval by the community planning group. If the community planning group maintains a website, the approved minutes shall be posted within 14 days after approval by the group.

Community planning groups are not required to audio or videotape their meetings but if they do then, 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.

- (4) **Records Retention.** In accordance with Brown Act section 54957.5, community planning group records, as described below, must be retained for public review. Community planning group records are meeting agendas and any other writings that are distributed to at least a majority of the group members in connection with a matter subject to consideration at an open meeting of the community planning group. Community planning group records do not include writings that are required to be submitted to the City in accordance with this Policy to substantiate and document a group's operation and compliance. Community planning groups also receive materials that do not qualify as records. The Administrative Guidelines discuss categories of material that are City records, community planning group records, and non-records.

Section 3. It shall be the duty of community planning groups and their members to periodically seek community-wide understanding of and participation in the planning and implementation process as specified in Article II, Section 1 of this Policy. A community 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.

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Section 4. It shall be the duty of community planning groups to maintain and retain a current, up-to-date roster of the names, terms, and category/qualifications of elected and appointed group members, and to forward the current roster, as well as any updates, to the City. Community planning groups must also submit to the City each year an annual report of accomplishments for the past 12 months 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. Community planning groups may develop a policy for financial contributions from the citizens of the community for the purposes of furthering the efforts of a 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 community planning group meeting. All contributions must be voluntarily made, and no official community 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 newly-elected community planning group member to attend an orientation training session administered by the City as part of group and individual member indemnification pursuant to Ordinance No. O-19883 NS as discussed further in Article IX, Section 1 of this Policy, and any future amendments thereto. If it is not possible for a new member to attend the training session as required by O-19883 NS, then the member shall successfully complete the online orientation training.

It shall be the duty of the City to offer at least one orientation session following the March elections each year, as well as topic-specific sessions intended to advance the knowledge of group members in subjects within the scope of responsibilities of community planning groups throughout the year. Additionally, the City will maintain the availability of an online training session that meets the requirements of O-19883 NS in the event a newly-seated member is unable to attend the scheduled orientation session, or in the event that a new member is seated through a special election or in a month other than March. Newly-seated planning group members must complete an orientation training session within 60 days of being elected or appointed to a planning group, or the member will become ineligible to serve.

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ARTICLE VII Planning Group Officers

Section 1. The officers of a community planning group shall be elected from and by the members of the group. Said officers shall consist of a Chairperson, Vice Chairperson and Secretary, and a community planning group's bylaws may include such other officers as the group may deem necessary. Further duties of the officers may be defined in community planning group bylaws.

A community planning group shall determine the length of an officer's term in its bylaws, except that no person may serve in the same 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 community planning group and shall preside over all group and communitywide meetings organized by the community planning group.

Appeals of discretionary decisions to the City shall be made by the Chairperson or, if necessary because of direct economic interest or absence, by a designee identified to appeal that particular action on behalf of the community planning group.

Section 3. Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall perform all the duties and responsibilities of the Chairperson.

Section 4. Secretary. The Secretary shall be responsible for the community planning group's correspondence, attendance records, and minutes and actions [including identification of those group members who constitute a quorum, who vote on an action item, and who may abstain or recuse and the reasons], and shall assure that community 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 community planning group's representative to the Community Planners Committee (CPC). However, by specific action vote of the group, some other member may be selected as the official representative to CPC with the same voting rights and privileges as the Chairperson. Each community planning group should also vote to select an alternate CPC representative.

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Section 6. It shall be the duty of the officers of community planning groups and of the Community Planners Committee representative to promptly disseminate to all elected or appointed group members any pertinent information that is received by the community planning group regarding its official business.

ARTICLE VIII Community Planning Group Policies and Procedures

Each community planning group shall include policies and procedures in its bylaws that are found necessary for the group's effective operation under Council Policy 600-24. 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 community planning group.
- (2) Community 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 the general membership, if any, or the public in discussing agenda items.
- (4) Member and Community Planning Group Responsibilities, suggested but not limited to: filling vacant seats either during a term or following an election; how community 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.

ARTICLE IX. Rights and Liabilities of Recognized Community Planning Groups

Community planning groups operating under Council Policy 600-24 are afforded certain protections for their activities within their identified scope of responsibilities.

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As reviewed in a Memorandum prepared by the City Attorney, issued November 3, 2006, (City Attorney MOL No. 2006-26), the Brown Act provides various remedies for violation of its provisions but by implementing bylaws and operating in compliance with Council Policy 600-24, community planning groups will be considered to be in substantial compliance with the Brown Act. Any community planning group, or any of its individual members, may seek assistance and training from the City Attorney to conform with the Brown Act.

Section 1. Indemnification and Representation

A 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-19883 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 Article II, Section 1 of this Policy; their conduct was in conformance with this Policy and the Bylaws of the community planning group; and all findings specified in the ordinance can be made.

Section 2. Violations and Remedies Related to Provisions Citing the Brown Act.

Some provisions of Council Policy 600-24 are identified as requirements of the Brown Act.

The Brown Act includes civil remedies (California Government Code sections 54960 through 54960.5) and criminal penalties (Government Code section 54959) for violation of its provisions. Thus community planning groups are encouraged to proactively cure violations themselves. This is to prevent legal actions that would void community planning group actions, and it assures good faith, voluntary compliance with the Brown Act.

Both individual members of a community planning group, as well as the 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 a community planning group, and may in some cases include payment of attorney's fees.

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Individual community 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 community planning group, or any of its individual members, may seek assistance, as well as training, from the City Attorney to better understand, 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 that are not requirements of the Brown Act by community planning groups or their elected members. Where a community planning group does not cure a violation by itself, it may forfeit its status as a recognized advisory body and lose its right to indemnification and defense by the City.

Alleged Violations by a Member of a Recognized Community Planning Group

In the case of an alleged violation of Council Policy 600-24 or a community planning group's adopted bylaws by a group member, the group shall conduct an investigation consistent with the Administrative Guidelines and adopted group bylaws.

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

If corrective action or measures are not feasible, the group may remove a member by a two-thirds vote of the voting members of the community planning group, or by a substitute method specified in adopted bylaws for removing an appointed member. The vote to remove the group member shall occur at a regularly scheduled public meeting subject to the procedures outlined in the Administrative Guidelines and in adopted community planning group bylaws.

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A community planning group member risks loss of indemnification for failure to comply with the non-Brown Act provisions of Council Policy 600-24 or those provisions in the member's own adopted group bylaws.

Alleged Violations by a Recognized Community Planning Group

In the case of an alleged violation of Council Policy 600-24 or adopted bylaws by a community planning group as a whole, or by multiple members of the 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 community planning group to determine the validity of the complaint and to seek resolution of the issue or dispute.

If a violation against a community planning group as a whole is proven and there is a failure of the group to take corrective action, the 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 community 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 community planning group found to be out of compliance with the provisions of Council Policy 600-24 that are not subject to the Brown Act, or with its adopted bylaws, risks loss of indemnification [legal protection and representation] pursuant to Ordinance No. O-19883 NS and any future amendments thereto.

HISTORY:

Amended by Resolution R-300940 – 10/17/2005

Amended by Resolution R-302671 – 05/22/2007

Amended by Resolution R-307347 – 04/05/2012

Amended by Resolution R-309298 – 11/14/2014

Attachment: Bylaws Shell

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Attachment to CP 600-24 – Bylaws Shell

[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 as detailed in Council Policy 600-24, Article II: Purpose of Community Planning Groups and General Provisions.

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- Section 2. In reviewing individual development projects, the *[insert CPG name]* should focus such review on conformance with the Land Development Code, and 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. 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. Amendments to Council Policy 600-24 will apply to the *[insert CPG name]*, as well as to all other community planning groups, even if individual groups' bylaws are not required to be amended with parallel language.

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In addition, the Administrative Guidelines provide explanations of the Policy's minimum standard operating procedures and responsibilities of this planning group. The latest version of *Robert's Rules of Order* 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 a two-thirds vote of the voting 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 on 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:

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- (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; only one representative of a particular establishment may hold a seat on the community planning group at one time.

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 contained in (1), (2) or (3) above 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 ___ [insert number] appointed seats to better represent specific interests of the community. This/these seat(s) are appointed by _____ [identify appointment process]. Appointed seats are: CHOOSE ONE OPTION: (A.) [insert number of members] of the community planning group membership, vote on group business and, together with the elected members, are referred to throughout as "voting members of the community planning group"; or, (B.) are not counted in the ___ [insert number of members] planning group voting membership or meeting quorum and are advisory only.

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INSERT IF APPOINTED MEMBER IS REMOVED BY A PROCESS OTHER THAN A 2/3 VOTE OF THE VOTING MEMBERS OF THE GROUP: While elected members may be removed by a two-thirds vote of the voting members of the community planning group in accordance with Article IX if alleged violations of Council Policy or Brown Act are found true, an appointed member will be removed by: [insert process that any appointed members are removed if not by a two-thirds vote of the elected members of the community planning group].

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 defense and indemnification [legal protection and representation] pursuant to Ordinance No. O-19883 NS, and any future amendments thereto.

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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.

A vacancy may also exist following a vote of a community planning group as described in Article III, Section 5 of Council Policy 600-24 related to ineligibility, or following conclusion of a member-removal process conducted under Article IX of the Policy, or due to adopted bylaws violations.

Section 2. Vacancies that may occur on the *[insert CPG name]* should 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, a search for a new member should continue, however 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.

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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 *[insert CPG name]*'s adopted elections procedures.

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.

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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.

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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. This Section includes 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.

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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].

The agenda shall be offered to the City for posting on the City's website. **IF IT APPLIES:** and should be posted on the *[insert CPG name]* website at least 72 hours in advance of the meeting.

(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.

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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.

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(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 voting members of a community planning group, or every member if less than two-thirds of the voting members of the community planning group 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.

A two-thirds vote of the voting members of the community planning group is required to remove an elected [or appointed – IF APPROPRIATE; OR IF A DIFFERENT PROCESS, IDENTIFY IN A SEPARATE SENTENCE] community planning group member in accordance with Article IX.

Removing a member due to ineligibility in accordance with Article III, Section 2 requires a majority vote of the voting members of the community planning group for the purpose of ratifying the findings presented by the Secretary to the group.

Amendments to adopted bylaws require a two-thirds vote of the voting members of the *[insert CPG name]*.

A vote to approve a community plan update or a community plan amendment requires a majority vote of the voting members of a community planning group.

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All other community planning group actions, including subcommittee votes, only require a simple majority of the voting members of the community planning group in attendance when a quorum is present.

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.

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(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 these 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.

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(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-19883 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.

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(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. A copy of the draft minutes should be made available for public inspection as soon as possible but no later than the group’s next regularly scheduled meeting. 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.

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(iv) RECORDS RETENTION – *[insert CPG name]* records must be retained for public review. Community planning group records are meeting agendas and any other writings that are distributed to at least a majority of the group members in connection with a matter subject to consideration at an open meeting of the group. Community planning group records do not include writings that are required to be submitted to the City in accordance with Council Policy 600-24 to substantiate and document the *[insert CPG name]* operation and compliance. The *[insert CPG name]* also receives materials that do not qualify as records. The Administrative Guidelines discuss categories of material that are City records, community planning group records, and non-records.

- 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 an annual report of accomplishments for the past 12 months 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.

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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-19883 NS, and any future amendments thereto. If it is not possible for a new member to attend the training session as required, or if a new member is seated through a special election or in a month other than March, then the member shall successfully complete the online orientation training.

As required by O-19883 NS, newly seated planning group members must complete a basic orientation training session within 60 days of being elected or appointed to a planning group or the member will be ineligible to serve. The basic orientation training session will be scheduled within 60 days of the last day of March each year to meet this ordinance requirement.

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.**

Appeals of discretionary decisions to the City shall be made by the Chairperson or, if necessary because of direct economic interest or absence, by a designee identified to appeal that particular action on behalf of 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. **OPTION: insert any further duties as defined by planning group.**

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- 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.

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(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.

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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.

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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-19883 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 the Policy 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.

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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 group may remove a member by a two-thirds vote of the voting members of the community 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-19883 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.

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- 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.

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- 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 the voting members of their recognized community planning group.
- The planning group member's seat shall be immediately declared vacant and subject to provisions of Article IV.

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- The removal of a planning group member by a 2/3 vote of the voting members 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-19883 NS, and any future amendments thereto.

Exhibit A: *[insert CPG name]* Boundary Map

COUNCIL POLICY 600-24
ADMINISTRATIVE GUIDELINES
SEPTEMBER 2015

CITY OF SAN DIEGO
ADMINISTRATIVE GUIDELINES

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

Approved July 1991
Amended May 2001
Amended April 2006
Amended April 2010
Amended September 2015

The Administrative Guidelines are a companion document to Council Policy 600-24. They expand upon and explain provisions in Council Policy 600-24. They do not replace a community planning group's reliance upon Council Policy 600-24 and their adopted bylaws as their primary source documents.

The Administrative Guidelines were first prepared in July 1991 to address several topics contained within Council Policy 600-24. Since then, they were revised in 2001, 2006 and 2010 following major amendments to Council Policy 600-24. In 2006, the Administrative Guidelines were revised to address each Article and Section of Council Policy 600-24.

Notes about document formatting:

- Article titles used in this document are consistent with those in Council Policy 600-24.
- Except in Article IX, Sections in Council Policy 600-24 do not have titles; Section titles are inserted throughout this document to assist in finding topics.
- Where there is a difference in Section numbering between Council Policy 600-24 and the Bylaws Shell, it is so noted in brackets following the Section number.
- Council Policy 600-24 will be abbreviated throughout this document to CP 600-24.

Reviewed and Approved by the Planning Department, City Attorney's Office and CPC Chair on September 10, 2015

COUNCIL POLICY 600-24
 ADMINISTRATIVE GUIDELINES
 SEPTEMBER 2015

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BACKGROUND

The BACKGROUND Section of Council Policy 600-24 (abbreviated to CP 600-24 throughout this document) 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 community planning group. This includes advising on the preparation of, adoption of, implementation of, or amendment to, the General Plan or a community plan. The 2008 General Plan covers more subject matter of interest to communities and has therefore expanded into some topics for community planning groups' consideration that were not formerly within the identified scope.

In 2006, the City Attorney determined that even though they are self-electing, self-managed organizations, because community planning groups are established by and for the purpose of advising the City Council – a legislative body - they are subject to the California Open Meeting (Brown Act) State Law and as a result, to certain public records availability as discussed in the Brown Act. To identify which provisions in community planning groups' bylaws are not only CP 600-24 provisions but must be carried out in accordance with the Brown Act, these sections or sentences start with, "In accordance with the Brown Act Section.. ". Those identified CP 600-24 sections not only require Brown Act compliance, but some violations of them may carry civil or criminal penalties per the Act.

This section emphasizes that in order to retain the City Council's recognition of a community planning group as the official voice of the community, the group must adhere to its bylaws and CP 600-24.

This section indicates that deviations from standardized language in community planning groups' bylaws are allowed if those deviations are approved by the City Council. See the POLICY discussion below.

PURPOSE

The PURPOSE section states why CP 600-24 policy exists: to identify responsibilities of, and establish minimum operating procedures governing, community planning groups. It also clarifies that CP 600-24 provisions apply to the members of the community planning group who are the "12 – 20 members" identified in Article III and not to the community-at-large or a "general membership" that may be established to pre-screen 'eligible members of the community' for voting purposes or for identifying individuals who may want to become candidates for community planning group seats. In 2007, CP 600-24 references to general memberships were removed because there was confusion about whether those general memberships were subject to the Council Policy. CP 600-24 was revised to clarify that it only applied to those community planning group members who were elected [or appointed per CP 600-24 and community planning group bylaws] to the 12-20 membership seats referred to in CP 600-24.

POLICY

This section of CP 600-24 discusses the requirement for community planning groups to create and operate within bylaws that are consistent with CP 600-24. The section explains that the Bylaws

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Shell appended to CP 600-24 has some provisions that have been standardized for all community 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. Community planning group bylaws must remain in conformance with CP 600-24 in order for groups to maintain their official recognition by the City.

CP 600-24 requires that any community planning group that is a corporation must maintain its corporate bylaws separate from its group bylaws. There are a number of provisions typically included in corporate bylaws that may be contrary to CP 600-24. Examples include: proxy voting, holding meetings outside the jurisdictional boundary, financial policies, voting by a membership beyond the elected board, and the use of secret ballots. Any community planning group that intends to become a corporation should discuss its intent with the City Attorney's office and Planning staff before starting the legal process of establishing a corporation. Corporate status is not encouraged for any community planning group.

Proposed amendments to adopted community planning group bylaws may be submitted to the City for review after a successful 2/3 vote of the elected members of the community planning group. Bylaws amendments do not go into effect and may not be used by a community planning group until the City has approved the revised bylaws and notified the group of the effective date of the amendment. For a description of the bylaws approval process, refer to Article II, Section 7 of these Administrative Guidelines. Community planning groups must operate within their adopted bylaws in order to maintain official recognition from the City Council.

The CP 600-24 Guidelines are intended to explain and elaborate upon CP 600-24 and give community planning groups additional guidance on how to operate in conformance with this 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 CP 600-24, adopted bylaws, and Administrative Guidelines do not address a procedural area of concern, this Policy refers community planning groups to the latest version of Robert's Rules of Order (Robert's Rules). Assigned community planners should also be consulted. When community planning groups seek guidance outside CP 600-24 and adopted bylaws on the same issue, Planning staff will consider an amendment to the Policy to better address the needs of all groups.

This section of CP 600-24 clarifies that in addition to community planning groups having options within certain sections of their bylaws to address their community needs, the City Council may allow a 'deviation' from the standard language if it can be demonstrated that a variation better suits a community's operations. A community planning group may request a bylaws amendment to meet this need.

Newly-stated in CP 600-24 is an obligation for the City to affirmatively state when amending CP 600-24 whether bylaw amendments are required of the community planning groups or not. This is because some CP 600-24 amendments may not cause any operational issue for a community planning group because it is general guidance or statement of intent. If no bylaws amendments are required, the community planning groups may continue to use their adopted bylaws even if the City Council adopts a generally applicable amendment to CP 600-24.

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However, some generally-applicable amendments translate into specific provisions that add value when incorporated into community planning group bylaws. Potential conflicts were not comprehensively addressed in the past, especially prior to the development of the Bylaws Shell in 2007. It may be that the amendment is significant enough that City staff will work with all community planning groups to amend their bylaws to incorporate the provision. Alternatively, it may be that the amendments will be left for the individual groups to amend into their bylaws with the next community planning group-initiated amendment. Appendix A will provide, starting with the 2014 amendments to CP 600-24, a list of amendments to CP 600-24 and the Bylaws Shell identifying which changes must be made to community planning groups' adopted bylaws.

Additionally, an amendment to CP 600-24 that causes a conflict with a City Council-approved deviation for an individual group will be discussed between staff and the group during the processing of the proposed CP 600-24 amendment. Any group's conflicts should be identified and evaluated on a case-by-case basis to determine whether the generally-applicable amendment should override the group's previous Council-approved deviation. If so, the group's bylaws should be amended to remove this conflict. In order to give early direction to staff and community planning groups on which new provisions may or may not be deviated from, the City Council will be made aware of all substantive provisions and which of those provisions groups currently have deviations from so the City Council can direct where deviations may remain and where they must be reconciled with the newly-added or revised CP 600-24 provisions.

CP 600-24 states that the City shall indemnify, and the City Attorney shall defend, community planning groups and group members, subcommittee members, or former members thereof who operate in conformance with City Council Ordinance No. O-19883 NS, "An Ordinance Providing for Defense and Indemnification of Community Planning Groups". Community planning group indemnification is further addressed in Article IX, Section 1 of CP 600-24 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, which is part of the California Government Code. Community planning groups must ensure that all group meetings are open to the public and adhere to the procedural requirements of the Brown Act.

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ARTICLE I Name

Article I of CP 600-24 addresses the official name of, 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 community planning group and that it is subject to approval by the City Council.

The descriptor in the official name of a community planning group varies 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 by the City Council.

A community planning group name change will require a bylaws amendment, while a community plan name change will require a Community/General Plan amendment. A community planning group may seek to change its official name when it believes a different name better represents the character of a community. The best time for a name change is during a community plan update, when there is focus on significant changes being made to community identifiers.

Note that a community planning group name change, if approved, may be inconsistent in printed documents with the revised community name until the next Community/General Plan amendment, even though the new community planning group name may be used after being amended into adopted bylaws.

Section 2. Activities

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

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

Some community planning groups have also established themselves as corporations. This is not encouraged since there are conflicts between laws governing corporations and CP 600-24 and the Brown Act. Community planning groups that are also corporations should not convene as both organizations concurrently in the same meeting. Separate meetings are encouraged. At minimum, utilize the City Council Members’ model of convening as the City Council or the Housing Authority; conduct business; then adjourn as the Council and reconvene as the Housing Authority. A community planning group could mimic this procedure and adjourn the group meeting and subsequently convene as the corporation, observing the separate business meeting requirements. Activities conducted during a community planning group portion of the meeting should only be those activities authorized by adopted bylaws and CP 600-24.

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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. Community planning group meetings must meet within the boundaries of the community plan area. When there is no meeting facility within the community plan boundary, the group should attempt to find a facility as close as possible to the central population or business center of the plan area. Planning staff or a City Council office may be able to provide assistance.

CP 600-24 does not advise as to when, or if, a community plan boundary should or could be changed. Because community boundaries are usually long-established and based on geographic or historical factors, community planning group boundary changes generally occur with a community plan update or amendment.

However, there are several reasons why a community planning group's area of authority may be changed without a plan boundary change: if an adjacent planning area does not have a recognized community planning group but has development activity for which the City would like citizen review or if an adjacent community planning group cannot retain minimum membership to operate in compliance with CP 600-24 but that community's members still wish to be active in matters within the responsibility of community planning groups. These types of changes may cause a change to a community planning group's "Attachment A" map showing the area of authority as well as member categories on a permanent or temporary basis. These situations do not cause a change in the boundary of an adopted land use plan.

Section 4. Official Positions

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

In some cases a community planning group may want to take advantage of the expertise of an individual associated with the group but not a member at that time. For example, the individual was on the group as a representative to an external task force for a year and gained expertise; then the member left the group but the task force continues or was reconstituted. The community planning group may want to take advantage of the accumulated knowledge of the past member and have the individual continue as the group's representative. For this situation, the community planning group should take a specific action to authorize that former member to represent it, and to direct the individual about the breadth of authority the individual has to represent the group's positions, or how the individual is to report back to the group on the task force's work or actions. There should be consideration of whether the desired individual has been a prior member: a prior member would have gone through training for indemnification and understand the importance of operating within the community planning group's bylaws and CP 600-24. For example, a former member would understand that expressing political positions on candidates, or being discriminatory while representing the group would be problematic for the community planning

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group they are representing.

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

When a community planning group chair, or other authorized representative, is expressing a group's voted-upon position for an item that came before the group, the chair or representative must be able to explain the reason for the vote and why any dissenting votes were recorded. Decision-makers may want to understand the group's position beyond just the numbers of that particular vote. It is logical for a chair or representative to be able to convey the discussion that occurred at the group meeting, and may even include a history of positions on similar issues. Since it is presumed that a chair or representative has permission to represent the group's perspective to decision-makers, if the individual is limited in what they can present, the group vote on the item should include any specific instruction about representing the position in front of a decision-maker.

See also Article VII, Section 2 regarding an appeal of a discretionary decision by someone other than the community planning group chair.

See Article II, Section 5 regarding community planning group positions on ballot measures or political candidates.

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ARTICLE II Purpose of Community Planning Groups and General Provisions

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

Section 1. Recommendations on Land Use Matters

Section 1 affirms that the role of community planning groups is to advise the City on land use matters and policies, as requested by the City. It indicates that there are a variety of areas in which the City Council or other governmental agency may elicit input from the community planning groups and specifically calls out all elements of the General Plan and the adopted community plans as advisory areas. It also recognizes that there are other Council Policies, e.g., CP 000-32 or CP 600-33, that may identify a role for community planning groups beyond those originally established in CP 600-24.

Section 2. Review of Individual Development Projects

Section 2 discusses the role of community planning groups in the review of proposed development projects, and recommends timing for input on discretionary projects and environmental documents.

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

See discussion in this document, Article VI. 2(a)7, for a full description of the various stages of a community planning group's review of a development project.

Section 3. City Assistance to Community Planning Groups

Section 3 states that community planning groups who operate in compliance with CP 600-24 may be provided with assistance through the Mayor's Office. Staff assigned to work with community planning groups are part of Mayor's staff and are the primary points of contact at the City regarding community planning group operations. Staff advises community planning groups on policy matters, amendments to bylaws, CP 600-24 and Brown Act interpretations, and general operating issues, requesting City Attorney assistance as necessary. In addition, Planning staff attend community planning group meetings periodically. Community 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 Development Services Department. City contact information is given for each City project distributed to a community planning group.

Section 4. Non-Discrimination

Section 4 states that a community planning group may not, under any circumstance, discriminate against any person whether a group member or a member of the public. This means community planning groups shall not discriminate based on race, color, sex, age, creed, national origin, sexual

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orientation, or physical or mental disability. Community planning group meeting facilities must be accessible to persons with disabilities.

Section 5. Elections and Ballot Measure Positions

Section 5 addresses how community planning groups maintain independence as elected, non-partisan, advisors to the City on local land use matters. Community planning groups should not endorse activities unrelated to land use policy or implementation, or not within other areas of responsibility identified for groups.

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

If community planning group members individually endorse candidates for elective public office they may not identify their affiliation with the group when making the endorsement. "Candidate" means any candidate for public office on the election ballot within the City of San Diego.

A community 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 community planning groups to refrain from endorsing them. A candidate may nevertheless ask to make an election speech to a community planning group. Community 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 community planning group, the group should invite all candidates for that position to address the group at the same meeting.

It is acknowledged that a candidate appearing at a community planning group meeting to address the group under public comment for 3 minutes would not be prohibited from doing so. Other candidates for the same office should be allowed to appear as well.

Community 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 community planning groups at the same meeting. Community 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 community 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 group, must respond with their comments. Community planning groups should endeavor to work within established timeframes. Development Services has indicated a willingness to work

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cooperatively with community 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 group meetings that do not coincide with the project schedule. However, if a community planning group consistently fails to respond to the City's request for group input on land use 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 would be processed under Article IX of CP 600-24 and the decision would be made only 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 after a 2/3 vote of the voting members of the planning group. Following receipt of a bylaws amendment request, Planning staff will review the amendment language for content and conformance with CP 600-24, the bylaws shell and the Brown Act, and will submit the bylaws to the City Attorney's Office for review. Following City review, staff will work with the community planning group on any needed changes. Bylaws amendments that conform to CP 600-24, the Bylaws Shell and the Brown Act shall be approved administratively by signature of the Planning Director or designee and the City Attorney or designee. Bylaws that deviate from CP 600-24, the Bylaws Shell or the Brown Act will be scheduled for consideration by the City Council and groups should be aware that the proposed deviation may or may not be supported by staff. Approval of bylaws with deviations will be by City Council. Following City Council action, Planning staff will work with the community planning group on any needed changes resulting from Council action.

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ARTICLE III **Community Planning Group Organizations**

Article III addresses the structure and representation requirements of community planning groups.

Section 1. Community Planning Group Size and Composition

Section 1 clarifies the number of elected or appointed members a community planning group may elect to meet the needs of the community. A community planning group must consist of a fixed number of members that is no less than 12 and no more than 20 and the number must be included in the group's adopted bylaws. This number varies by community and should be chosen to balance continuity of membership with incorporation of 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 CP 600-24 identifies 12 members as the minimum number needed for the group to carry out the responsibilities that are within the scope of responsibility of a community planning group and to be representative of the community.

When a community planning group needs to adjust the number of member seats, the bylaws must be amended. A change in the allocation of seats or representation may also need to occur. Changing to a number within the 12-20 range can be approved by staff and the City Attorney.

Appointed seats are newly-addressed in this Section. Council Policy 600-24 now acknowledges the existing practice of creating appointed seats, and clarifies that appointed seats are created in a community planning group's bylaws for the purpose of "assuring better representation of unique or diverse community interests"; they are not intended to replace or substitute for seats that are established pursuant to CP 600-24-identified eligibility categories. Because voting situations are described in more detail later in CP 600-24, this Section goes on to indicate that when creating appointed seats a community planning group must clearly state whether they are voting seats or advisory only, and address whether they do or do not count in a group's quorum. This is important because voting situations in Article VI and IX require either a majority or 2/3 vote of the "voting members of the community planning group" and it must be clear whether appointed seats do or do not vote so they can either be counted in, or excluded from, determining the votes.

Section 2. [Original Community Planning Group Membership - there is no corresponding Bylaws Shell section]

Section 2 has been revised to clarify that the original members of a community planning group are those members who have been appointed by the City Council when the group is originally constituted, in accordance with Council Policy 600-24.

Section 3. [Representation of Community Interests – Bylaws Shell Section 2]

Section 3 states the goal of electing community planning group members is to create a group representative of the various geographic sections of the community and of the diversified community interests. Some community 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). Adjusted or new categories must be proposed through a bylaws amendment, subject

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to approval by the Mayor's Office and the City Attorney for consistency with the intent of CP 600-24's diverse representation provisions.

CP 600-24 states that to be an eligible community planning group member an individual must be at least 18 years of age; it also requires affiliation with the community, as outlined below, but does not require US Citizenship.

CP 600-24 has long stated that to be an eligible member of the community an individual must be affiliated with that community as a property owner, a resident or local business person. Over time, categories identified in individual community planning groups' bylaws have become modified and clarified as discussed below.

An eligible member of the community may vote in community planning group elections and may run for a seat to become a member of the community planning group. Bylaws often require demonstration of eligibility and meeting attendance to qualify to vote or to run.

A **property owner** must be a sole or partial owner of record of real property (or designee) within the community plan area. A property owner need not reside in the community to be an eligible member. Community planning groups may list further qualifications for the eligible members of this category.

Community planning groups may want to outline, in Article VIII of their bylaws, how designation of property owner rights will be conveyed to a designee. Community planning groups may want to request written documentation from any individual who becomes a 'designee' representing an owner. 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 community planning group signed by the property owner.

A **resident** is an individual who lives within the community but who does not necessarily own the property in which they live.

A **local business person** includes: an owner, operator, or designee of a non-residential real property address in the community. This may include no more than one owner, staff or other designee per business establishment. Community planning groups may want to outline, in Article VIII of their bylaws, how any designation is made and may want to request written documentation of any individual who is a designee as with the property owner category above.

An individual may qualify to run for an available community planning group seat in any category they are eligible for. For example, there is no prohibition on a community resident employed within the community from running for a residential seat, when another local business person already represents their business establishment on the community planning group

For community planning groups that identify specific business seats, those seats must be reserved for the businesses found in non-residential real property 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 community planning groups. Individuals working from home without a non-residential business address within the community should not be determined to be eligible for a business person seat. However, a

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community planning group may designate a seat as a “home occupation” seat while retaining the representative number of non-residential business seats.

Community planning groups may find that a community interest would be better represented by a group member filling a seat by appointment. Usually, having a limited number of appointed seats is consistent with the goals of a community planning group. Appointments may be made by the community planning group or by the entity that the seat represents, depending on the seat. If a community planning group includes 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 if different than an elected seat.
- Whether and how that seat may be converted to another category.
- Whether the planning group or the represented entity appoints the seat and the process used.
- That the removal of the appointed seat must comply with the 2/3 vote requirement in Article IX, unless there is a different procedure put into place for removal of an individual from that appointed seat.

Section 4. [Limitation on Consecutive Terms of Service – Bylaws Shell Section 3]

The basic term limitation requirements in CP 600-24 allow elected members to serve for up to eight or nine years, depending on the length of the fixed terms identified in the community planning group bylaws. Members’ 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 community planning group, while members serving three year terms are limited to nine consecutive years. The term limitation refers to an individual’s time of service, regardless of the number of different elected seats a member holds during those years. For example, a resident cannot serve eight consecutive years then, without a break in service, run for a business or property owner seat. A one year break in service is still required.

If a member has not reached their eight or nine years of service, perhaps because of a midterm appointment or election following a declared vacancy, and is elected to a term that would carry their service beyond eight or nine years, they may fill the seat only for the balance of their eight- or nine-year service period. For example where a community planning group utilizes 3-year terms, a member serves seven years (1 year of a partial term, then two full terms) before standing for election to a new three-year term. The member may serve only one year of the term but would then need a one year break in service when they reach the nine years of service limitation.

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 community 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 of a planning group that utilizes 2- or 4-year terms could serve seven years and six months, have a

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break in service for six months and return to serve for six more months for a total of eight years of service. Upon reaching eight years of service, the member would need to take the required one-year break in service.

Members who have served eight or nine years may express a desire to continue as a member of the community planning group. They may appear on a ballot for the March election with new candidates and may serve in excess of that limit without a break in service if the good faith effort made by the community planning group to develop a list of potential new candidates does not result in a number of candidates that exceeds the number of 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 note that the candidate exceeds the community planning group's allowable term limits and will be eligible to be seated only if vacancies remain after the election of eligible new candidates - even if the new candidates have fewer votes; and
2. After open seats are filled with new members who meet any seat category requirements, candidates with service beyond eight or nine years who received a 2/3 vote may be considered for remaining open seats in the category in which they competed, with the highest vote recipient exceeding the eight or nine year limitation taking the first open seat that they qualify for, etc.; and
3. No more than 25 percent of the total planning group membership can consist of members serving in 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, a candidate with service beyond eight or nine years may not even be considered.

Community planning groups should have a standard procedure, perhaps embodied in a bylaws provision, to address the situation where a vacancy remains after an election. For example:

- If a community planning group has specific categories of elected seats, and a seat within a particular category remains open after an election, the group may consider a bylaws provision which prescribes how any remaining seat may be filled; e.g., with a new eligible candidate from another category. If no new eligible candidate is available, an option could be to select/appoint an over-term candidate who was not seated during the election if they had received 2/3 of the votes cast within that category and if that over-term candidate does not cause the community planning group to exceed the 25 percent limitation of members beyond their term of service.
- If a vacancy remains after the March election for a seat that is available to any eligible member of the community, and the community planning group seeks to fill it quickly, an over-term candidate may be considered for appointment only if there is no new eligible candidate available who was not seated through the election, and only if appointing an over-term candidate would not cause the group to exceed the 25 percent limitation of members beyond their term of service.

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Election by a 2/3 vote 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 2/3 majority vote is again required.

Section 5. [Losing Eligibility to Serve – Bylaws Shell Section 4]

Section 5 states that a community planning group member must retain eligibility during their entire term of service. A community planning group member becomes ineligible when he or she no longer meets the eligibility requirements found in Article III, Section 3 (i.e. property owner, resident, business person) or exceeds the number of allowable absences found in Article IV, Section 1 of CP 600-24 and the Administrative Guidelines. When this occurs, a community planning group member should be encouraged to resign prior to a planning group’s action to ratify the Secretary’s findings.

Alternatively, if the secretary becomes aware, or is made aware, that a member is no longer eligible to serve, they must notify the member and ask the chair to schedule a vote of the community planning group to ratify the findings and remove the member. Prior to the meeting the secretary must present documentation to the community planning group and to the member who is no longer eligible. The ratification vote of the findings should be taken and the community planning group should vote to declare a vacancy exists. CP 600-24 previously stated that a majority vote by a community planning group was required to remove the member who had not maintained eligibility. This was changed in 2014 to a ratification vote because ineligibility due to Article III, Section 3 or due to exceeding allowable absences is to be factually determined by the secretary. A member may not argue and dissuade a community planning group from removing the individual when there is a factually-correct situation: doing so would put the group in jeopardy of violating its bylaws and CP 600-24. Therefore, the vote for removal was changed to a vote ratifying the factual findings of the secretary and was followed by a separate vote to declare a vacancy.

If another community planning group member becomes aware that a member is no longer eligible they should notify the secretary, or other group officer of this situation. Also, if either the chair or secretary is the member who becomes no longer eligible to serve, another officer (probably the Vice Chair) should step into the chair or secretary role.

There is no provision in CP 600-24 that prevents that member who became ineligible, and was removed, to run for a seat again if that individual is able to re-establish and demonstrate eligibility.

Section 6. [Risk of Loss of Indemnification – Bylaws Shell Section 5]

Section 6 introduces the potential loss to community planning groups and group members of legal defense and indemnification under the Ordinance O-19883 NS “Providing for Defense and Indemnification of Community Planning Groups” for violating CP 600-24, their adopted bylaws, or the requirements of the Brown Act. 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 CP 600-24, community planning groups are considered to be in substantial conformance with the Brown Act.

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ARTICLE IV Vacancies

Section 1. Finding a Vacancy Exists

Section 1 recaps the situations in which a community planning group may 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; after a ratification vote of a majority of the elected members of the group that an individual member is no longer “an eligible member of the community”; or, if a member has been removed in accordance with Article IX of the Policy and a group’s adopted bylaws.

A community planning group chair should contact an affected member in advance of any scheduled group vote to declare the member ineligible and find a vacancy exists and ask whether the member wishes to resign. A determination that a vacancy exists should be placed on the community planning group’s agenda.

While that former member could potentially be selected for, or re-elected to, the remainder of their own term if they reestablish eligibility prior to an election, the community planning group should consider the implications of allowing an appointment of an individual who could not retain eligibility. If the former member intends to run again for their seat, the community planning group – perhaps via an election committee - would likely want to make an effort to find at least one additional candidate.

Section 2. Filling Mid-term Vacancies

Section 2 directs community planning groups to fill a mid-term vacancy in accordance with their bylaws. Vacancies should be filled no later than 120 days following the determination 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 community 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 remove a member and find a vacancy and the filling of a seat by election or appointment are matters that should be noticed on an agenda in accordance with the Brown Act. Because these are acts by the community planning group members, as opposed to a community wide election, 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 and votes for and against are announced and included in the minutes. 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 community planning group’s action on an agenda item and should be treated as an item for reconsideration.

CP 600-24 requires that two or more concurrent vacancies be filled through a special election by eligible members of the community utilizing a secret written ballot. In the case of two vacancies but only one candidate to fill a seat, a community planning group may proceed to fill one vacancy

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by appointment (or whatever process is included in adopted bylaws) and keep looking for a candidate to fill the second vacancy.

Section 3. Inability to Fill a Vacancy

CP 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 community planning group. If there are no qualified or available candidates to fill a vacancy, a community 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 made efforts to fill one or more vacancies and is unable to do so and if the timing is such that the annual March election will be held within 90 days, filling the vacancy/vacancies may be deferred and efforts to fill may be combined with the upcoming election, even if filling the seat would only be for the remainder of the term. However, at any point if a qualified candidate emerges who can fill a vacancy, the community planning group may appoint that individual for the remainder of the term and the candidate may run for the seat in the next election.

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 community planning group has difficulty filling a vacant non-residential seat by the deadline, the 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 the seat reverts to the category identified in the bylaws.

If a community planning group's membership is on the verge of dropping below 12 due to one or more vacancies, the group should increase its efforts to recruit candidates and follow the procedures in this paragraph. After a vacancy exists for 60 days, a community 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 will notify the community planning group in writing that they may be placed on inactive status by an action of the City Council. While a community planning group is on inactive status, the City suspends the group's formal advisory role. While the inactive community planning group can continue to meet, it will not be in the capacity of a recognized community 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 community planning group should solicit new members and potential candidates for the next general election. The inactive community 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.

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ARTICLE V **Elections**

Section 1. Election Timing and 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. Council Policy 600-24 establishes a few mandatory election requirements but charges each planning group with the responsibility of adopting specific election procedures. Community planning groups may find the most recent edition of Roberts Rules of Order 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 for all community planning groups are held during the month of March every year or every other year. Community planning groups should seek enough new candidates to exceed the number of seats open for election. Community planning group bylaws shall establish a minimum number of meetings required to have attended in order to be a candidate for election as outlined in the Bylaws Shell. 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. Each community planning group's bylaws must specify the number of meetings a potential candidate is required to attend: the number is an OPTION presented in the Bylaws Shell. Some groups have indicated issues with an individual signing into the meeting for purposes of establishing attendance and then leaving without staying for the business of the meeting. It is up to individual groups to determine if their bylaws/election procedures identify the length of time someone must remain at the meeting in order to have it qualify toward the required number of meetings, e.g.: for the voting items of the meeting; or for the length of the meeting as identified on the agenda. Identifying the requirement proactively removes potential disagreements later about whether an individual was at the meeting 'long enough'.

The number of required meetings is presumed to refer to regular monthly meetings of a community planning group. If a group is in the process of a community plan update and wants to allow a candidate to attend those meetings – or other community forum - to qualify as an eligible candidate, then that can be stated and used. Conversely, if only regular monthly meetings of the group with attendance at the full meeting count, that should be made clear to a potential candidate as well.

Community planning groups are encouraged to adopt specific election procedures and place them in their bylaws: groups should review and address as needed the following election procedures in writing prior to the election in a format available to all group members, potential candidates, and the public.

- Verification of candidate eligibility prior to printing a ballot
- Creating a ballot with all candidates appropriately represented
- Handling of write-in candidates, if applicable, including how to verify eligibility for a write-in candidate's name on a submitted ballot
- Handling of a candidate's absence from a scheduled candidates' forum
- Location(s) of polls, including managing multiple concurrent polling locations, if allowed
- Management of the polls
- Verification of voter eligibility (i.e. driver's license, utility bill)

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- Ballot construction & content
- 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
- Clarifying whether a plurality voting system is being used, or if a majority is required for a seat to have a declared winner
- Ballot record keeping
- Tie-breaking procedures
- Election challenge procedures
- Timing of installation of newly elected members
- Maintaining confidentiality of secret written ballots
- Discouragement of electioneering (individuals actively trying to convince voters to vote for a specific candidate at the time and place of the election)
- Next steps if a seat remains unfilled due to lack of, or ineligibility of, a candidate, or as a result of a successful election challenge

When a community planning group plans to provide the opportunity to vote on more than one date in March, these procedures must be outlined in their adopted bylaws. If the community planning group wants to use this option and it is not in the adopted bylaws then the voting procedures for such an election must 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. Publicizing Elections

CP 600-24 Article V, Section 2 limits its content to the promotion of elections as discussed in the last two paragraphs of this Section below. However, community planning groups' bylaws, as directed by the Bylaws Shell, include two additional paragraphs.

The first paragraph acknowledges that community planning groups should assure that only eligible members of the community are voting in an election. Many groups' bylaws have procedures to assure this, and some have forms that they ask eligible members to fill out prior to the election so that voters are cleared prior to checking in at the polls.

A second paragraph in the community planning groups' bylaws identifies the required content of a ballot in an election, such as what seats are up for election, how many candidates can be seated, and the limitations on individuals wishing to serve more than 8 or 9 years. What is not directly addressed is how a voter should fill out their ballot. Questions have arisen, for example, regarding interpretation and counting of unusually-marked ballots. Election ballots should present voters with a list of names and a box within, or a line on, which to make a mark indicating support of that candidate. The general rule in Roberts Rules of Order is that 'for' and 'against' ballots should not be used in an election. Roberts Rules of Order also advises that the only ballots that are to be counted as votes cast are those on which a voter has voted for someone: blank ballots, ballots where every name is crossed out, and ballots where it is noted 'none of the above', are not counted in the total number of votes cast.

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Community planning groups must demonstrate a good faith effort to publicize planning group elections and candidate eligibility requirements. They may use their own websites, posting notices at libraries, grocery stores, and other community meeting places as well as 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.

A chairperson can raise the visibility of being a planning group member by indicating the role of the group and its members at the start of each meeting. The chair can provide a brief statement about the duties of the group and what kinds of actions the group may be taking. The chair can mention the group operates under its own bylaws which are consistent with the overarching Council Policy 600-24. Some chairs do this regularly, but it can be done particularly in the months leading up to the election to add to the group's advertising efforts.

Section 3. Voting by Secret Ballot

CP 600-24 states that a community planning group election (either the regular March election or a special election) will be open to eligible members of the community to vote by secret written ballot. In contrast, Brown Act Section 54953(c)(2) states that votes taken on agenda items by a legislative body must be publicly reported by count (for-against-abstention) and identify who is casting each vote. This conflict precludes community planning group elections from being held during, and as part of, a noticed group meeting of the community planning group. While these provisions are clear in CP 600-24, the Bylaws Shell was not changed to reflect the situation. Community planning groups are advised that their election does not have to be held on a separate date, but instead can be concurrent with, but separate from, the group meeting, or prior to it. Either of these arrangements still allow reporting out of the election at the March meeting to allow a challenge period to be initiated and to allow new members to be seated at the start of the April regular meeting.

A community planning group vote at a meeting of the group, including but not limited to electing officers or filling a vacancy, if done by written ballot, must be publicly reported according to the Brown Act Section 54953(c)(2), including who voted for, against, or abstained. If a vote is conducted verbally, it must be similarly recorded in the minutes.

CP 600-24 states that if voting follows or precedes a regular meeting of the planning group, ballots must be available for a specified period at the election. Ballot availability must be clearly and publicly announced.

A proxy is the authority given by one person to another to vote in his/her stead. Per Roberts Rules of Orders, proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and non-transferable. In this section, CP 600-24 states that proxy voting in elections is not allowed under any circumstances. (Note that the restriction on proxy voting is a deviation from rules of a corporation. If a community planning group is also a corporation, and the group members are members of the corporation board, then voting for the community planning group members must follow CP 600-24 and not the corporation's criteria for selecting new board members.)

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Section 4. Finalizing Election Results

An election becomes final after announcing the election results at a noticed community planning group meeting unless explicitly stated otherwise in the 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 stated as part of the publicity for the election. This allows for the seating of new community planning group members in April as required by CP 600-24. The most straightforward way to display your challenge process is to write the process clearly in your bylaws and reference that section in your election publicity.

A recommended Election Procedures sequence for community planning groups' bylaws is:

- Conduct the voting and convene (or reconvene) the group meeting
- Election Subcommittee members, or other identified group members, count the ballots; confirm the eligibility of any write-in candidates who attract enough votes to put them into a position to potentially win the seat
- The Election Subcommittee (or group) chair announces the results of the election. Also announced is the 24-hour period allocated for the Elections Subcommittee to receive a challenge to the election
- If no challenge is received then the results become final and will be certified by the community planning group chair and forwarded to the City. New members are seated for the group's April regular meeting
- If a challenge is received, the Elections Committee shall promptly discuss the challenge to determine if any facts to support the challenge were provided by the individual filing the challenge. Facts should be related to actions taken during the election process that are not in accordance with CP 600-24 or a community planning group's adopted bylaws, or with announced or published election procedures or lack thereof. If there is no substance to the challenge and the election results can be certified, newly elected community planning group members shall be seated at the beginning of the April regular meeting. A ratification vote of the Elections Subcommittee's findings should be placed on the April agenda for a majority vote of the voting members of the planning group. If there is substance to the challenge, the Elections Subcommittee should identify, with input from the planning group's officers, the appropriate resolution. The resolution should be placed on the April agenda for a majority vote of the voting members of the planning group. City staff may be consulted if there is any question or assistance needed.

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ARTICLE VI Community Planning Group and Planning Group Member Duties

This Article contains most of the required operational criteria for meeting conduct, subcommittees, abstentions and recusals, and meeting records along with other specified duties. CP 600-24 contains many specific recitals of Brown Act sections in this Article. While the Bylaws Shell does not cite the Brown Act in each subsection, Article III, Section 6 indicates that CP 600-24 sections corresponding to bylaws sections contain the Brown Act citation that must be adhered to.

Section 1. Duty to Work Cooperatively and in a Public Setting

Section 1 indicates that it is the duty of community planning groups 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 community planning group, including regular meetings, special meetings and subcommittee meetings. Furthermore, if a community planning group desires to hold a retreat outside a regularly scheduled meeting, it must be noticed as a meeting of the group and be open to the public.

CP 600-24 acknowledges that some administrative functions of the community 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 must occur at the noticed meeting.

Finally, the last paragraph advises community planning groups and individual members to refrain from conduct that is detrimental to group operations. Engaging in such conduct may constitute a violation of CP 600-24 that could be pursued under the provisions of Article IX.

Section 2. Compliant Meetings, Actions, and Records

Section 2 of CP 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

1. 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 additionally be posted at other locations, such as grocery stores and/or a community website. Whatever locations are used, consistently-used posting locations assist those looking for the agenda if they are unable to access it on the community planning group's or City's website.

The City posts agendas it receives on the City website. It should be noted that CP 600-24 states that if a community planning group maintains a website, the upcoming agenda should be posted on it, and the group must offer the agenda to the City for posting. If offered to the City, it will be posted as soon as possible after receipt. The growth in individual community planning groups'

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websites helps get the word out about the groups' upcoming discussions as does posting on the City website.

The agenda should be posted in a location that is freely accessible to the public 24 hours per day. For instance, if a community 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 in a visible 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. A community planning group should be consistent in where its agenda is posted so anyone searching for it knows of a specific, regular location. If 24-hour-a-day visible 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 cumulative total of 72 hours.

Planning group agendas 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. 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. Some community planning groups include an item to approve the agenda as the first order of business at a meeting. This is not a requirement of the Brown Act, however, if it is a community planning group's practice to do so, there is no restriction against it. A motion can be made to adopt the agenda, delete items from the agenda, or rearrange or modify items on the agenda. As outlined in Article VI, Section 2(a)viii, items may be added to the agenda that came to the City and community planning group's attention subsequent to posting of the agenda if there is a need to take immediate action and may be added by 2/3 vote of the of the voting members of the planning group. If less than 2/3 are present and there is a need to take immediate action, then every member present 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. The same voting procedure is required to change the proposed action on an agenda item, i.e., change it from an information item to an action item. See also paragraphs VI.2(a)8 below.

2. 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 community 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, community planning groups may establish reasonable time limits for public comment.

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3. Adjournments

A meeting of a community planning group or of a standing subcommittee may be adjourned to a future date in advance of a meeting (e.g., the group is in recess in August) or on the day of the meeting because less than a quorum was present. If a community 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 community planning group or standing subcommittee 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.

4. Continued Items

If a community 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 community planning group meeting, that future agenda must contain an entry for the item. A community planning group may use its discretion to trail an item until a later time during a meeting or continue items to a future date.

5. 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 community 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 community 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.

Note that CP 600-24 allows comments on any consent agenda item, and allows it to be removed from the consent agenda upon request. The CP 600-24 provisions that allow a subcommittee's recommendation to a community planning group be placed on the consent agenda for a vote, but removed upon request.

6. Quorum and Public Attendance

Before calling a meeting to order, a chair must check that a quorum is present to conduct business. A quorum is a majority of the non-vacant seats of a community planning group.

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, e.g., 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

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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 community 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. During a meeting that begins with a quorum, 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. All discussion on agenda items must cease and the only business that may occur is to determine the feasibility of carrying on with the meeting.

A chair may want to reconfirm the presence of a quorum prior to calling for a vote on any action. This can be done by silently counting, or asking the secretary or parliamentarian to announce any time a meeting drops below the required quorum. A meeting that begins with a quorum is presumed to continue with a quorum unless someone questions the quorum. Because it is difficult to go back later in time and demonstrate that a quorum was either maintained or lost at some past point, any challenge to the validity of an action based on a quorum being present should be done at the time of the vote, not after it.

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

7. Development Project Review

Community planning groups are sent project packages for review from the Development Services Department in accordance with Information 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 needed for project review. As outlined in the CP 600-24, community 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. A community planning group should not base its vote, or hold up the item at the group, because additional information is not provided.

The community planning group must notify the project applicant or representative each time their project is reviewed or placed on the agenda by the group or a subcommittee. Notification to the applicant should be made well in advance of the meeting and deference 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 community planning groups' duty to allow participation of affected property owners, residents, businesses and not-for-profit establishments in proximity to, or with interest in, the

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proposed development.

A community planning group may be presented with, and may discuss, a discretionary development project multiple times at various stages, which may include but are not limited to: Conceptual Presentation; Community Plan Amendment Initiation; Project Vote; Project Reconsideration; Project Re-vote.

Conceptual Presentation: A project applicant may want to get the ‘sense’ of a community’s view about their future or not-yet-submitted development project. A community planning group may be asked to schedule an item for a ‘big picture’ discussion of a proposed project, perhaps with an accompanying community plan amendment. This early discussion benefits both the applicant and the community planning group, but a group is strongly advised not to take any position on any aspect of a future project before it has undergone some level of staff analysis.

Community Plan Amendment Initiation: A project that would adversely affect the adopted land use plan for a community must either revise their project or propose an amendment to the plan. If a plan amendment must be part of the project, a discretionary project is not ‘deemed complete’ until the plan amendment is initiated by the Planning Commission. Planning staff and the Development Project Manager will look to the recognized community planning group for a recommendation about whether the group supports or opposes an amendment being initiated for purposes of analysis and future recommendation. Planning staff, perhaps in conjunction with the project applicant, will come to the community planning group with the single question about whether a plan amendment should be initiated and, if so, what issues should be addressed in the analysis. This recommendation from the group is NOT the project recommendation and will occur prior to any vote by the group on the project itself. Only after the group takes a position on the initiation and the Planning Commission or the City Council makes a recommendation will the project application be deemed complete and the project review process will begin with a Notice of Application.

Project Vote: A community planning group generally should act only one time to provide a formal recommendation on a proposed development project. At the time of a group’s formal recommendation, a project should be designed to a “point of reasonable certainty” where a group vote can comfortably recommend approval, denial, or additional conditions about a project that is essentially the same one that will be considered by the decision maker such as the Hearing Officer, the Planning Commission, or the City Council.

Some community planning groups identify this “point of reasonable certainty” as 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 community planning groups may defer action 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 community 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.

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Project Reconsideration: ‘Reconsideration’ is a particular process described in Robert’s Rules of Order. It is likely to be used rarely as a community planning group vote. A reconsideration occurs when the community 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 community planning group debates and votes again on the issue.

Project Re-vote: Community planning groups may vote on projects more than once in circumstances where a project has been substantially revised as a result of applicant desire or City staff direction, when incorrect or significant new information was received, or when an environmental document has been reissued or re-circulated. Another reason for a re-vote is when the project applicant had not been notified of the original agenda item or was denied the opportunity to speak to it.

Occasionally, community members will address a community planning group about not being notified about a project. This does not cause a community planning group to need to re-vote or re-hear a project if the group follows its normal community notification procedures. The individual can be advised about getting on the Notification list [see below] or the community planning group’s email list or checking the group’s website.

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. The decision to re-vote on a development project precedes the actual vote on the matter. If approved, the project would be placed on the next community planning group agenda and any interested individual who had appeared for the prior project vote should be made aware by the group about the new agenda date. The project applicant should be made aware and invited to the meeting, and the Development Project Manager [who likely had received the group’s first project vote] should be notified of the pending action.

A change in the community planning group composition due to the seating of newly-elected members seeking to reverse a previously-completed review process is not a valid reason to take a re-vote on a development project or policy matter.

Projects in Adjacent Communities: A community planning group or an individual can request to be placed on an email notification list for any community in the City for all discretionary projects by sending an email to DSD-Noticing@sandiego.gov and making the request. Some community planning groups use this method to keep up on discretionary development in adjacent communities: all Process 2, 3, 4, and 5 notices at all stages of all projects will be sent. If a community planning group finds that there is a project in an adjacent community it would like to send a comment or recommendation about to the City, this would be the avenue to enable it to do so.

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8. Action on Agenda Items

There are Brown Act 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 community planning group after the agenda was posted. In addition, the item may be added only by a 2/3 vote of the voting members (filled seats) of the planning group because there is a need to take an immediate action. If less than 2/3 are present, every voting member in attendance must vote to place the item on the agenda. In advance of the meeting, the community planning group may want to consult City staff 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.

As a general rule, a community planning group should not take an action on an information item on an agenda that was not noticed as an action item at least 72 hours before the regular meeting. While the Brown Act does include a narrow exemption for an item with a need for urgent action to be added to the agenda within 72 hours (by a 2/3 vote of voting members present or every voting member if less than 2/3 are present), it is likely that an item anticipated and noticed as an information item cannot meet the urgency criteria. Some members ‘feeling’ like the item is urgent and should be voted upon does not meet the urgency criteria which requires that the matter did not come to the attention of the agency until after the posting of the agenda.

To change an item from an information item to an action item is a significant change: individuals who planned to attend may not, figuring they would have a chance to speak to the community planning group’s action at a future noticed meeting; an applicant may not bring a full team to address issues at the information-only presentation; staff may not attend for an informational discussion. Changing an item from information to action is not recommended. If it is done, the minutes must include the vote to convert the item along with the action taken on the item subsequently.

A key Brown Act provision of this subsection is the prohibition of 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. Email polling or other means of absentee voting are also prohibited by the Brown Act, with a very narrow exemption provided for heavily-conditioned remote participation in the meeting.

Actions on agenda items by the community planning group establish the official positions of the group. Planning groups may include rules of standing order or operating procedures to guide the roles and responsibilities of group members when representing a group’s position to the City and/or to the public. Members are advised to refrain from identifying themselves as members of a community planning group when expressing positions on matters either not voted upon, or outside the scope of duties of planning groups. Note: this requirement is addressed differently for community planning groups’ representatives voting at CPC meetings in CP 600-24.

An action of a community planning group shall be approved by a vote of the full group, not by a subcommittee vote alone. In cases where a community planning group has authorized a subcommittee or representative to represent the group, or vote on its behalf, on or to a task force

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or outside committee, the position taken by the group's representative should be ratified at a subsequent regular community planning group meeting. CP 600-24 has been amended to identify voting situations where a majority of a present quorum of voting members vs. a majority or 2/3 of the voting member of a community planning group is required:

- A vote on a development project may occur at a meeting, provided that a quorum of the community planning group is present at the meeting and those present are eligible to vote and are not recusing. A motion will pass with just a majority of those eligible to vote supporting the motion. Even though this vote may not result in the majority of the members of the community planning group who are eligible to vote being in support or opposition to a motion, CP 600-24 allows this vote to be forwarded to the City. When a position is not supported by a majority of the voting members of a community planning group, it is helpful if there is detail provided about the number of members present to vote and the reason for a split vote.
- A vote on a community plan amendment, either a freestanding amendment or as part of a development project, or on a community plan update must be by a majority of the voting members of a community planning group.
- A vote to amend adopted bylaws or to remove an elected or appointed member of the community planning group must pass by a 2/3 vote of the voting members of the group.

Votes requiring a majority or 2/3 of the voting members of the community planning group are ones that affect the very operation, guidance, and credibility of the group and deserve to be decided by the greatest number of voting members of the group as possible.

In the case where a community planning group chair files a timely appeal on a project that the group has voted against during a regular meeting following proper procedures, the chair should report on the action at the next meeting of the 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. It should be based on the presumption that a chair has the authority to file an appeal on behalf of the planning group unless the chair was absent for the appeal vote, has a direct economic interest resulting in a recusal, or abstains for cause. A chair who abstains, except in the case of tie vote in accordance with adopted bylaws, may file an appeal.

If a project has been substantially revised since a prior vote by a planning group, or a planning group received incorrect or additional information, the revised project may be placed on the agenda for a re-vote. Due to changed information, the item should be placed on the agenda as a new item, referring back to the former project if appropriate. This subsequent docketing does not need to meet the Robert's Rules of Order requirements of a reconsideration.

Occasionally some members may want to docket an item on the community planning group agenda and the group chair is opposed to the item being heard. This situation is not addressed in the Brown Act. If this is a more-than-one-time situation, a group should develop a procedure and the approach of the City Council can be used: a number of group members (less than a quorum to avoid a collective concurrence situation) may together sign and forward a letter to the chair

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requesting docketing. If there is a procedure in place, the chair would be obliged to comply.

9. 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 among 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.

Distribution or availability of electronic documents should be considered as well. Individual members of a community planning group should not share their thoughts or opinions, or any documents, with any member outside a noticed public meeting. Documents intended for discussion at a meeting may be provided to the chair, if he/she permits, for distribution with the agenda or to members in advance of the meeting. Any electronic memos or documents that relate to community planning group business should either be shared AT a noticed meeting or, if shared electronically, posted to the group's website so that all group members and members of the public have equal access.

Note that collective concurrence does not apply to the development of positions by a community planning group AT a noticed meeting. Also, members of a community planning group may receive staff briefings as long as the comments or positions of the members are not purposefully communicated to other group members by the staff providing the briefings. Be aware that the possibility of serial communication could also occur as a result of communications with other individuals, such as members of the public or an applicant.

Ex parte is another type of non-public discussion that community planning group members may encounter. Bodies such as planning commissions and city councils are subject to ex parte communication requirements because they have a quasi-judicial role in decision-making. Those bodies often establish rules about avoidance and disclosure of ex parte contact in order to maintain the integrity of the public hearing process. Ex parte avoidance and disclosure does not apply to community planning group members because they do not have a 'quasi-judicial' role (i.e., hearing role requiring 'due process') even though groups are 'legislative bodies' for purposes of the Brown Act. However, it is advisable to avoid those situations outside of public meetings that lead to collective concurrence (per the Brown Act) or the appearance of decisions on items not yet heard by the community planning group.

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10. 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 community planning group Chair or a majority of group members, and must have a specified purpose. An example could be hosting a long-planned broad community meeting on an issue of wide interest, or to consider a project or policy that requires quick action or does not fit time-wise onto a regular meeting agenda. 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 that is required on a regular meeting's agenda may be waived at a special meeting. Written notice is required to all community planning group members, local newspapers and radio and television stations that have requested notice at least 24 hours prior to the meeting, and email is considered an acceptable form of written notice. A 24 hour agenda posting, similar to the requirement for a regular meeting, is still required.

11. 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 of community planning groups are prohibited.

12. Right to Record

The Brown Act requires that anyone in attendance at a community planning group meeting be allowed to 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 the community planning group; however if a group records its meeting for future reference or to develop minutes, the recording must be made available to the public upon request.

The City Attorney has determined, however, that if a community planning group member records the group meeting for that member's own personal use, the recording is not a public record and is not required to be shared or disclosed.

13. Disorderly Conduct

The Brown Act states that in extreme circumstances, a community 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 members of the press remaining or being readmitted) without an audience or with non-disruptive individuals readmitted. It's recommended that a community planning group chair anticipating a hostile situation at a meeting contact staff or council member to seek their advice, assistance, or attendance prior to the meeting and avoid this measure which the Brown Act allows in "extreme circumstances".

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(b) Subcommittees

1. 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 community 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.

2. 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 community planning group and constituting less than a quorum, CP 600-24 requires that all ad hoc subcommittee meetings be open to the public in an accessible location and, at a minimum, be noticed on a website, listed on the regular group agenda, or announced at a regular planning group meeting.

3. Subcommittee Composition

This section states that all subcommittees must be comprised of a majority of community planning group members. Non-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 community planning group role. In order to be indemnified by the City under O-19883 NS, "An Ordinance Providing for Defense and Indemnification of Community Planning Groups", non-planning group subcommittee members must be identified in the 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.

4. Recommendations

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

(c) Recusals and Abstentions

It is the duty of community planning group members to participate in discussions and vote on agenda items. However, there are two legitimate situations that may cause a member to not vote: one is a mandatory prohibition and the other is an optional situation. They are recusals and abstentions.

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1. 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. Note that direct economic interest as it is used in CP 600-24 is NOT the “Conflict of Interest” standard as discussed in California’s Fair Political Practices Act (FPPA). The FPPA does not apply to community planning groups, however, the requirements in CP 600-24 and the guidance in these Administrative Regulations are patterned after state conflict of interest law.

The requirement to recuse applies to all community planning group member seats including categorized and non-voting seats. If a member has a direct economic conflict, the member must:

- Disclose the economic interest, and
- Recuse before the item is discussed, and
- Physically leave the community 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 community planning group.

The community 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 community 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 community planning group members will act in good faith to fulfill their authorized duties. If a conflict is suspected, but it is not recognized or acknowledged by a member, the group may call for a vote about whether to determine whether a member should recuse and whether the group should discount that member’s participation and vote on the item. The vote should be 2/3 of the voting members of the planning group, or by a unanimous vote if less than 2/3 of the voting members of the group are present. The vote should be taken before the item is discussed. If the member still refuses to recuse, the community planning group should make it a part of the public record that a vote of the group considered the member ineligible to participate.

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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 community planning group discussion and vote may result in discipline of the member under CP 600-24, Article IX, Section 3.

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 community planning group members are governed by CP 600-24, state law has been drawn upon to provide a framework 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 a 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:

- Whether the decision affects a significant segment of the public (the "public generally"). As a general rule, a significant segment of the public is at least 25 percent of:
All businesses or nonprofit entities in the City;
All real property, commercial or residential, within the City; or
All individuals in the City.
- Whether the decision will affect the same type of economic interest as the public generally.
- Whether, despite affecting the public in general, the decision "uniquely affects" the member, in which case there could be ground for recusal. A member is uniquely affected if the proposed action includes a disproportionate effect on the member's financial interests, as compared to the public generally.

2. Abstentions

Abstention is voluntary but available 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 three-part vote on the item (for-against-abstain) will reflect an abstaining member in the vote and they are still counted in a community planning group quorum for that item, regardless of the point in time they declare their abstention.

However, an abstention should normally be declared prior to the start of the item. A member should declare the abstention and the reason for the abstention. If a community 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 member to participate in a community planning group debate, ask questions, express opinions or guide the discussion, perhaps even make the motion or the second, and then abstain from voting. Community planning group members should not use an abstention as an option because they are uncomfortable with potential criticism of their views on the item.

If there are multiple abstentions due to a lack of information, a community planning group

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should consider a continuance in order to receive additional information. There should be agreement among the members that more information is necessary to allow the community 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 desire to abstain is determined on a case-by-case basis. However, there are several 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 as a member of the community planning group.
- A member has a personal relationship, which may be either positive or adverse, with the project team which may be perceived as a bias for or against the project.

3. Situational Voting Examples

Development Project: a development project is presented to a community planning group. There are 20 seats on the group, however one is vacant. Eighteen members are present at the meeting. A development project is a type of action that requires a majority of the present quorum to be approved. How many votes are required to approve the project?

- If two members present have reason to recuse and one member has chosen to abstain?
 - The 2 members who need to recuse must remove themselves from all discussion immediately. Recusals are not counted in the quorum, reducing the quorum to 16.
 - The 1 member abstaining does count in the present quorum. Therefore, the quorum is 16 for the purposes of voting.
 - A majority of 16 is 9 votes needed to approve the motion.
- If only one member present chooses to abstain (and no recusals)?
 - The abstaining member counts in the quorum therefore a majority of 18 is 10 votes needed to approve the motion.

Action of All Voting Members: an action that requires a majority of the voting members of the group (not just of the quorum present) is before the group. There are the same 19 filled seats and 16 members are present. How many votes are required to pass the motion?

- If two members have reason to recuse and one member has chosen to abstain?
 - The 2 members who need to recuse must remove themselves from all discussion immediately and do not count in the quorum.
 - The 1 abstaining member does count in the present quorum.
 - A majority of the voting members of the planning group is a majority of the filled seats, so a majority of 19 is 10 votes in favor needed of the 14 who are present at the meeting and eligible to vote.

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- If only one member present has chosen to abstain?
 - The abstaining member counts in the quorum. A majority of the voting members of the planning group is a majority of the filled seats, so a majority of 19 is 10 votes in favor of the 16 who are present at the meeting and eligible to vote.

“Other” Action of Quorum Present: an action that requires a majority of the quorum present is before a group. The group has 12 members but only 11 filled seats. There are 8 members present at the meeting – so there is a quorum to do business. An item is before the group. There are no recusals, but 1 abstention. How many votes to pass the item?

- The 1 abstaining member counts in the quorum for voting purposes. The abstention does not reduce the quorum which remains at 8. As such, a majority of 8 is 5 votes needed to pass the item. The vote would need to be at least 5-2-1 for the item to pass.

(d) Meeting Documents and Records

1. 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, community planning groups generally mail and/or email the agenda to 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.

2. 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 community planning group. Community 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 group meetings. A cost-recovery fee may be charged for the cost of reproduction of any materials that the community planning group possesses that is requested by the public.

3. Minutes

Approved, final minutes of a meeting must be provided to the City within 14 days of approval. Community planning groups typically schedule draft minutes for approval at the next regular group meeting. Draft minutes that will be considered should be published as soon as possible after a meeting to allow for thorough review. When approved minutes are

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provided to the City, they become a record of the City and thus the City's responsibility to make them available to the public. When the city does not receive approved minutes, anyone inquiring will be directed to the community planning group to produce them upon public request. Not providing approved minutes to the City within 14 days of approval is a violation of CP 600-24. Approved final minutes can be emailed to the City at:

sdplanninggroups@sandiego.gov.

Minutes should include attendance of community planning group members, a recordation of the votes, and may include a listing of individuals who voluntarily sign into the meeting. The portion of the minutes related to Public Comment may note who spoke and the topic addressed. Also noted should be whether the planning group indicated a desire to schedule the matter at a future meeting.

Each agenda item voted upon must be recorded in the minutes and should include, at minimum, the exact motion being voted upon, the names and number of members who voted for, against, and abstained on the motion. CP 600-24 also requires the names of speakers on agenda items and the nature of their testimony. The requirement for the names of all members for all segments of the vote is a 2014 Brown Act requirement. While it always has been a good idea to include names, including votes on the motion is now a requirement of the Brown Act. While not part of the '3 part vote' on a motion, any group member who recused on the action should also be named in the minutes.

Any materials distributed to the community planning group at the meeting should be noted in the minutes. Also any materials the community planning group considered while taking a vote on an action item should be identified. See paragraph 4 below: these materials may not constitute records of the community planning group that must be retained and made available to the public upon request.

Approved minutes are one of the documents that the community planning group is required to provide to the City. Well-written complete minutes can provide all the information that is needed for the body of the required Annual Report (See Section 4 below).

4. Records Retention

Community planning groups are not required to retain records according to a 'schedule' as the City is required to do. (The City must comply with the Government Code provision requiring identification of records to retain and must adopt specific schedules for length of retention.)

Community planning groups have a narrower requirement to observe: the Brown Act requires legislative bodies to make available for public review, upon request, agendas and other writings that were distributed to at least a majority of the body members in connection with a matter subject to consideration at an open meeting. The Brown Act does not identify a length of time agendas and other writings must remain available. Because it does not, Attachment B has been developed to advise community planning groups about which writings should be submitted to the City to become City records to be maintained, how long different types of writings should be retained by groups to be able to fulfill a timely request for public review, and which writings the group may generate or receive that do not need to be retained or made available.

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Note that for those documents identified in Attachment B as becoming City records, if they are not submitted to the City, they remain the responsibility of a community planning group to produce.

Section 3. Duty to Represent Community Interests

Section 3 addresses the duty of community planning groups to seek out broad community participation.

Planning groups should consider a variety of outreach efforts such as creating a community planning group website, networking with other active local organizations, placing articles in local newspapers, etc., and sending planning group agendas and announcements about planning group activities to the City for broad distribution.

Keeping an up-to-date community-interest mailing list that may be shared with the City can help reach many community members or organizations that have an interest in your community activities.

When a community is engaged in a land use plan update, the City often creates a website for posting of documents, notices, and items of interest that may be shared with the community-at-large and any pre-established mailing list.

Section 4. Planning Group Roster and Annual Report

Two important documents that community planning groups create and turn over to the City are rosters and annual reports. Both are important public documents that demonstrate the operation of a community planning group and its compliance with CP 600-24. This section addresses the duty of community planning groups to maintain current rosters and prepare annual reports for the City.

Rosters: The City respects the desire of community planning group members to keep certain information about themselves private. Therefore, community planning groups may keep two sets of elected membership rosters:

A roster for City use-only, and a roster that is a public record of the community planning group that the City will make available for public review upon request. See Attachments C and D for samples of roster formats. The basic information required for each are:

Public Roster: Member Name, Start Date of Service, Term Expiration Date, Eligibility Category or Seat Category

City Use-Only Roster: the same information as above plus home address, telephone number, and email address.

Providing a City-use roster gives staff the ability to determine community planning group member compliance with CP 600-24 rules governing eligibility to serve, and it allows staff to efficiently transmit information on projects, training sessions, and other City meetings and functions that may be of interest to particular groups. Most community planning groups collect roster information from application forms used to recruit prospective candidates.

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A public-use roster discloses information about community planning group members that demonstrates their legitimate eligibility to occupy a group seat. Private information does not have to be disclosed on this roster as noted above.

If the City only receives the City-use roster and NOT the public-use roster, the roster with private information must be made available for review upon request.

Annual Reports: Annual reports are a way to highlight to the City and anyone interested in your community what your accomplishments for the past year have been. Reports should be five pages or less, and suggested topics include, but are not limited to, the following:

- Introduction
- Community Planning Group Objectives
- Administrative Matters: number of meetings of the planning group and subcommittees
- Members Summary: number of members, turnover, elections
- Community Plan Preparation, Amendments, or Implementation
- Special Projects
- Overall Summary of Project Review & Community Development
- Activities of Associated Community Organizations such as BIDs or CDCs that the planning group participates in

A sample annual report format is provided at Attachment E. At minimum, the annual report should include a summary list of accomplishments, and major actions on large projects and policy matters. Some community planning groups assemble a year's worth of approved final minutes and attach a cover page and this results in an acceptable, and often very informative, document. While the annual report may be prepared by a single member or a subcommittee of a community planning group, it should be placed on the group's agenda for a vote to forward it to the City within 60 days of the end of the 12-month period as one of the group's required records.

While the Annual Report was originally intended to reflect a calendar year of meetings for a community planning group, it is logical to reflect the work of a group's members who have worked together for a year – meaning from April through the following March. The annual report should be submitted to the City within 14 days of the approval of the March minutes since that is the final meeting of some of the members.

Section 5. Financial Contributions

This section prohibits community planning groups from requiring the payment of any dues or fees to attend meetings or participate in any group activity; however, groups may accept voluntary financial contributions. Some community 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 community planning group. Contributions should not be accepted if any implied conditions are indicated.

Community planning groups and group members should not request or accept in-kind gifts, or contributions from individuals presenting projects to the group. It may be acceptable, for a

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business in the community to provide meeting space for the community planning group, as long as the location is open and accessible to the public. To avoid potential conflicts of interest, the community planning group must also determine if the business donating the space makes the space available to the public generally. If not, the community planning group should not meet at that location. If so, then the community 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 60 days 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 NS). In addition to the annual COW meeting, community planning group members may now meet this requirement by taking the on-line Electronic COW, or E-COW, but only if attending the in-person workshop is not possible within 60 days.

Topics covered at the COW and in the E-COW start and focus on the rules governing the City's planning group process, as embodied in CP 600-24 and the Brown Act. Also, ‘breakout’ sessions at the COW vary year-to-year but cover 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, and the regulatory and enforcement functions of the City.

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

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ARTICLE VII **Planning Group Officers**

Section 1. Officers

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

This section indicates that other officers may be established as needed. Many times completion and production of required community planning group records require a collective effort of the chairperson, secretary, and others. Serious consideration should be given to appointment of a parliamentarian, or assistant to the secretary, since the requirements for running a meeting and recording actions includes: adhering to parliamentary procedure; monitoring meeting procedures compliance related to motions, voting, and public speakers; and, collecting and assembling meeting materials for public review or records retention. Consider assigning the vice chairperson some of these responsibilities since their normal duties are limited.

Section 2. Chairperson

Section 2 discusses the basic responsibilities of the chairperson. Duties include filing an appeal of a City discretionary decision unless absent or having a conflict.

Section 3. Vice Chairperson

Sections 3 discusses the basic responsibilities of the vice chair which are primarily to fill in for the chair when the chair is absent or must recuse or abstain from a particular situation.

Section 4. Secretary

Section 4 discusses the responsibilities of the secretary. Secretaries may seek assistance from others.

Anyone providing administrative or procedural assistance to community planning group officers should be a 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 NS).

Section 5. Community Planners Committee

Section 5 discusses how community planning groups send a representative to the Community Planners Committee (CPC). Attachment E is the form used to convey CPC representative information to the staff at the email: CPCCommittee@sandiego.gov. If neither the representative, nor the designated alternate, can attend a CPC meeting the community planning group may send a substitute, who may speak but not vote on behalf of the group.

Section 6. Dissemination of Information

Section 6 stresses that CPC representatives have a duty to report CPC actions back to their community planning groups. The CPC representative should forward copies of a CPC meeting

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agenda and minutes to the secretary for circulation to all the community planning group members. Community planning group members may also review CPC agendas, minutes, and back up materials for the CPC meetings on the Planning Department website at www.sandiego.gov/planning/community/cpc.

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ARTICLE VIII **Planning Group Policies and Procedures**

Article VIII provides a framework for community planning groups to develop a series of procedures and policies tailored to the particular needs of their community planning areas. These policies and procedures are identified in the Bylaws Shell in Article VIII; all aspects of a community planning group's governance should be included within the group's bylaws (which may include attachments). Note that many community planning groups find that Election procedures are better located in Article V with other Election matters, and CP 600-24 has been amended to reflect this improved location.

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ARTICLE IX Rights and Liabilities of Recognized Community Planning Groups

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

Section 1. Indemnification and Representation

Section 1 requires community planning group members to comply with CP 600-24, and their own adopted 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. Violations and Remedies Related to Provisions Citing the Brown Act

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 community planning group receives a written complaint alleging a Brown Act violation, it should be forwarded to staff 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. Self-correction will allow a community planning group to remedy a situation with minimal effort and maximum public participation and statutory compliance. When a community planning group forwards a complaint to staff it should state whether the group has already decided to proceed with self-correction.

Section 3. Council Policy 600-24 Violations and Remedies

Section 3 discusses how community planning groups address violations by individual members of a group and by the group as a whole. Violations should be lodged by written complaint.

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

It is the responsibility of a community planning group, not the City, to address alleged violations of CP 600-24 by individual members. Council Policy 600-24 does not contemplate either staff or the City Attorney taking decisive action against a group member for violations of CP 600-24, although staff may, upon request by a community planning group, offer advice on how to proceed, based on experience with how other groups have addressed similar situations. Community 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 community planning group Bylaws Shell attached to CP 600-24. Additionally, factors that can be considered during the discussion are whether this was the individual's first violation or whether the violation relates to the Brown Act and therefore potentially opens the community planning group to penalties.

When corrective action is not feasible, removal of a community planning group member may be necessary. There may be extenuating circumstances where the benefit of removing a community 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 community planning group, and must adhere to the following procedures.

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- a. Any action by a community planning group to discipline or remove a group member must occur at a scheduled planning group meeting and be noticed on the agenda as an action item. An action to remove a member from a community planning group must occur by a 2/3 vote of the voting members of the group unless the group's bylaws include specific alternative requirements for the removal of an appointed member.
- 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.

Give ample notice to any member who is subject to an allegation of violation of bylaws or CP 600-24. When there is any breach, remedying the situation is always recommended. Involve the member in discussions. If there are grounds for removal and you are proceeding to schedule an item on a meeting agenda, provide the individual notice well in advance of putting out the agenda to allow the opportunity for that person to resign prior to the meeting notice being distributed and the meeting occurring.

(b) Alleged Violations by a Community Planning Group

It is the responsibility of staff to investigate, and attempt to resolve, alleged violations against multiple group members or against the entire community 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 an entire community planning group, as well as discussions with group members and others, and review of group minutes, correspondence, or other documents. Staff may offer advice on how to proceed, based on their experience with how other community planning groups have addressed similar situations, and may discuss the matter with the CPC.

A community planning group found to be in violation of its adopted bylaws, CP 600-24, or the Brown Act may lose its position of representing the community to the City and other agencies. The process itself will be difficult: disclosing findings that have been evaluated and will be presented to the City Council; the City Council discussion of the findings; the City Council action to remove recognition from the group as constituted. A City Council action could leave a community unrepresented, or could cause the City Council to select and appoint a new series of members who meet the eligibility requirements.

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ATTACHMENT A
TRACKING SUBSTANTIVE CHANGES TO COUNCIL POLICY 600-24

The following paragraph was inserted into the POLICY Section of Council Policy 600-24 in 2014:

“As Council Policy 600-24 is amended from time to time, the Council shall state whether community planning group bylaws must be amended to conform to the amended Council Policy and whether previously approved community-specific deviations to community planning group bylaws will govern. Regardless of whether community planning group bylaws are required to be amended, community planning groups must conform to the criteria in Council Policy 600-24, as most recently approved.”

The paragraph is intended to acknowledge that various added provisions to CP 600-24 impact community planning groups and their adopted bylaws in a variety of ways:

1. Council Policy Change Only: Some language is written into CP 600-24 but there is no corresponding provision in adopted bylaws of community planning groups. Therefore, groups are all subject to this new general language by its placement in CP 600-24 with no need to incorporate it into adopted bylaws. If groups desire to incorporate it, it could be an administrative approval (not a City Council-needed deviation)
2. Council Policy & Bylaws Shell Change: The revised provisions are found in CP 600-24 and have corresponding language in the Bylaws Shell. New provisions in this category are developed to address issues faced by multiple community planning groups and cause a generally-applicable change to CP 600-24. Revised language must be included in a group’s bylaws unless language of similar intent is already present. If a group is currently updating their bylaws, this language must be incorporated prior to final City approval (either administratively or by City Council deviation).

This paragraph indicates that when amendments to CP 600-24 proceed, the City Council will identify which category the revised provisions fall into, thus providing specific direction to staff and the community planning groups about the intent of the Council action. Any resolution approving the CP 600-24 revisions will contain a list of all Policy Articles (& Section if needed) that are being revised. Lists of revisions attached to resolutions will be incorporated into this Attachment A of the Administrative Guidelines and will be used as a guide for revisions to adopted bylaws and for Council consideration of future proposed deviations to standardized provisions.

In 2007 the Bylaws Shell was adopted as part of CP 600-24. It was the first ‘semi-standardization’ of all community planning groups’ bylaws. Since 2008 when revised bylaws for all community planning groups were either approved administratively by Staff and the City Attorney, or approved with deviations by the City Council, a log has been kept of bylaws amendments. Thus, when revised provisions are proposed to CP 600-24 in the future, between this matrix and knowledge by individual groups previously-granted deviations should be able to be identified and reviewed to determine if revisions are needed to bring adopted bylaws into compliance or if previously-granted deviations may remain.

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2014 Council Policy 600-24 Amendments

Article/Section	Revised Provision/s	CP change only	Bylaws Changes Required - no deviations from intent
BACKGROUND	Community Planners Committee; bylaws deviations description; general editing	✓	
PURPOSE	Clarifies who are members of the community planning group for CP600-24 purposes	✓	
POLICY	Changes bylaws amendments to a two-thirds vote		✓
POLICY	Discuss CP600-24 revisions in relation to adopted bylaws	✓	
POLICY	General editing	✓	
Article I, Section 3	How a community planning group's boundaries may change	✓	
Article II, Section 1	Roles of community planning groups based in General and community plans, and as requested		✓
Article II, Section 2	Adds that a community planning group reviewing a development project will consider the Land Development Code		✓
Article III, Section 1	Enabling language and purpose of appointed seats on a community planning group	✓	
Article III, Section 3	Limits business representation to one community planning group seat per establishment with a non-residential real property address in the planning area		✓
Article III, Section 4	Clarifications: an over-term member may continue to serve if fewer candidates than vacant seats; over-term members cannot exceed twenty-five percent of elected members of the community planning group	✓	
Article III, Section 5	Clarification that majority vote is of voting members of the community planning group		✓
Article III, Section 5	Changes vote by community planning group to remove a member who lost eligibility to be a ratification vote		✓
Article IV, Section 1	Adds listing of all the reasons that a vacancy may be declared		✓
Article IV, Section 2	States a vacancy should – not shall – be filled within 120 days		✓
Article IV, Section 3	States that a community planning group may – not shall – leave a seat vacant until the next election if a candidate is not found within 120 days		✓
Article V, Section 1	Clarifies that the number of documented meeting attendances varies by community planning group		✓
Article V, Section 3	Clarifies that secret written ballot shall be used in election of new community planning group members in an election held separately from a community planning group meeting	✓	
Article VI, Section 2(a) (1)	Adds that if a community planning group maintains a website, an agenda should be posted there 72 hours in advance of a meeting		✓
Article VI, Section 2(a)(8)(a)	Clarification that two-thirds vote cited is two-thirds of the voting members of the community planning group		✓
Article VI, Section 2(a)(8)(b)1-4	Adds comprehensive list of the subjects of actions that could be taken by a community planning group and that a two-thirds or majority vote cited is two-thirds or majority of the voting members of the community planning group		✓
Article VI, Section 2(a)(8)(b)5	Changed voting for vote types not specified in 1-4 above is a majority of voting members of the community planning		✓

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	group in attendance at a meeting when they constitute a quorum		
Article VI, Section 2(a)(8)(b)	Rewrote statements about actions of a community planning group must be taken in public and that positions on agenda items are established by those votes	✓	
Article VI, Section 2(c)	Added statements to Recusals and Abstentions referring to the Administrative Guidelines for relevant situations for each	✓	
Article VI, Section 2(d)(3)	Adding specific timeframes for availability of draft minutes and detailing Brown Act requirement for content of minutes		✓
Article VI, Section 2(d)(3)	States requirement of posting of approved minutes on a community planning group's website		✓
Article VI, Section 2(d)(4)	Replaced 'holding language' about records retention requirements of community planning groups with substantive information and referral to Administrative Guidelines for categories of material.		✓
Article VI, Section 6	Adds requirement that a new community planning group member complete online orientation training if attending a Community Orientation Workshop is not possible within 60 days of becoming a member		✓
Article VI, Section 6	Adds City responsibility to maintain availability of online training session for those unable to attend a Community Orientation Workshop within 60 days of becoming a member		✓
Article VII, Section 2	Clarifies that the Chair will be the community planning group member to appeal a discretionary decision unless they are prohibited by absence or direct economic interest.		✓
Article IX, Section 3	Rewording of statement about community planning group member's failure to comply with governing documents	✓	

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Attachment B
Community Planning Group Records

In accordance with Article VI, Section 2 (d) (4), community planning groups manage many types of documents in conducting group business. Some of these documents community planning groups create to meet City requirements of CP 600-24 and to assure consistent and fair operation of their planning group. Some of these documents are required by CP 600-24 to be handed over to the City. Because the City requires submittal of these documents to review planning group operation and provide public information or planning group assistance as needed, these become City records subject to an RRE (Records Retention Evaluation). Other documents are ones that the planning group creates or receives and distributes to a majority of the planning group members in order to conduct business at meetings. Many of these remain with the planning group and are subject to the Brown Act requirement of availability to the public upon request. Other documents that the planning group receives may not need to be retained.

Document/Record Type	Required Retention or Availability
Records the CPG must submit to the City either as draft (bylaws) or as a copy (rosters, annual reports, approved minutes of the CPG or its standing subcommittees, materials used in investigation of alleged violations of CP or adopted bylaws by CPG or CPG member); voting procedures for atypical situations; reports from CPG regarding filling lengthy vacancies	City to include these items in an RRE for City retention of required documents with appropriate timeframes identified in the RRE.
	CPGs should have these records available as operational documents as long as there is use of them by the CPG. Specifically: bylaws should be available if they are current; current rosters should be available as should any past rosters used to determine length of term of current elected CPG members; most recent annual report; approved minutes for 2 years or until information in them is outdated.
Recommendations, either created electronically or in paper format, from CPGs to the City on projects or plans that fulfill responsibilities contained in CP 600- 24.	City to include this item in an RRE for City retention of required documents with appropriate timeframes identified in the RRE. Will be retained as part of a project or plan record.
	These are records subject to public availability required by the PRA. CPGs should have these records available as operational documents as long as there is a use of them by the CPG, e.g., while a development project is active or a plan is a draft.
Records the CPG received or produced that do not qualify as a record of the City and are not required to be submitted to the City, such as: published agendas of the CPG or its standing subcommittees, correspondence generated by the CPG; correspondence submitted to the CPG; meeting sign-in sheets used to determine elected-member eligibility or documentation.	City will not develop an RRE to retain these documents even if sent to the City; these are not City records. Any holding or managing of these documents by the City is voluntary and sporadic.
	These are records subject to public availability required by the PRA. CPGs should have these records available as operational documents as long as there is a use of them by the CPG. Specifically: published agendas should be retained until minutes of that meeting are prepared (reflecting the final agenda); correspondence should be available for at least 1 year or until its use has passed (e.g., related to a proposed project until the project is heard); meeting sign-in sheets should be available until the next election cycle.

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Non-records of the CPG are those that are copies of documents received by the CPG to review such as: project plans or environmental documents; and miscellaneous notices or materials received by the CPG either by mail or at a meeting.	City will not develop an RRE for these non-records.
	CPGs do not need to make these documents available since they are not records of the CPG. CPG should hold these documents as long as needed to utilize them for their intended purposes.

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Attachment C
Sample Community Planning Group Roster for City Use
Date [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

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Attachment D
Sample Community Planning Group Roster for Public Use
Date [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)
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Secretary

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

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

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

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ATTACHMENT E
ANNUAL REPORT OF THE XXX COMMUNITY PLANNING
GROUP
Month, Year – Month, Year

Section I. Introduction.

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

Section II. Administrative Matters. 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. Members Summary

Number of members in bylaws and seated; problems with retaining members? Elections?

Section III. Community Plan Preparation, Plan Amendments, 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 VI. 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 VII. Overall Summary of Project Review & Community Development.

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 VIII. Activities of Associated Community Organizations

Include any associations with groups such as BIDs or CDCs that the community planning group participates in or partners with.

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ATTACHMENT F
Community Planners Committee Membership Data Form

COMMUNITY PLANNERS COMMITTEE (CPC)
MEMBERSHIP DATA

Date:

Planning Group Name:

Chairperson's Name:

Chairperson's Address:

Chairperson's Email:

Chairperson, please check one box below:

I am the CPC Representative

I am not the CPC Representative

If the Chairperson is not the CPC Representative, please list the designated representative below:

The Planning Group's action on [date]

designated the CPC Representative as:

Name:

Address:

Email:

Alternate CPC Representative:

The Planning Group's action on

Date

designated the Alternate CPC Representative as:

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 CPCCommittee@sandiego.gov or faxed to (619) 234-6478.

Attachment G

CITY COUNCIL ORDINANCE NO. O-19883NS, "AN ORDINANCE PROVIDING FOR THE DEFENSE AND INDEMNIFICATION OF COMMUNITY PLANNING GROUPS."

ORDINANCE NUMBER O-19883 (NEW SERIES)

DATE OF FINAL PASSAGE JULY 1, 2009

2009

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

The document below is the text of O-19883NS (Corrected Copy). It can be found in its entirety with its voting & adoption information on the City's website at: http://docs.sandiego.gov/council_reso_ordinance/rao2009/O-19883.pdf .

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,

O-19883

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-S, 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
0-2009-154
MMS#7405

Brown Act References in Council Policy 600-24

The Brown Act is California Government Code Sections 54950 - 54963

Council Policy 600-24 Section	Brown Act (Government Code) Section	Content
POLICY	54950	Intent that actions of public bodies be taken openly and that their deliberations be conducted openly.
Article I, Section 3	54954(b)	Regular and special meetings shall be held within the body's boundaries (limited exceptions).
Article II, Section 4	54953.2	Meeting facilities must be accessible to persons with disabilities (references ADA).
Article VI, Section 1	54953(a)	All meetings shall be open and public, and all persons shall be permitted to attend any meeting (limited exceptions).
Article VI, Section 2 (a)(1)	54954.2(a)	Post an agenda at least 72 hours before a regular meeting, containing a brief (not needing to exceed 20 words) general description of each item of business to be transacted or discussed at the meeting, time and location of meeting, in location that is freely accessible to members of the public. (may be requested in alternative formats) If a planning group has a website, the agenda must be posted to that website at least 72 hours in advance.
Article VI, Section 2(a)(2)1,2 & 3	54954.3(a) & (b)	Any member of the public may comment on agenda items or items within the area of authority of the body; time limit may be set.
Article VI, Section 2(a)(2)2	54954.2(a)(2)	If an item is not on the agenda, members may only briefly respond to questions or statements or may refer the item.
Article VI, Section 2 (a)(3)	54955	Meeting adjournment
Article VI, Section 2(a)(3)(4)	54954.2(a)(3) 54955.1	Need new agenda if subsequent meeting is more than 5 days following adjourned meeting.
Article VI, Section 2(a)(6)	54952.2	A meeting means a congregation of a majority of the members of a body.
Article VI, Section 2(a)(6)	54953.3	A member of the public shall not be required, as a condition to attendance at a meeting, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.
Article VI, Section 2(a)(8)	54954.2(b)(2)	Adding an action not noticed on the agenda if 2/3 of the voting membership, or every member present if less than 2/3 present, agrees, BUT only if the need for action came to the attention subsequent to the agenda being posted.
Article VI, Section 2(a)(8)	54953(c)	No action shall be taken by secret ballot whether preliminary or final. All votes must be taken in public.

Article VI, Section 2(a)(9)	54952.2	A majority of the members of a legislative body shall not, outside a meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the body.
Article VI, Section 2(a)(10)	54956	Criteria for calling a special meeting, including written notice to newspaper of general circulation and posting on your website if you have one.
Article VI, Section 2(a)(11)	54956	Describes situations for emergency meetings – but subject matter not within planning groups’ scope of authority so CP600-24 prohibits emergency meetings.
Article VI, Section 2(a)(12)	54953.5 54953.6	Any person may audio or video record, or broadcast, a meeting if not found to cause persistent disruption of the meeting. If recording made at the direction of the body, it must be made available for public inspection.
Article VI, Section 2(a)(13)	54957.9	Discusses options for dis/continuing meeting for willful interruptions
Article VI, Section 2(b)(2)	54952	Exempts ad hoc committees from noticing & open rules if composed entirely of members; HOWEVER, CP600-24 requires ALL subcommittee meetings to be noticed and open to the public
Article VI, Section 2(d)(1)	54954.1	Requests for agenda by mail
Article VI, Section 2(d)(2)	54957.5	Agendas and other writings distributed before or at a meeting to all or a majority of the body shall be available upon request for public inspection
Article VI, Section 2(d)(3)	54953(c)(2)	Minutes must include any action and any vote or abstention for each member present at the meeting
Article VI, Section 2(d)(3)	54953.6	If recording made at the direction of the body, it must be made available for public inspection.
Article VI, Section 2(d)(4)	54957.5	Refers to agendas and writings being available to the public

June 29, 2015

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.

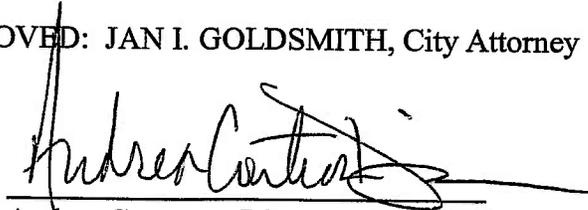
Section 5. In no event shall defense or indemnification be provided against a claim or judgment for punitive damages.

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

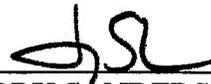
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Or.Dept: City Attorney
O-2009-154
MMS #7405

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

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	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 Jana 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

JUL 28 2009

, and on _____.

~~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 Jana Richardson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>19883</u>

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."

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

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

Michael J. Aguirre
CITY ATTORNEY

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).

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.

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).

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. CEQA Guidelines Section 15025 Does Not Apply Because CPGs Are Not Advisory Bodies Under this Section.

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

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 ft² 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.

JAN I. GOLDSMITH, City Attorney

By 
Keith G. Bauerle
Deputy City Attorney

KGB:hm
MS-2009-11

cc: Christine Rothman, Community Planning Program Manager, City Planning &
Community Investment
Cecilia Gallardo, Assistant Deputy Director, Development Services Department

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).

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 533-5800

DATE: April 24, 2013
TO: Kelly Broughton, Director, Development Services
FROM: City Attorney
SUBJECT: Retention of Community Planning Group Records

INTRODUCTION

The City of San Diego recognizes forty-two community planning groups (CPGs). CPGs are private organizations comprised of volunteers that, pursuant to Council Policy 600-24, make recommendations to the City Council, Planning Commission, Hearing Officers, City staff, and other governmental agencies on land use matters such as 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 CPG's planning area boundaries. CPGs also advise on other land use matters as requested by the City or other governmental agencies.

The City officially recognizes the CPGs and defends and indemnifies CPGs for acts performed within the scope of their responsibilities, provides training, and approves their bylaws. Council Policy 600-24 requires the CPGs to submit some records, such as rosters, to the City. In addition, Council Policy 600-24 states that in accordance with the Ralph M. Brown Act (Cal. Gov't Code §§ 54950-54963), the CPG's records shall be retained for public review, pursuant to a records retention schedule established. The method of collection and storage of the records are also to be established by the City staff. The Planning Division of Development Services has asked this Office to provide it with guidance concerning the retention, storage and disposition of CPG's records.

QUESTION PRESENTED

Which CPG records are subject to City records retention policies and procedures?

SHORT ANSWER

Those CPG records that are either created or received by the City and are evidence of the City's operations and have administrative, legal, operational, fiscal, or historical value are subject to the City's records retention laws and procedures. CPG records that the City does not possess, either because the City did not create or did not receive the records, are not subject to the City's records retention laws and procedures. However, the City has, as a condition of recognition and indemnification pursuant to Council Policy 600-24 required that CPG records be retained for public review. Council Policy 600-24 directs City staff to also establish retention policies and procedures for the CPGs.

ANALYSIS

I. ONLY RECORDS IN THE POSSESSION OF THE CITY OR USED BY THE CITY ARE SUBJECT TO RECORDS RETENTION LAWS

The California Government Code generally prohibits any officer who has custody of any records from destroying those records. Cal. Gov't Code §§ 6200; 6201. However, exceptions to this rule are codified in California Government Code sections 34090 through 34095. 64 Op. Cal. Att'y Gen. 317, 326 (1981). California Government Code section 34090 allows the head of any city department to destroy records "under his charge," pursuant to the approval of the legislative body and the city attorney. It is under this authority that the City develops its records disposition schedules.¹

The City of San Diego's records retention policy is codified in Chapter 2, Article 2, Division 26 of the San Diego Municipal Code. Records are defined therein as "recorded information of any kind and in any form, created or received by the City that is evidence of its operations. *Records* include paper and electronic documents, electronic databases, electronic mail, correspondence, forms, photographs, film, sound recordings, maps, and other documents that have administrative, legal, operational, fiscal, or historical value requiring retention of the *record* for a specific period of time." San Diego Municipal Code § 22.2602.²

Department directors are responsible for appointing a records coordinator for their department, records retention, inventorying records, archiving historical records, preserving vital records, and approving the destruction of department records. San Diego Municipal Code § 22.2604.³ A department director may destroy any record under his or her charge in accordance with the adopted records disposition schedule. San Diego Municipal Code § 22.2605(a).

¹ California Government Code section 34090.5 addresses additional circumstances under which the City official "having custody" of public records may destroy the records.

² Council Policy 000-25 and San Diego Administrative Regulation 85.10 also provide guidance on records retention.

³ San Diego Administrative Regulation 85.10 describes a department head's responsibilities with regard to records entrusted to his or her department.

Recorded information created or received by a CPG, but not created or received by City are not City records that must be retained in accordance with the City's record retention ordinance. Conversely, those records that are received or used by a City department are City records subject to the City's records retention ordinance. For example, pursuant to Council Policy 600-24, the CPGs must submit their roster to the City. Once in the custody of the City, the roster may be a City record as defined by San Diego Municipal Code section 22.2602. The general records disposition schedule (GRDS), available on the City Clerk's intranet site, already lists records retention requirements for various types of records and should be consulted.

II. PURSUANT TO COUNCIL POLICY 600-24, THE CITY IS TO ESTABLISH RETENTION REQUIREMENTS FOR SOME RECORDS HELD BY THE CPGS

Although the records retention laws do not extend to recorded information that the City does not create or receive, Council Policy 600-24, Article VI, section 2(d)(4) states that in "accordance with the 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 materials that will be utilized by all planning groups."⁴ Brown Act section 54957.5 provides that meeting agendas and any other writing that is distributed to at least a majority of the legislative body in connection with a matter subject to consideration by that body at an open meeting are subject to the California Public Records Act, and shall be made available upon request without delay. Cal. Gov't Code § 54957.5(a). Therefore, the Council Policy places the responsibility on City staff to establish a records retention schedule, as well as collection and storage methods for those CPG records that are public records pursuant to Brown Act section 54957.5. The Council Policy does not require the City to retain the CPG records. The City may choose to retain the records or may require the CPGs to retain the records. Whichever body retains the records, those records that are subject to the California Public Records Act must be made available to the public.

The types of records that CPGs may commonly have include written documentation prepared or provided by City staff, applicants, or planning group members that is distributed at planning group meetings; attendance reports; copies of approved minutes; audios or videotapes of meetings; a membership roster; and annual accomplishment reports. However, Council Policy 600-24 only contemplates the retention of those records that are subject to Brown Act section 54957.5. Some of the types of records above may not fall within this category, if they are not distributed to a majority of the CPG members, such as an audiotape of a meeting, or are not related to a matter subject to the CPGs consideration, such as a flyer providing notice of an upcoming community social event. While records subject to the GRDS must be kept for at least two years, the City may create a retention schedule for the CPGs that is the same as that for the City records, or it may differ. Neither the Brown Act nor the California Public Records Act addresses how long public records must be retained. However, the Brown Act requires the records subject to Brown Act section 54957.5 to be available upon request without delay.

⁴ Despite their status as private organizations, CPGs are legislative bodies under California law and therefore subject to the Brown Act. City Att'y MOL 2006-26 (Oct. 27, 2006).

Therefore, when developing the records retention schedule and method of collection and storage, the City should also consider how any retained records would be made available to the public during the period of retention.

Official recognition by the City as a CPG and representation by the City's legal counsel is conditional. If a CPG properly performs its responsibilities under Council Policy 600-24, the CPG is officially recognized by the City, and the group or group member is entitled to legal representation and indemnification. City Att'y MOL 2006-26 (Oct. 27, 2006). One such responsibility is record retention. Council Policy 600-24, Art. VI, § 2(d)(4). Thus, once the Planning Division establishes a retention schedule, as well as collection and storage methods and notifies community planning groups of the method and their responsibilities, the groups must comply or risk loss of representation and indemnification.

CONCLUSION

The records produced, received, owned, or used by the City are records subject to the records retention schedule. If the records retention schedule does not already address the disposition of those records submitted to the City by CPGs or used by the City, the records disposition schedule should be updated as necessary. Although records held by the CPGs are not subject to records retention laws, Council Policy 600-24 requires City staff to develop a retention schedule, as well as a collection and storage method for those CPG records that are subject to public review pursuant to the California Public Records Act. The City is not required to retain the records for the CPGs. City staff should either implement the terms of Council Policy 600-24, or consider requesting an amendment to the policy.

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E-COW

(Electronic Community Orientation Workshop)

The City has an interactive, online training outlining the roles and responsibilities of community planning group members as they relate to Citywide planning issues, community plan preparation, and the development and regulatory processes of the City.

In May of 2009 the Electronic Community Orientation Workshop (E-COW) was introduced. Each community planning group member is required to attend a community orientation workshop session administered by the City, within 60 days of being elected, in order to comply with the Indemnification Ordinance. The E-COW is an alternative which allows community planning group volunteers to take the training online in lieu of attending the COW training session, while fulfilling the requirements of the Council Policy. With the E-COW hosted on the City's website, newly elected planning group members can easily take the training at their convenience prior to participating in their first community planning group meeting. In addition to the flexibility that it offers, the E-COW serves as an interactive online training that engages the individual planning group members through real-world situational questions.

The E-COW training presents an overview of the guiding policies and regulation which provide operational and procedural direction to the planning groups. It begins with an introduction to the City's community planning process and an overview of the legislative framework under which it operates. It is essential that individual community volunteers have an understanding of their role and the role of the planning group in the overall planning process from the very start of their involvement in order for them to maximize their effectiveness.

The E-COW also provides a detailed overview of the nine articles of City Council Policy 600-24, which provides a set of uniform standard operating procedures and responsibilities for the City's planning groups. Further, the E-COW provides an overview of operational responsibilities pertaining to compliance with the Brown Act to ensure that all deliberations and actions are open and accessible to the public.

In addition to being an interactive experience, the E-COW, also serves as a repository for a wealth of online resources which are available to community planning group members with the simple click of a button. Rather than a one-time training session, the E-COW offers the alternative of a convenient, easily-accessible and frequently-updated source of information that serves the needs of the hundreds of volunteer citizen-planners that help shape the future of San Diego. The E-COW is available online at:

<http://www.sandiego.gov/planning/community/ecow/index.shtml>

