

Date: May 21, 2013

To: Community Planners Committee

From: Betsy McCullough, DSD Planning Division via Cecilia Gallardo, Deputy Director DSD

Subject: Council Policy 600-24 Recognized Community Planning Groups – Records Requirements

Council Policy 600-24 (CP 600-24), Article VI, Section 2 (d) (4) states that community planning group (CPG) records must be retained for public review in accordance with Brown Act Section 54957.5. The section also indicates that “City staff will establish a records retention schedule and method for collection and storage of materials that will be utilized by all planning groups.” This provision has been variously interpreted regarding roles of the CPG vs. the City in retaining or making records available. To provide clarification, City staff requested assistance from the City Attorney’s office for: (1) clarification of which CPG records become City records and which remain solely as CPG records, and (2) what retention or availability responsibilities do the CPGs have for records they solely create or receive.

A City Attorney Memorandum, dated April 24, 2013, entitled “Retention of Community Planning Group Records” provides guidance and criteria regarding CPGs records accompanies this memo. To apply the City Attorney’s guidance about records and their collection, retention, storage and availability, a table has been prepared to sort CPG documents by type.

This material is being introduced to the Community Planners Committee in draft form in May. After your comment and refinement, the attached information will be sent to all planning group chairs to implement, and it will be incorporated into a future Administrative Guidelines amendment.

The following table sorts CPG documents and materials into 3 groups:

- Those that are records and are required to be submitted to the City by CP 600-24 which become City records and subject to the City’s legally required Records Retention Evaluation (RRE) and Records Disposition Schedule (RDS);
- Those that are records of the CPG only and that must be made available upon request to the public by the CPG in accordance with the Public Records Act (PRA) requirement in Brown Act Section 54957.5;
- Those that do not qualify as records of the CPG.

Following the table, the various functions of records retention are presented to identify City and CPG responsibilities.

If you have any questions prior to the CPC meeting please contact Betsy McCullough at bmccullough@sandiego.gov

Document/Record Type	Required Retention or Availability
<p>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.</p>	<p>City to include these items in an RRE for City retention of required documents with appropriate timeframes identified in the RRE.</p>
	<p>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.</p>
<p>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.</p>	<p>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.</p>
	<p>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.</p>
<p>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.</p>	<p>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.</p>
	<p>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.</p>
<p>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.</p>	<p>City will not develop an RRE for these non-records.</p>
	<p>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.</p>

While the table above sorts CPG record requirements into record types, the following sections sort record requirements into functions.

COLLECTION OF CPG RECORDS

City responsibility: The City will only collect material that constitutes City records subject to RRE. City will seek these materials from the CPG if they are not promptly submitted according to CP 600-24 provisions and timelines. Records required to be submitted to the City that are not provided cannot be requested of the City; however non-receipt by the City of a required document constitutes a violation of CP 600-24.

CPG responsibility: One elected member of a CPG should be responsible for holding and making accessible, upon request, any records the CPG has responsibility for under the PRA requirements of the Brown Act.

STORAGE OF CPG RECORDS

City: City will hold records it requires in paper and electronically in accordance with accepted practices.

CPG: CPG may hold these records in the format they are created in (electronically or paper copy). Should a PRA request be made for any document stored electronically, the CPG will have the responsibility to create a paper copy upon request and may charge for the copying. (CPG may request City assistance preparing paper copies.)

AVAILABILITY OF CPG RECORDS

City: Meet PRA requirements by having records available during regular business hours.

CPG: The CPG should identify a location for a requested review of the identified record. It may be at the office of a CPG member, or the CPG may seek City assistance with a review location. The CPG may provide the City with the records to be reviewed and the City will make the available during regular business hours.

PUBLIC RECORDS ACT REQUEST RESPONSES

City: For City records, City Clerk will forward the PRA request to staff to fulfill request within 10 days as prescribed in state law.

CPG: For CPG records that the CPG holds and are not required to be submitted to the City, the CPG is responsible to provide the PRA response within 10 days as prescribed in state law. City staff will assist to the degree possible.