



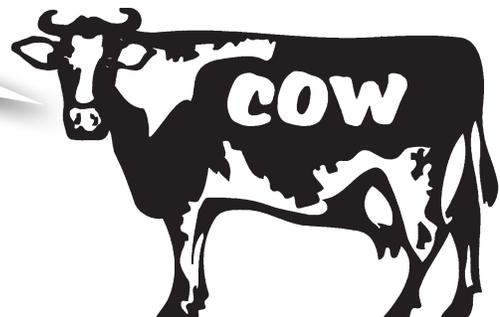
CITY OF SAN DIEGO

Community Orientation Workshop Handbook

COW 2015

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

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



City of San Diego • Planning Department

Printed Annually

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THE CITY OF SAN DIEGO

May 5, 2015

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,

Tom Tomlinson
Interim Director
Planning Department

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 seven standing committees to facilitate the legislative process. Each of the seven committees meets once or twice a month to hold public hearings and review legislation and departmental actions before such matters are considered by the full City Council. Below is a list of the standing Council Committees:

- Audit Committee
- Budget and Government Efficiency Committee (Formerly Budget and Finance)
- Economic Development and Intergovernmental Relations Committee (Formerly Rules and Economic Development)
- Environment Committee (Formerly Natural Resources and Culture)
- Infrastructure Committee
- Public Safety and Livable Neighborhoods Committee (Formerly Public Safety and Neighborhood Services)
- Smart Growth and Land Use Committee (Formerly Land Use and Housing)

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



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

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.

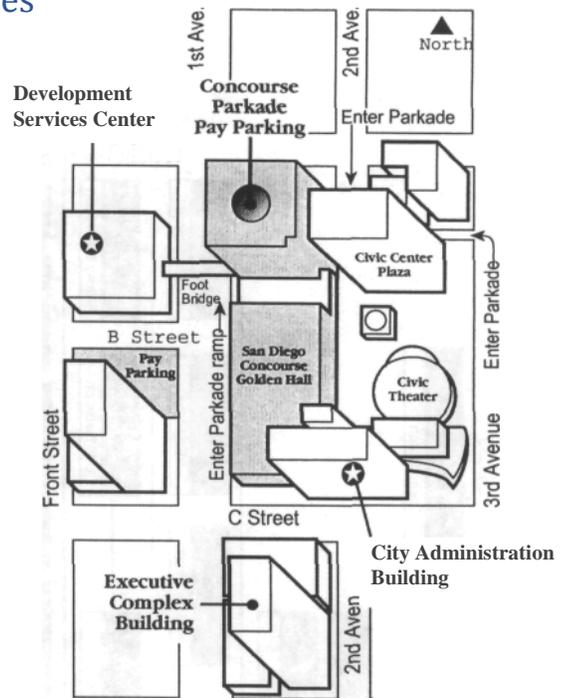


City Of San Diego Facilities & Addresses

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

DEVELOPMENT SERVICES CENTER
(formerly known as the City Operations Building)
1222 First Avenue
San Diego, CA 92101

Planning Division Staff

4th Floor Community Planning,
General Plan
Park Planning
Mobility Planning
Planning Administration
Historical Resources

Engineering and Entitlements Staff

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

CIVIC CENTER PLAZA

1200 Third Ave.

1st Floor Treasurer’s Cashier &
Business License Tax,
Employment Info.
14th Floor Economic Development,
MSCP

EXECUTIVE COMPLEX

1010 Second Avenue

6th Floor Facilities Financing

WEB ADDRESSES

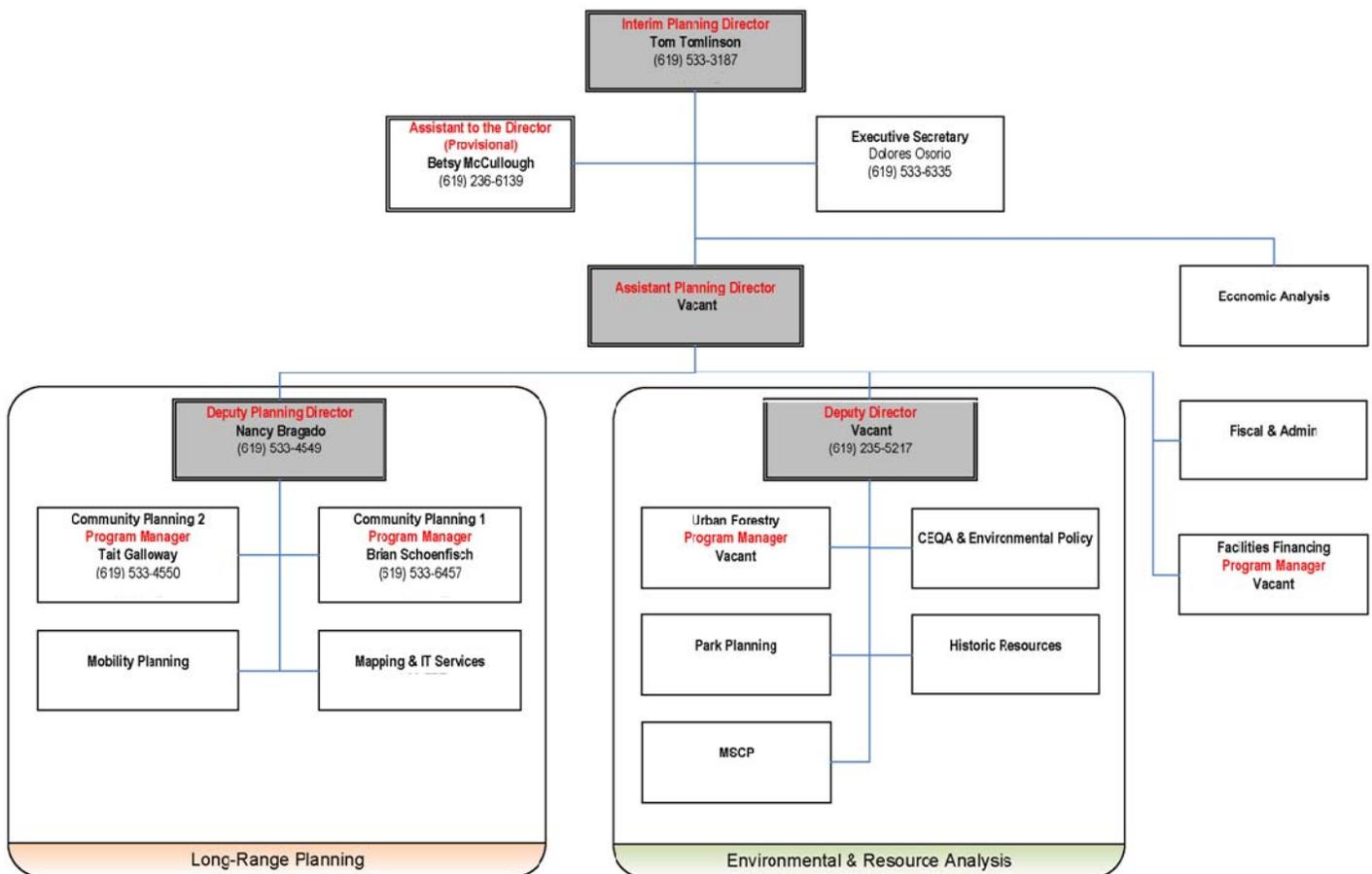
City of San Diego Website <http://www.sandiego.gov/>
Development Services <http://www.sandiego.gov/development-services>
Planning Department <http://www.sandiego.gov/planning/>



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 Environmental & Resources 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 implements Historic Resources policies, the Multiple Species Conservation Plan, and Parks Planning efforts, which are closely linked to community plan updates and facilities financing efforts. The Economic Development Division focuses on business recruitment and expansion along with the health and well-being of small and neighborhood business districts.

Neighborhood Services Branch PLANNING DEPARTMENT



How to Contact Your Planner

Staff from the Planning Department is assigned various community planning areas and the corresponding planning group. 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 Development Services Department that work with community planning groups includes Facilities Financing staff who are responsible for processing amendments and updates to the Public Facilities Financing Plan, 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:

<http://www.sandiego.gov/planning/community/pdf/contactlist.pdf>



Open DSD

The City of San Diego is committed to serving the public and improving how information is provided to its citizens. For the first time, the City of San Diego's Development Services Department (DSD) is releasing 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 will now provide online access to permit data through internet browsers as well as to those who wish to query the permit data with software.

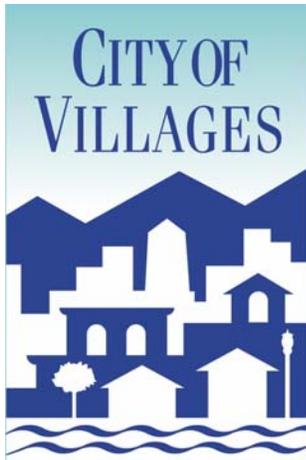
The scope of the data published exceeds that of any other city. The breadth of the release is intended to cover land development permit application, issuance, inspection, and completion. A variety of information including timelines, scope, decisions, and costs will all be provided online. In addition, 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.



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

WHAT IS ZONING?

Zoning is the legislative method by which land use, intensity of development, and site design and architectural design are controlled. Some zones apply to all or many parts of the City while other zones, 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. All types of zoning promote the grouping of land uses which are compatible to one another and control development so that property can be adequately serviced by public facilities.



WHAT ARE THE CHARACTERISTICS OF A COMMUNITY PLAN?

A community plan must be all of the following:

- 1. COMPREHENSIVE:** The plan should address all aspects of community development including: housing: transportation: commercial and industrial development; public facilities, such as schools, parks, libraries: urban design or the image of the community, and environmental issues, such as noise, hillside preservation, control of runoff and erosion.
- 2. LONG-RANGE:** The plan should make recommendations which guide development over a long period of time. Development of a community is a process which takes many years and which is an ongoing process. The plan must be based on not only what the community is today, but what development factors will likely occur in the future.
- 3. RELATED TO THE ENTIRE CITY:** Any community is only one segment of the City as a whole. The community plan must address not only issues within the community, but also citywide issues as they relate to the community. No community exists separately from neighboring communities or isolated from the rest of the City. The 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:

- Development pressure manifested through frequent amendment requests
- Consistency with the General Plan
- Citywide programs that result in a rethinking of land use/circulation patterns, such as Multiple Species Conservation Program (MSCP), Airport Land Use Compatibility Plan (ALUCP) adoption
- Demographic shifts within a community
- Outdated policies and recommendations
- Frequent conflict on interpretation of plan policies and recommendations
- Policies not achieving desired effects of the community

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

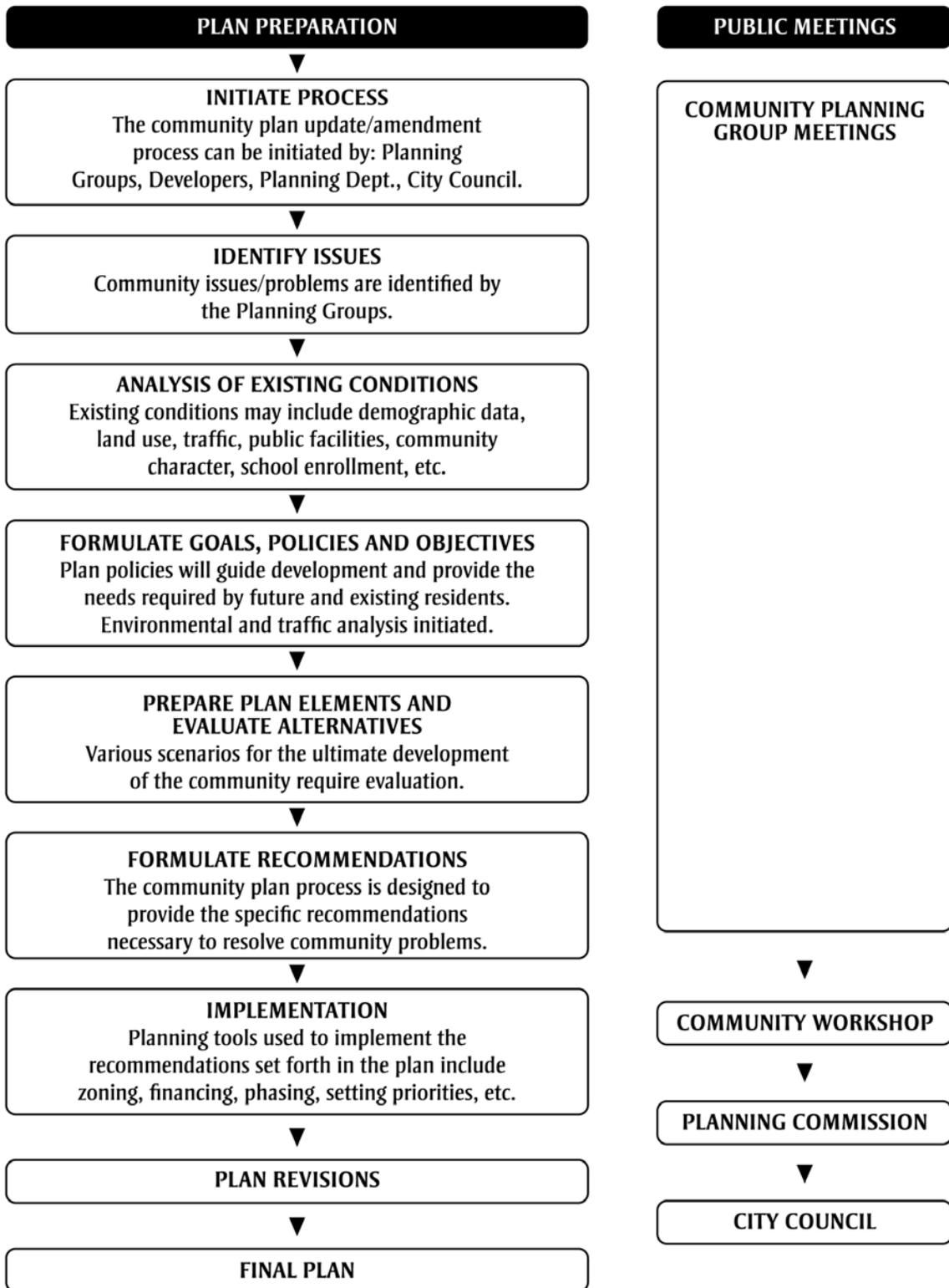


CONCLUSION

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

NOTE: AS OF SPRING 2015, THE ADMINISTRATIVE GUIDELINES ARE UNDERGOING REVIEW AND UPDATE TO REFLECT THE UPDATED COUNCIL POLICY 600-24 AND BYLAWS SHELL.

FOR UPDATES TO THE POLICY AND GUIDELINES IN THIS BOOK, PLEASE GO TO:

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

Planning Areas in the City of San Diego

Legend

Planning Areas

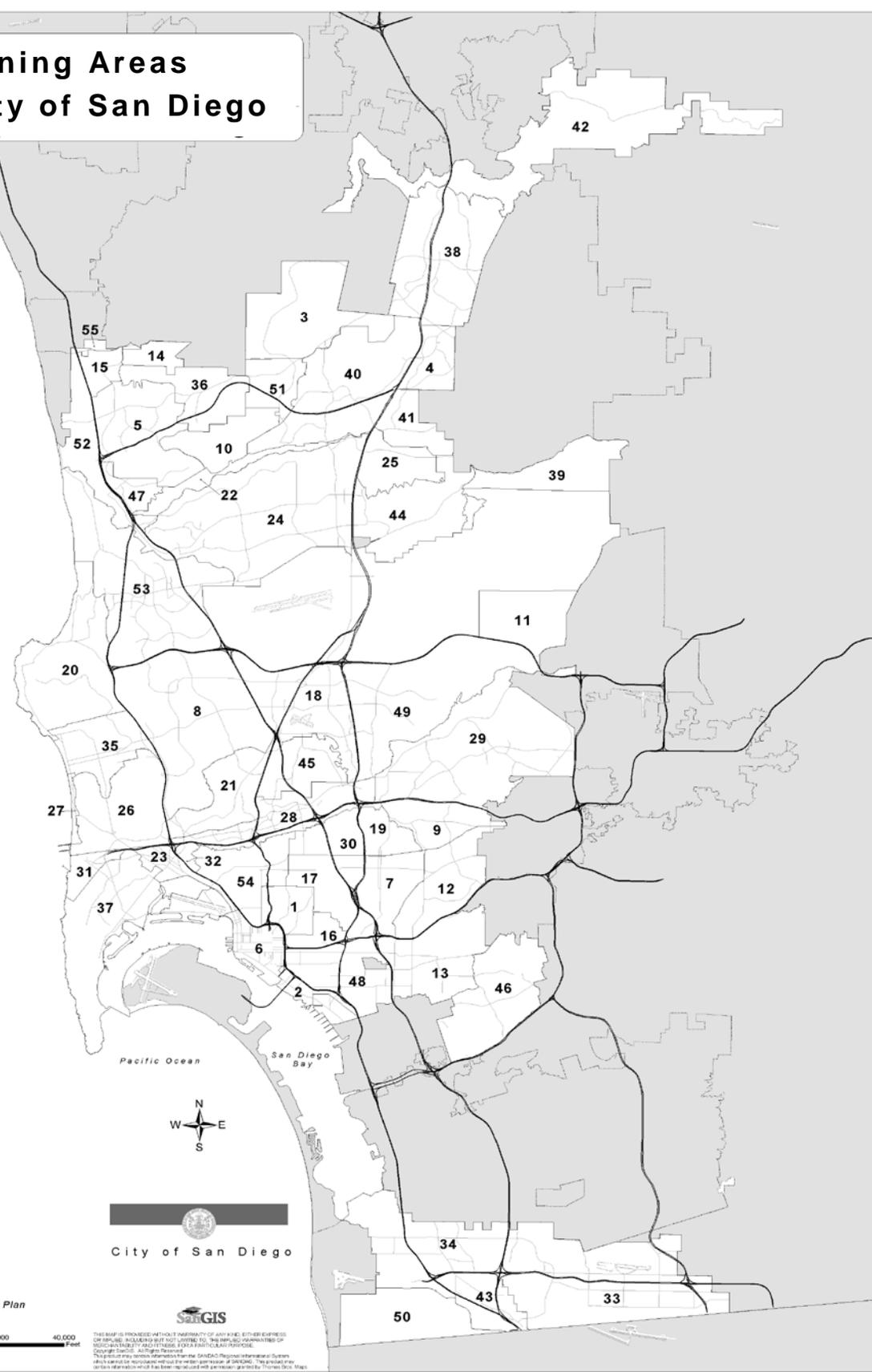
- 1 Balboa Park
- 2 Barrio Logan
- 3 Black Mountain Ranch
- 4 Carmel Mountain Ranch
- 5 Carmel Valley
- 6 Centre City
- 7 City Heights*
- 8 Clairemont Mesa
- 9 College Area
- 10 Del Mar Mesa
- 11 East Elliott
- 12 Eastern Area*
- 13 Encanto Neighborhoods**
- 14 Fairbanks Country Club
- 15 Future Urbanizing 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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 This product may contain information from the SanGIS Regional Information System which may be subject to change without notice. This product may contain information of the San Diego County GIS system provided by Torrey Hills, Inc.

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CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

CURRENT

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

ADMINISTRATIVE GUIDELINES

**AS OF SPRING 2015, THE ADMINISTRATIVE GUIDELINES ARE
UNDERGOING REVIEW AND UPDATE.**

**FOR UPDATES TO THE POLICY AND GUIDELINES IN THIS BOOK, PLEASE
GO TO:**

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

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.

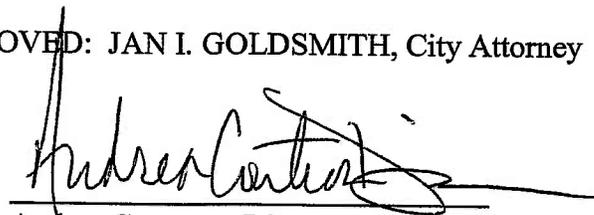
Section 5. In no event shall defense or indemnification be provided against a claim or judgment for punitive damages.

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

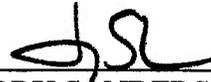
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Or.Dept: City Attorney
O-2009-154
MMS #7405

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."

2. In its advisory capacity, this citizens organization shall participate in reviewing and recommending to appropriate bodies actions deemed necessary and desirable for the timely and continued effectuation of goals, objectives and proposals contained in the General Plan.
3. This citizens organization shall be responsible for participating in an advisory capacity in the comprehensive review of the General Plan as prescribed in City Council Policy 600-07.
4. In the discharge of its responsibility in the five-year comprehensive review of the General Plan, this citizens organization shall function as a nucleus committee to which augmentation may be necessary and desirable to insure maximum utilization of local citizen resources. Selection of such augmentation shall be the responsibility of the Mayor and City Council and shall be only of such duration as is necessary to complete the preparation of General Plan revisions for recommendation to the Planning Commission and City Council for adoption.
5. This citizens organization shall undertake such other studies or make such recommendations on citywide issues related to the General Plan as may be requested by the City Council, Planning Commission and Planning Department, City Manager or other official City agency.
6. This citizens organization shall serve in an advisory capacity to the community planning committees officially recognized under City Council Policy 600-05 primarily to achieve the desired objective of insuring maximum coordination on a comprehensive or citywide basis and promotion of solutions of matters of mutual concern shared among the communities of San Diego.
7. To insure the successful discharge of the above functions, the citizens organization shall adopt rules of procedure calling for meeting schedules, methods of conduct of business and related matters as appropriate. Incidental staff clerical and related assistance as may be required shall be the responsibility of the Planning Department.

HISTORY:

Adopted by Resolution R-199050 02/12/1970

Amended by Resolution R-212667 02/20/1975

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OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

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.

JAN I. GOLDSMITH, CITY ATTORNEY

By: /s/ Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

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cc: Liz Maland, City Clerk
Sheila Beale, Deputy Director, City Clerk
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MS-2013-8

Doc. No. 527299_2

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>

