



The City of San Diego

Staff Report

DATE ISSUED: 6/7/2022

TO: City Council

FROM: Council District 1, Councilmember Joe LaCava

SUBJECT: Proposed Amendments to Council Policy 600-09: Community Planners Committee, and Council Policy 600-24: Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups; and the San Diego Municipal Code Related to Community Planning Groups

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Council District(s): Citywide

OVERVIEW:

The proposed action provides updates to Council Policy 600-09 *Community Planners Committee*, Council Policy 600-24 *Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups*, and amends the City's Municipal Code to bring the role of CPGs into compliance with the City Charter. Approval of the proposed amendments preserves the ability and role of the Community Planning Groups (CPGs) and the Community Planners Committee (CPC) to advise the City and provide community input on issues related to the General Plan in alignment with City policies and the City Charter.

CPGs are independent organizations recognized by the City that provide community input on land use decisions as established by Council Policy 600-24 (CP 600-24). A recognized CPG may make advisory recommendations to the City and other governmental agencies on land use matters within the CPG's planning area boundaries, particularly matters related to the General Plan or other relevant land use plans. The City currently recognizes 42 CPGs.

The Community Planners Committee (CPC) was established in 1975 through Council Policy 600-09 to facilitate the increasing involvement of San Diego residents in land use planning programs and establish a committee with advisory capacity to the City on land use matters. Members of the CPC were intended to be representatives of each of the City's CPGs.

Over the past five decades, the CPGs and CPC have been formally assigned various advisory duties for the City and have become forums for community input for both City staff and outside stakeholders.

In December 2019, the City Attorney issued a legal analysis noting the structure of CPGs, as established by CP 600-24, conflicted with the City Charter (Charter, Section 43 regarding the basis for Advisory Boards and Committees). The analysis provided an overview of legal issues associated with CPGs and general suggestions to restructure CPGs to make them consistent with the City Charter. In addition to the proposed updates to CPs 600-09 and 600-24, a request to amend certain Code sections is being made

with this action to reflect CPGs' legal status as independent organizations and to be consistent with the City Charter.

PROPOSED ACTIONS:

1. Adopt a resolution containing amendments to Council Policy 600-24
2. Adopt a resolution containing amendments to Council Policy 600-09
3. Adopt an ordinance containing amendments to San Diego Municipal Code sections 86.0104, 98.0510, 112.0203, 112.0503, 112.0602, and 157.0203 all related to Community Planning Groups.

DISCUSSION OF ITEM:

CPGs were formed and recognized by the City Council to make recommendations to the Council, Planning Commission, City staff, and other governmental agencies on land use matters, specifically, those related to the General Plan or a land use plan within the CPG's planning area boundaries. CP 600-24 was adopted to provide guidance for the recognized CPGs and defined CPGs as "private organizations" which may be recognized by the City as the official voice of their community in land use matters.

The CPC was established in 1975 through Council Policy 600-09 to facilitate the increasing involvement of San Diego residents in land use planning programs and establish a committee with advisory capacity to the City on land use matters. Members of the CPC were intended to be representatives of each of the City's community planning groups.

The City's 42 currently recognized CPGs are made up of volunteers and comprise of more than 500 members. Over the past five decades, CPGs and the CPC have become forums for community input for both City staff and outside stakeholders. In addition, requested input from CPGs has been formally referenced and assigned through the San Diego Municipal Code and other policy documents. In 2009, the City Council adopted an ordinance to provide for the defense and indemnification of elected or appointed CPG members; this is the current policy.

On April 18, 2018, the San Diego County Grand Jury issued a report on CPGs and a subsequent performance audit was conducted by the Office of the City Auditor in December 2018. These reports highlighted concerns that the City's limited oversight, guidance, and training of CPGs could be contributing to CPGs' lack of transparency, inconsistent records retention, and potential non-compliance with Council Policy 600-24 and the Ralph M. Brown Act.

The City's Land Use & Housing (LU&H) Committee agendized and discussed the performance audit in April 2019 and voted to create an 11-member task force to compile revisions for CP 600-24. Recommendations from the task force were presented back to the LU&H Committee in December 2019.

Legal Analysis:

In preparation for the December 2019 LU&H meeting, the City Attorney issued a report and overview of legal issues associated with CPGs noting the structure of CPGs as established by CP 600-24 conflicted with the City Charter (Charter, Section 43 regarding the basis for Advisory Boards and Committees). The analysis included general suggestions for amending CP 600-24 and other permissible options for restructuring CPGs consistent with the City Charter. It also analyzed the applicability of conflict of interest laws to CPGs and options to ensure legal compliance.

The report included the following findings for discussion:

- CPGs may be "recognized" by the City in a manner that does not conflict with the City Charter;
- The Council may require CPGs to comply with certain operating standards and procedures, so long as the independent legal status of CPGs is maintained;

- The City may determine that there is a public purpose to defend and indemnify CPGs in their interactions with the City; and
- Members of CPGs may be required to comply with state and local laws related to conflicts of interest.

Options regarding CP 600-24 were also provided:

- Amend CP 600-24 to ensure CPG independence
- Repeal CP 600-24 and create new advisory bodies by ordinance pursuant to the City Charter
- Amend the Charter to expressly create CPGs as City-created bodies and define their organizational structure and governance

In brief, the City Attorney advised that CPGs be defined as independent, advisory bodies to the City. As such, governing policies may require them to comply with certain conditions as a condition of recognition, such as holding open, public meetings consistent with the Ralph M. Brown Act, or retaining and providing records. Further, the City should maintain a clear separation from the governance of CPGs, especially because CPGs may engage in activities that do not involve the City.

Overview of Proposed Update:

Subsequent to the concerns raised by previous bodies and the City's legal analysis of the role CPGs can play, an update to CP 600-24 is proposed. Related updates to CP 600-09 regarding the CPC and amendments to the City's Municipal Code are also proposed.

The update will preserve the City's recognition of CPGs as independent advisory bodies based on criteria outlined in Council Policy 600-24. CPGs will be required to seek Council recognition subsequent to this policy update and demonstrate they are following the outlined criteria. Proposed amendments to the Municipal Code are being made to reflect CPGs' legal status as independent organizations and to be consistent with the City Charter.

Specifically, the update will:

- Preserve CPGs as recognized independent, advisory bodies to the City, consistent with the City Charter
- Retain CPGs' historic ability to provide organized feedback on General Plan related issues, private and public development projects, and infrastructure priorities
- Update criteria by which CPGs must abide in order to gain City Council recognition
- Include new Terms and Conditions for CPGs to follow as part of their operating procedures
- Uphold CPGs requirement to conduct meetings in accordance with the Ralph M. Brown Act
- Safeguard City indemnification for CPG voting members
- Maintain conflict of interest rules without mandating financial disclosures through Form 700
- Continue to require CPGs submit annual reports to the City
- Retain the 500+ community volunteers who serve
- Secure CPGs autonomy to organize and run their own annual elections to elect new voting members

Changes in CPG operations will require that CPGs:

- Proactively seek Council recognition upon Council approval of the policy updates and prior to December 31, 2023.
- Update individual governing bylaws and create new advisory documents such as Ethical Standards and a Community Participation and Representation Plan
- Take ownership of their own official documents and records
- Consider designating seats for renters, stakeholders and business representatives to ensure voting members are representative of the broader community
- Prohibit attendance requirements for annual election vote or candidacy
- Collect demographic data of existing and new CPG voting members and the community at large and submit to the City as part of its annual report

Requested amendments to the Municipal Code include:

- *§86.0104 Angle Parking*, removing a requirement that proposed angle parking installations be reviewed first by CPGs
- *§98.0510 Project Selection and Disbursement of Funds*, removing a requirement that all projects using Housing Commission funds to be reviewed first by CPGs
- *§112.0503 Process Two*, removing the extended period of time allowed for an appeal for Process Two projects to allow for CPG review and recommendation
- *§112.0602 Process CIP/Public Project-Two*, removing the extended period of time allowed for an appeal of a Process Two CIP/Public Project to allow for CPG review and recommendation
- *§157.0203 Gaslamp Quarter Development Permit Procedures*, removing the requirements of a CPG recommendation for Process Five development projects with certain deviations in Gaslamp Quarter
- *§112.0203 Waiver of Fees or Deposits*, removing the ability of CPGs to waive appeal fees

Although not embedded in the policy updates, the Mayor's Office and the Planning Department have pledged ongoing City support to include:

- Stipends of \$500 to each of the 42 CPGs in Fiscal Year 2023
- Stipend of \$500 to CPC in Fiscal Year 2023
- Meeting space available without charge at City facilities, on case-by-case basis
- Planning Department will continue to staff CPC meetings
- City will post CPG and CPC agendas on the City's website.

Fiscal Considerations: Stipends of \$500 to each CPG and the CPC will continue to be provided as part of the Planning Department Fiscal Year 2023 budget for a total cost of \$21,500.

Charter Section 225 Disclosure of Business Interests:

N/A; there is no contract associated with this action.

City Strategic Plan Goal(s)/Objective(s):

This item relates to the Strategic Plan's Operating Principles of Customer Service, and Trust, and Transparency by working with San Diegans to provide opportunities for input on City actions and decisions.

Environmental Impact: This activity is not a project pursuant to CEQA Guidelines Section 15378(b)(5), as it is an organizational or administrative activity of government that would not result in direct or indirect physical changes in the environment. As such, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3).

Climate Action Plan Implementation: N/A

Equal Opportunity Contracting Information (if applicable): TBD

Previous Council and/or Committee Actions: Presentations were made to the City Council Land Use & Housing Committee in April 2019 and December 2019. An informational presentation was made to the Land Use & Housing Committee in March 2022. At a subsequent Land Use & Housing Committee meeting in June 2022, a motion was made by Vice Chair LaCava to recommend Council approval of staff's proposed actions, seconded by Committee Member Cate.

Planning Commission Actions: Planning Commission recommended approval of the Municipal Code Amendments, 7-0, on January 20, 2022.

Key Stakeholders and Community Outreach Efforts: Two presentations were made to CPC and additional responses to individual CPGs through clarifying questions, phone calls, and additional presentations. The matter was discussed at a third CPC meeting although no action was taken.

Victoria Joes

Chief of Staff