

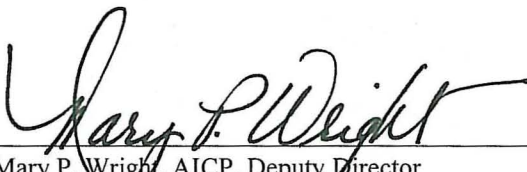
CITY OF SAN DIEGO
COUNCIL POLICY 600-24
ADMINISTRATIVE GUIDELINES
[April 2010]

ADMINISTRATIVE GUIDELINES

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

Approved July 1991
Amended May 2001
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Updated April 2010

PREPARED BY:



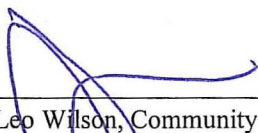
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ATTACHMENTS

- A Sample Planning Group City Roster
- B Sample Planning Group Public Roster
- C Sample Planning Group Annual Report
- D Community Planners Committee Membership Data Form
- E Council Policy Ordinance No. O-19883, “An Ordinance Providing for Defense and Indemnification of Community Planning Groups”

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INTRODUCTION

History of the Guidelines

The Administrative Guidelines to Council Policy 600-24 [CP 600-24 Guidelines] were first prepared in July 1991. Since then they were revised in May 2001 and April 2006, both times following and corresponding to City Council revisions to Council Policy 600-24 [CP 600-24]. Similarly, this revision follows the May 2007 amendments to CP 600-24 and the format follows that of the Council Policy.

Objectives of the 2010 Administrative Guidelines Revisions

These revisions accomplish the following objectives:

- Revise the CP 600-24 Guidelines to correspond to the May 2007 amendments of CP 600-24.
- Assist community planning groups implementing CP 600-24 by:
 - ◆ Providing practical examples of how various planning groups have implemented CP 600-24.
 - ◆ Clarifying the meaning and application of various terms and phrases used in CP 600-24.
 - ◆ Providing cross references between CP 600-24 and the Administrative Guidelines.
- Convey the most recent interpretations of CP 600-24, and the Ralph M. Brown Act [Cal. Gov't Code § 54950 et. seq.] by the City Attorney.

BACKGROUND

The Background Section of CP 600-24 describes the scope of authority of planning groups as primarily making recommendations to the City on land use matters within the recognized area of jurisdiction for each planning group. This includes advising on the preparation of, adoption of, implementation of, or amendment to, the General Plan or Community Plan. (See also Community Plan Preparation Manual at: <http://www.sandiego.gov/planning/genplan/statusreports.shtml>).

One of the revisions to the Council Policy was to incorporate direction and information regarding Ralph M. Brown Act (Brown Act) compliance. In October 2006, the City Attorney determined that because the planning groups were established from legislative bodies, they would be subject to the California Open Meeting (Brown Act) State Law. To identify which provisions of CP 600-24 are a result of applying the Brown Act to the planning groups, all sections or sentences in CP 600-24 that are Brown Act requirements start with, "In accordance with the Brown Act Section . . ." These are constructed to ensure that following them will ensure Brown Act compliance.

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PURPOSE

The Purpose of CP 600-24 is to identify responsibilities of and establish minimum operating procedures governing the conduct of officially recognized community planning groups.

POLICY

This section of Council Policy 600-24 discusses the requirement for community planning groups to create and operate within bylaws that are consistent with the Policy. The section explains that the bylaws shell appended to Council Policy 600-24 has some provisions that have been standardized for all planning groups. In addition, the bylaws shell is set up to allow selection of certain options within specific topic areas, e.g., establishment of representative membership categories or the number of planning seats between 12 and 20 members. Planning group bylaws must remain in conformance with the Council Policy in order for planning groups to maintain their official recognition by the City.

This Policy requires that any planning groups that are non-profit corporations must maintain corporate bylaws separate from planning group bylaws. There are a number of provisions typically included in corporate bylaws that may be contrary to the intent of the Policy. Examples include: proxy voting, holding meetings outside the jurisdictional boundary and the use of secret ballots. Any planning group that intends to become a non-profit corporation should discuss its intent with the City Attorney's office and Planning staff before starting the legal process of establishing a corporation.

Proposed amendments to adopted community planning group bylaws may be submitted to the City for review upon majority vote of the elected membership of the planning group. Bylaw amendments do not go into effect and may not be used until the City has approved the bylaws and notified the group of the effective date of the amendment. For a description of the bylaw approval process, refer to Article II, Section 7 of these Administrative Guidelines. Planning groups must operate within their adopted bylaws in order to maintain official recognition from the City Council.

These Administrative Guidelines are intended to explain and elaborate upon Council Policy 600-24 and give community planning groups additional guidance on how to operate in conformance with the Policy and the Brown Act. City staff is assigned to prepare and maintain the Administrative Guidelines working in consultation with the City Attorney's Office and the Community Planners Committee (CPC). Where the Policy, bylaws and Administrative Guidelines do not address a procedural area of concern, planning groups are encouraged to utilize Robert's Rules of Order, Newly Revised.

The Council Policy states that the City shall indemnify and the City Attorney shall defend Community Planning Groups and planning group members, subcommittee members, or former members thereof who operate in conformance with the Council Policy Ordinance No. O-19883, "An Ordinance Providing for Defense and Indemnification of Community Planning Groups". Planning group indemnification is further addressed in Article IX, Section 1 of the Council Policy and these Administrative Guidelines.

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As stated above, community planning groups must operate in conformance with California's Open Meeting Law, the Ralph M. Brown Act. Planning groups shall ensure that all meetings are open to the public and adhere to the requirements of the Brown Act.

ARTICLE I Name

Article I of CP 600-24 explains the official name, the activities of, the boundaries of, and the official positions that may be taken by a planning group.

Section 1. Official Name

Section 1 states that there will be an official name of the planning group and that it is subject to approval by the City Council.

The official name of planning groups vary from group to group, for example, using the community "planning group", "planning committee", "community council", "advisory committee", or "planning board" is acceptable. The official name is the one approved and recognized by the City Council.

A planning group name change requires a bylaw amendment, while a community plan name change requires a Community/General Plan amendment.

A planning group will usually seek to change their official name when, for example:

- ◆ A community thinks a different name better represents the character of the community.
- ◆ The official name of the community planning area is changing concurrently with a community plan amendment/update.

Note that a planning group name change, if approved, may be inconsistent with the community name until the next Community/General Plan amendment.

Section 2. Activities

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

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

Planning groups that convene as both the recognized planning group and as a separate, nonprofit corporation must convene as one body and clearly distinguish when they are acting as one and not the other.

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Section 3. Boundaries

Section 3 states that the boundary for a recognized community planning group is based on the boundary of the applicable adopted community plan. Planning group meetings must meet within the boundaries of the community planning area. When there is no meeting facility within the community plan boundary, the planning group should attempt to find a facility as close as possible to the central population or business center of the planning group area.

Section 4. Official Positions

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

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

ARTICLE II Purpose of Community Planning Group and General Provisions

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

Section 1. Recommendations on Land Use Matters

Section 1 affirms that the role of planning groups is to advise the City on land use matters and policies, as requested by the City.

Section 2. Reviewing Development Projects

Section 2 discusses the role of the planning group in the review of proposed development projects.

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

A planning group generally should act only one time to provide a formal recommendation on a proposed development project. However, planning groups may hear an item several times for information and may also schedule a project as an action item to provide preliminary comments early in the process. At the time of formal recommendation, projects should be designed to a

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“point of reasonable certainty” where the planning group vote can comfortably recommend approval, denial, or additional conditions such that the project is essentially the same one that will be considered by the Hearing Officer, the Planning Commission, or the City Council.

Some planning groups identify this “point of reasonable certainty” at the start of the public review period of the environmental document. Others identify this point as early as when Development Services Department issues its first or second Project Assessment Letter to the project applicant.

Some planning groups may refuse to act on a development project that has reached a “point of reasonable certainty” if it thinks there has not been ample and fair opportunity for community comment. To prevent this situation, some planning groups readily accept or seek out early informational presentations by project applicants, during the project development phase, especially on large, complex, or controversial projects.

Community planning groups may vote on projects more than once, when, for example:

- ◆ A project has been substantially revised either at the behest of the applicant, or as a result of the City project review process.
- ◆ The planning group has received incorrect or significant new information on project impacts to the community.

Changes in community planning group composition are not a valid reason to reconsider a prior vote.

Robert's Rules of Order specify different procedures for "reconsideration" and "amending or rescinding a motion previously adopted." "Reconsideration" occurs when the planning group decides to revote at the same meeting during which the original motion was voted upon. This may happen when the original motion was misunderstood by one or more members, when a member made a mistake in casting his or her vote, or additional information has caused one or more members to consider changing their position. To prevent abuse of the procedure, Robert's Rules requires that the motion "to reconsider" can only be made by a member who voted on the prevailing (winning) side. If a motion to reconsider passes, then the initial action is erased and the group debates and votes again on the issue.

When a community planning group wants to revote on a matter originally voted upon at a prior meeting, due to project revisions or new information, a motion to reverse or modify a previous position at a subsequent meeting can be made by any member. Robert's Rules specify various votes required for such a motion to pass, depending on whether there was prior notice. Since a community planning group is subject to the Brown Act, notice is required and the intent to bring the matter up again must be on the agenda. Since there must be advance notice, the motion to reverse or modify a previous position only requires a majority vote.

If key stakeholders demonstrate that they were denied the opportunity to participate in the planning group's consideration of the action, the chair may add an item to the draft agenda for

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consideration by the planning group. This remedy is not available when newly elected members seek to reverse a previously-completed review process.

Section 3. City Assistance to Planning Groups

Section 3 states that planning groups who operate in compliance with CP 600-24 may be provided with assistance through the Mayor's Office. City Planning & Community Investment (CPCI), a Mayoral department, is the primary point of contact at the city regarding planning group operations. CPCI staff advises groups on policy matters, amendments to bylaws, CP 600-24 and Brown Act interpretations, and general operating issues. CPCI requests City Attorney input as necessary. In addition, community planners attend planning group meetings periodically. Planning groups should contact their assigned community planner with any inquiries or questions related to the above. Specific questions regarding development projects should be directed to the applicant and/or the Development Services Department.

Section 4. Nonpartisan and Nonsectarian

Section 4 states that a planning group may not under any circumstance discriminate against any person whether a planning group member or a member of the public. This means planning groups shall not discriminate based on race, color, sex, age, creed, national origin, sexual orientation, or physical or mental disability. Planning group meeting facilities must be accessible to persons with disabilities.

Section 5. Elections and Ballot Measures

Section 5 addresses how planning groups maintain independence, as elected, non-partisan advisors, to the City on local land use matters. Planning groups should not endorse activities unrelated to land use matters and policy.

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

If planning group members individually endorse candidates for elective public office they may not disclose their association with the planning group. Candidate means all candidates for public office on the election ballot within the City of San Diego.

A planning group as a whole may not endorse candidates for elective public office. The City Clerk regularly informs all candidates for public office within the City of San Diego about the responsibilities of planning groups to refrain from endorsing them. A candidate may nevertheless ask to make an election speech to a planning group. Planning groups may accept invitations, but should not actively seek out, presentations by candidates for any elective public office. If candidates for any public office seek to address a planning group, the planning group should invite all candidates for that position to address the planning group at the same meeting.

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Planning groups as a whole may take positions on ballot measures. Presentations on the pros and cons of a ballot measure should be given to planning groups at the same meeting. Planning groups may set rules about what kinds of land use and citywide planning ballot measures they will consider for endorsement.

Section 6. Forfeiture of Rights

While planning groups are included as an integral part of the development project review process, there are established time frames within which any reviewer, including the planning group, must respond with their comments. Community planning groups should endeavor to work within established timeframes. Development Services has indicated a willingness to work cooperatively with planning groups and may grant extensions of review periods on a limited basis to groups who are working diligently to complete their review but are dealing with a need for critical information or planning group meetings that do not coincide with the project schedule. However, if a planning group consistently fails to respond to the City's request for planning group input on General Plan, community, specific or precise plan processes or fails to review and reply to the City regarding development projects, they may forfeit their rights to represent the community. This determination shall be made by the City Council based on recommendations by the Mayor's Office.

Section 7. Amendments to Bylaws

Section 7 states that any amendments proposed to adopted bylaws do not go into effect until they are reviewed and approved by the City. Proposed amendments to adopted community planning group bylaws may be submitted to the City for review upon majority vote of the elected membership of the planning group. Following receipt of a bylaw amendment request, Planning staff will review the amendment language for content and conformance with Council Policy 600-24, the bylaws shell and the Brown Act and submit the bylaws to the City Attorney's Office for review. Following City review, staff will work with the planning group on any needed changes. Bylaw amendments that conform to the Policy, bylaws shell and Brown Act will be approved administratively by signature of the Deputy Director of Planning and the Deputy City Attorney. Bylaws that deviate from the Council Policy, bylaws shell or Brown Act will be scheduled for consideration by the City Council. Following City Council action, Planning staff will work with the planning group on any needed changes resulting from Council action. Approval of bylaws with deviations will be through Council resolution.

ARTICLE III Community Planning Group Organizations

Article III addresses the structure and representation requirements of a planning group.

Section 1. Community Planning Group Size

Section 1 clarifies the number of elected or appointed members a planning group may select to operate. A planning group must consist of a specific number of members that is no less than 12 and no more than 20. This number must be fixed and included in its adopted bylaws. This number varies by community and should be chosen to balance continuity of membership with incorporating new members. City Council approval is needed to exceed the maximum number of 20 members. In order to maintain a broad range of community interests a planning group may

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not have less than 12 members. When a planning group needs to adjust the number of member seats, the bylaws must be amended.

Section 2. Recognition of Members

Section 2 clarifies that the members of a recognized community planning group include those members who have been elected or appointed in accordance with Council Policy 600-24, these Administrative Guidelines, and the planning group bylaws.

Section 3. Representation of the Community

Section 3 addresses the goal for elected planning group members to be representative of the various geographic sections of the community, and diversified community interest. Some planning groups utilize a geographic distribution of their seats, or a combination of geographic or open seats. Other methods of insuring diversified community interests include reserving specified numbers of seats for specific organizations (homeowners, renters, businesses) or specific local interests (various districts, institutions, business associations). Categorization should be proposed through a bylaw amendment, subject to approval by the Mayor's Office and the City Attorney for consistency with the intent of the Policy's diverse representation.

When a planning group needs to adjust the categories and number of member seats, to reflect community composition, then the bylaws must be amended. The planning group should clarify the nature of the change.

The Council Policy states that to be an eligible planning group member an individual must be at least 18 years of age. The Council Policy requires affiliation with the community, as outlined below, but does not require US Citizenship.

To be an eligible member of the planning group an individual must be affiliated with that community as a property owner, a resident or local business person. A property owner must be a sole or partial owner or designee of a real property within the community planning area. Planning groups may want to outline in Article VIII of their bylaws or separate standing rules, how designation of property owner rights will be conveyed to a designee. Planning groups may want to request written documentation of any designees. Examples could include a letter from the property owner with an original signature, an e-mail to the Secretary or Chair or a form created by the Board signed by the property owner. A property owner need not reside in the community to be an eligible candidate. A resident is an individual who lives within the community, but who does not necessarily own the property in which they live.

Local business persons include: owners, operators, or designees of a non-residential real property address in the community. This may include no more than one business or non-profit owner, staff representative, or designee per business establishment. Planning groups may want to outline in Article VIII of their bylaws or separate standing rules, how a staff representative or business designee may be chosen and may want to request written documentation of any designees. For community planning groups that identify specific business seats, those seats must be reserved for the businesses found in commercial or industrial areas of the community. The growing number of individuals working from their homes has raised the level of interest in planning activities and has encouraged more business people working from home to run for seats

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on planning groups. Individuals working from home may not be representative of the businesses with non-residential business addresses within the community and should not be selected for those seats. However, a planning group may designate a seat as a “home occupation” while retaining the representative number of non-residential business seats.

Planning groups may find that a community interest would be better represented by a planning group member filling a seat by appointment. Usually, having a limited number of appointed seats is consistent with CP 600-24. Appointments may be made by the planning group or by the entity that the seat represents, depending on the seat. If planning groups include an appointed seat, then the bylaws should clearly define the following:

- ◆ The reason for the appointed seat.
- ◆ Any special responsibilities of that seat.
- ◆ The level of participation of that seat in voting, meetings, and subcommittees.
- ◆ The length of the terms of service.
- ◆ Whether and how that seat may be converted to another category.
- ◆ Whether the planning group or the represented entity appoints the seat.

Section 4. Terms and Limits

The basic term limitation requirements in Council Policy 600-24 allow members to serve for up to eight or nine years, depending on the length of their fixed terms. Member’s terms may be two, three, or four years in length. Members serving for two or four years are limited to a total of eight consecutive years on a recognized community planning group, while members serving three year terms are limited to nine consecutive years regardless of the number of different elected planning group seats a member has held during those years.

If a member has not reached their eight or nine years of service and is elected to a term that would carry their service beyond eight or nine years, they may fill the seat for the balance of their service period. For example a member could serve seven years and be elected to a three year term. The member may serve one (or two) years of the term but would need a one year break in service when they reach the eight (or nine) years of service.

Members who have reached the end of their allowed number of terms and years may, after a one year break in service, again serve on a planning group. Breaks in service of less than one year cause subsequent time to count as continuous time against the total number of years of service limits, although the time not in service may be subtracted. For example, a member could serve 7 years and six months, have a break in service for 6 months and return to serve for six more months for a total of 8 years of service. Upon reaching 8 (or 9) years of service the member would need to take a continuous one year break in service.

Members who have served more than eight or nine years may serve in excess of the term limits without a break in service, if a good faith effort has been made by the planning group to develop a list of potential new candidates that exceeds in number the seats that are open for election, and subject to the following:

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1. If a candidate with service beyond eight or nine years is to appear on the ballot with new candidates, the ballot should identify that the candidate exceeds the planning group's allowable term limits and that the candidate must receive a two-thirds vote of all ballots cast by eligible community members participating in the regular election, to be elected. The ballot should also indicate that this candidate will not be seated if there are a sufficient number of new candidates to fill the vacant seats, i.e., a new candidate has priority over candidates exceeding the term limits.
2. After open seats are filled with new members, candidates with service beyond eight or nine years, who received a two-thirds vote, may be considered for remaining open seats, with the highest vote recipient exceeding the eight or nine year limitation taking the first open seat that they qualify for, etc.
3. No more than 25 percent of the total planning group membership can consist of members serving excess of the specified terms of service. At the time of the election, if 25 percent of the planning group is made up of members serving in excess of the specified terms of service, the candidate with service beyond eight or nine years may not even be considered.

If the planning group has specific categories of elected seats, and seats within particular categories remain open after an election, the planning group may consider adopting a procedure or bylaw provision which prescribes how those remaining seats may be filled, i.e., with a new candidate from another category or with a candidate with service beyond eight or nine years receiving two-thirds vote within that category.

A candidate with service beyond eight or nine years may be nominated to fill a mid-term vacancy only if there are no other nominations. For such a candidate to be elected a two-thirds vote is required and the 25 percent limitation is met with the seating of the candidate.

Election by a two-thirds majority to a term beyond eight or nine years should be considered "time on" for the purposes of counting continuous service. If an additional term is subsequently sought without a break in service, a two-thirds majority vote is again required.

Section 5. Eligibility to Serve

Section 5 states that a planning group member must retain eligibility during their entire term of service. A planning group member becomes ineligible when he or she no longer meets the eligibility requirements found in Art. III, Section 3 (i.e. property owner, resident, business person) or exceeds the number of allowable absences found in Art. IV, Section 1 of CP 600-24 and these Administrative Guidelines. When this occurs a planning group member should resign. Additionally, as the secretary becomes aware that a member is no longer eligible to serve they should notify the member and present documentation to this effect at a regularly scheduled meeting. If another board member becomes aware that a member is no longer eligible they should notify the secretary of this situation. Although the Council Policy states a planning group member "may" be removed upon determination of ineligibility, it is the planning group's duty to vote to remove the member who has become ineligible.

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Section 6. Risk of Loss of Indemnification

Section 6 introduces the potential loss to planning groups and planning group members of legal defense and indemnification under the Ordinance O-19883 Providing for Defense and Indemnification of Community Planning Groups for violating CP 600-24, the bylaws, or the requirements of the Brown Act. Although the Council Policy lists the Ordinance as O-17086 NS, this ordinance was revised in 2009 and planning groups should refer to O-19883 for up-to-date indemnification guidance. This section identifies that the Brown Act carries civil or criminal consequences which are more fully addressed in Article IX, Section 2. By implementing bylaws and operating within the Council Policy, planning groups are considered to be in substantial conformance with the Brown Act.

ARTICLE IV Vacancies

Section 1. Finding a Mid-Term Vacancy Exists

Section 1 addresses that a planning group shall find that a vacancy exists when a member resigns or has three consecutive absences or a fourth absence in the 12-month period of April through March of each year. Planning group chairs should consider contacting the affected member in advance of the meeting to determine the situation and whether the member wishes to resign. A determination that a vacancy exists should be placed on the planning group's agenda. While a member could potentially be re-elected to their own term, the planning group should consider whether the candidate can fulfill the meeting attendance requirement in the future prior to reinstating the member.

Section 2. Filling Mid-term Vacancies

Section 2 directs planning groups to fill a mid-term vacancy in accordance with their bylaws. Groups must fill their vacancies no later than 120 days following the termination of the vacancy. However, when the end of the 120 day period occurs within 90 days of the annual March election the vacancy should be included in the March election. A vacancy determined at the time of the election should only be added to the election if there is an adequate amount of time to declare the vacancy at a planning group meeting prior to the election; otherwise, the filling of the vacancy should be deferred to a later meeting or election within 120 days of the determination of the vacancy.

As discussed in Section 1, both the actions to find a vacancy and to remove a member, and the filling of a seat by election or appointment are matters that should be noticed on the agenda, in accordance with the Brown Act. Due to being on the agenda, these items may not be voted upon by secret ballot. A paper ballot may be used as long as planning group members identify themselves on the marked ballots which would be available for review upon request. As with regular elections, guidelines must be set for declaring the vacancy filled, and some period of time must be allowed for a challenge. Ballots must be retained as part of the meeting record. An objection to filling a vacancy is a challenge to the planning group's action on an agenda item and should be treated as an item for reconsideration.

Section 3. Timeframe to Fill a Vacancy

Council Policy 600-24 requires that vacancies shall be filled no later than 120 days following the date of determination of the vacancy. If the vacancy is not filled by this deadline it can affect the

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membership or the continued operation of a planning group. If there are no qualified or available candidates to fill a vacancy, a planning group should consider amending their bylaws to reduce the number of members, but not to less than 12.

If a community planning group has difficulty filling a vacant residential seat by the deadline, the group should first try to fill the seat with an individual who qualifies for another residential category or district. If a planning group has difficulty filling a vacant non-residential seat by the deadline, the planning group should first try to fill the seat with an individual who qualifies for another non-residential category or district. Filling a vacancy in one category with a candidate from a different category is considered temporary and that seat should only be filled until the expiration of the term, and then reverts to the category identified in the bylaws.

If a planning group membership is on the verge of dropping below 12 due to one or more vacancies, the planning group should increase its efforts to recruit candidates. After a vacancy exists for 60 days, a planning group should report in writing to City staff and the City Council why the vacancy exists and what efforts have been made to fill it. If the vacancy exists after another 60 days (120 days from the date the vacancy was declared), the City should notify the planning group in writing that they will be placed on inactive status. While a planning group is on inactive status, the City suspends the planning group's formal advisory role. While the inactive planning group can continue to meet, it will not be in the capacity of a recognized planning group, the City will not send development projects for their review, and any action taken will not be considered a vote from a recognized community planning group. While on inactive status, a planning group should solicit new members and potential candidates for the next general election. The inactive planning group should follow the election procedures in the bylaws and conduct the next general election in order to gain at least 12 members and become active again. The time on inactive status counts toward the term limits of the elected members.

ARTICLE V Elections

Section 1. Election Procedures

Article V addresses planning group election procedures. The planning group must make the election process fair, open, objective, and accessible, to the entire community of eligible voters. CP 600-24 establishes a few mandatory election requirements but charges each planning group with the responsibility to adopt specific election procedures. Planning groups may find Roberts Rules of Order Newly Revised, Chapter VIII., Voting and Chapter IX., Nominations and Elections, useful to develop election procedures that will give the entire community confidence in planning group elections. Such confidence is more likely to result in trust, acceptance and in fewer election challenges.

General elections shall be held during the month of March every year or every other year. Planning groups should seek enough new candidates to exceed the number of seats open for election. Planning group bylaws may establish a minimum number of meetings required to have attended in order to be a candidate for election. However, candidates must have attended a minimum of one of the group's last 12 meetings prior to the February noticed regular or special meeting of the full planning group.

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Planning groups are encouraged to adopt detailed election procedures within Article VIII of their bylaws. Planning groups should address the following election procedures in writing prior to the election:

- Verification of candidate eligibility prior to printing a ballot
- Creating a ballot with all candidates appropriately represented
- Handling of write-in candidates, if applicable
- Location(s) of polls, including managing multiple concurrent polling locations, if allowed
- Management of the polls
- Verification of voter eligibility (i.e. drivers license, utility bill)
- Setting election date(s)
- Setting voting time(s)
- Mail-in ballot procedures, if applicable
- Closing the polls
- Counting the ballots, including when, by whom, and how to account for a candidate continuing beyond eight or nine consecutive years of service
- Establishing a plurality voting system (i.e., those with the highest votes win)
- Ballot record keeping
- Tie-breaking procedures
- Election challenge procedures
- Timing of installation of newly elected members
- Maintaining confidentiality of secret written ballots
- Prohibition of electioneering (actively trying to convince voters to vote for a specific candidate at the time of the election)

When a group plans to provide the opportunity to vote on more than one date in March these procedures shall be outlined in their adopted bylaws. If the group wants to use this option and it is not in the adopted bylaws then the voting procedures for such an election will be submitted to the offices of the Mayor and City Attorney, respectively, for review and approval at least 45 days in advance of the first day of voting.

Section 2. Publicity for Elections

Planning groups shall demonstrate a good faith effort to publicize planning group elections and candidate eligibility requirements. They may use their own websites, posting notices at libraries and grocery stores, sending emails, and placing a notice in the community newspaper. In addition, the City uses TV24 and the City's website to publicize the planning group election season. Notices on TV24 begin in the fall of each year, indicating that planning group elections are in March and that planning groups may have minimum attendance requirements to be eligible to vote or run for election.

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Section 3. Ballots

Voting in an election by secret ballot is allowed even though voting by board members to fill a vacancy at a noticed planning group meeting (as discussed in Article IV, Section 1) must be public. An election that is held separately from a Brown Act-noticed meeting does not constitute a “meeting” of a planning group and is therefore not subject to the public meeting requirements. Note that the selection of officers by a planning group cannot be by secret ballot. Ballots shall be available for a specified period at the election.

A proxy is the authority given by one person to another to vote in his/her stead. Per Robert’s Rules of Orders Newly Revised, proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and non-transferable. In this section, Council Policy 600-24 states that proxy voting in elections is not allowed under any circumstances.

Section 4. Finalizing Election Results

An election becomes final after announcing the election results at a noticed planning group meeting unless explicitly stated otherwise in the planning group’s bylaws. Time must be allowed for voting to be concluded, votes counted, results announced, and for a challenge to be submitted to the Election Subcommittee. The ability and criteria to challenge the election must be clarified as part of the publicity of the election. This allows for the seating of new planning group members in April as required by the Council Policy 600-24.

ARTICLE VI Community Planning Group and Planning Group Member Duties

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

Section 1 describes that it is the duty of a community planning group to work cooperatively with the Mayor’s staff. This section further describes that all meetings, in accordance with the Brown Act, must be open to any member of the public that wishes to attend. This includes any meeting of the planning group, including regular meetings, special meetings and subcommittee meetings. Furthermore, if the planning group desires to hold a retreat outside a regularly scheduled meeting, it must be noticed as a meeting of the planning group and be open to the public.

The council policy acknowledges that some administrative functions of the planning group, such as assembling of the draft agenda, may be overseen by the officers of the group. However, all substantive discussions about agenda items should occur at the noticed planning group meeting. Finally, the last paragraph of Article VI, Section 1 advises planning groups and individual members to refrain from conduct that is detrimental to planning group operations.

Section 2. General Meeting Procedures

Section 2 of Council Policy 600-24 provides extensive guidance on general meeting procedures, subcommittee operations, abstentions and recusals, as well as the duty to maintain meeting documents and records.

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(a) Meeting Procedures

i. Regular Meeting Agenda Posting

Meeting agendas should be posted at least 72 hours before the meeting in accordance with the Brown Act. The agenda should be posted at the meeting facility or at another public place freely accessible to the general public. The agenda may also be posted at other locations, such as grocery stores and/or a community website, and as a courtesy, the City will also post planning group agendas on the City's website and on TV24. Agendas should be provided to the City no later than the Wednesday prior to the week of the planning group meeting. If a planning group agenda is not received in time to include it on TV24, the meeting location date and time will be displayed.

The posting at the meeting location should be located in a manner that is freely accessible to the public 24 hours per day. For instance, if a planning group meets at a public facility such as a library, the agenda should be posted in a window that is visible 24 hours per day. If posting at the meeting location is not possible, the agenda may be posted at another nearby location that is freely accessible to the public and visible 24 hours per day. Planning groups should be consistent in where agendas are posted. If 24 hour posting is not possible, i.e. if the agenda can only be posted indoors in a facility that is only accessible during specified hours, the agenda should be posted further in advance so that it is available for public inspection for no less than a total of 72 hours.

The planning group agenda should include the date, time and location of the meeting, a brief description of each agenda item, and whether the item is an information or action item. The brief description need not include more than 20 words unless the item is particularly complex. For development projects, the description should include, at a minimum, the name of the project, location, proposed discretionary actions and a summary of what is proposed.

Agendas distributed and posted in advance are considered proposed or draft agendas. Planning groups should include an item to approve the agenda as the first order of business at a meeting. A motion can be made to adopt the agenda, delete items from the agenda or rearrange items on the agenda. As outlined in Article VI, Section 2, viii, items may be added to the agenda that came to the City and planning group's attention subsequent to posting of the agenda if there is a need to take immediate action and may be added by two-thirds vote of the membership. If less than two-thirds are present and there is a need to take immediate action, then every member must vote to add the item. This provision should only be used in limited circumstances when there was not an ability to properly notice the item.

ii. Public Comment

This section states that members of the public must be afforded the opportunity to comment on agenda and non-agenda items during regular and special meetings. Public comment on items that are not on the agenda, but are within the scope of the planning group, must be accommodated at the beginning of the meeting, pursuant to the Brown

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Act. Where there is confusion about whether an item is within the purview of the planning group, the group should allow the comment. Members may respond to the comment to seek clarification or ask factual questions but should not engage in dialogue on any item not on the agenda. In order to efficiently manage their meetings, planning groups may establish reasonable time limits for public comment.

iii. Adjournments

Meetings of a planning group may be adjourned to a future date in advance of a meeting (i.e. the group is in recess in August) or on the day of the meeting because less than a quorum was present. If a planning group knows in advance that a regular meeting will not be held they should post a “Notice of Adjournment,” to a future date at the regular meeting location 72 hours in advance of when the meeting would have been held.

If a meeting is adjourned because a quorum is not present, or is lost during the meeting, a notice of adjournment should be posted at the meeting location within 24 hours of the meeting. The notice should state the date and time of the next regular or special meeting. This section further states that if the next meeting is held within 5 days or less from the meeting, the original agenda may be used, if more than 5 days, a new regular or special meeting agenda should be prepared.

iv. Continued Items

If a planning group takes action to continue an agenda item to a future meeting, and if that meeting is less than 5 days in the future, no new agenda needs to be prepared. To continue an agenda item more than 5 days, i.e. to the next regular planning group meeting, that future agenda must contain an entry for the item. A planning group may use its discretion to trail an item until a later time during a meeting or continue items to a future date.

v. Consent Agenda

Consent agendas group items and subject them to a single vote. Consent agendas allow for more efficient use of meeting time and enable planning groups to focus on the more substantive topics. Consent agenda items usually appear near the beginning of the regular meeting agenda. This allows items to be easily moved to the regular agenda, if necessary. Many planning groups place non-controversial development proposals on a consent agenda with the condition that if there is any public or member comment about the item it is automatically moved to the regular agenda for full discussion.

vi. Quorum and Public Attendance

Before calling a meeting to order the chair must check that a quorum is present to conduct business. The only actions that can be taken in the absence of a quorum are to: 1) fix the time to adjourn or recess, or 2) take measures to obtain a quorum, for example, contacting members during a recess and asking them to attend. The chair should

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immediately call the meeting to order, announce the absence of a quorum, and entertain a motion to adjourn to either the next regular meeting, to which the agenda items would trail, or to a special meeting, if any item is time sensitive, or both as each item warrants.

Without a quorum, business cannot be transacted, however, by entertaining a motion to adjourn; the planning group has met its obligation to hold its regular meeting. The prohibition against transacting business in the absence of a quorum cannot be waived, even by unanimous consent. If the chair or any member notices the apparent absence of a quorum, a point of order should be raised to that effect. At that time, the meeting should be stopped in order for the chair to assess whether a quorum is expected to return.

The chair should confirm the presence of a quorum prior to calling for a vote on any action. If a member questions the presence of a quorum, it must be done at the time a vote on a motion is to be taken. A member may not, at some later time, question the validity of an action on the grounds that a quorum was not present when the vote was taken.

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

vii. Development Project Review

Planning groups are sent project packages for review from the Development Services Department in accordance with Bulletin 620. Project packages include a comprehensive set of information such as a cover letter, cycle issues report, a site plan, and other plans and background information as needed for project review. As outlined in the Council Policy, planning groups cannot require applicants to submit additional information and materials as a condition of placing an item on their agenda. However, if during project review the group identifies additional materials that would aid in their review they may make a request of the project applicant to provide them, if available.

The planning group shall notify the project applicant or representative each time their project is reviewed or placed on the agenda by the planning group or a subcommittee. Notification to the applicant should be made well in advance of the meeting and consideration to move the item to another meeting should be given if requested by the applicant. Attendance by the applicant is at their discretion.

It is the planning groups' duty to allow participation of affected property owners, residents, businesses and not for profit establishments within proximity to or with interest in the proposed development.

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viii. Action on Agenda Items

There are restrictions on adding an agenda item to a published (72 hours prior to the meeting) agenda. An agenda item may be added only if it is an issue that came to the attention of the planning group after the agenda was posted. In addition, the item may be added only if two-thirds of the filled seats of the planning group vote to add the item because there is a need to take an immediate action. If less than two-thirds are present, every member in attendance must vote to place the item on the agenda. In advance of the meeting, the planning group may want to consult City staff or the City Attorney to determine if there is a need for an “immediate action”; it may be that the reason for the sense of urgency is that there is a scheduled hearing date or the project review cycle is closing. If time permits, check with City staff or the Development Project Manager to determine if there is flexibility in the deadline given.

A key Brown Act provision of this subsection is the prohibition on proxy voting and secret ballots on actions taken by the planning group. These methods of determining support or opposition to an agenda item are prohibited. There must be open discussions and voting. Telephone or email polling, or other means of absentee voting, are also prohibited by the Brown Act.

Actions on agenda items shall reflect the official position of the planning group. Planning groups may include rules of standing order or operating procedures to guide the roles and responsibilities of planning group members when representing a planning group’s position to the City and/or to the public. Members are advised to refrain from identifying themselves as members of a planning group when expressing positions on matters either not voted upon, or outside the scope of duties of planning groups.

An action of a planning group should be approved by a vote of the planning group. In the case where the chair files a timely appeal on a project that a planning group has voted against during a regular meeting following proper procedures, the chair should report on the action at the next meeting of the planning group. In some cases a confirmation vote may be appropriate as a follow-up action. Community planning groups should consider adding a provision in their bylaws addressing procedures and authority for appeal.

If a project has been substantially revised since a prior vote by the planning group, or a planning group received incorrect or additional information, the revised project may be placed on the agenda for a re-vote.

ix. Collective Concurrence

The attempt to develop a collective concurrence among a majority of the members, also known as conducting a serial meeting, outside of a meeting held in accordance with the Brown Act requirements, is a prohibited meeting. A serial meeting is best described as a series of discussions or deliberations held between one member and any other member(s), that does not comply with the Brown Act’s public noticing and comment requirements, for the purpose of or with the result of developing a concurrence between a majority of

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the members regarding an action to be taken.

This type of serial discussion does not allow for public notice and participation in the decision-making process, and therefore violates the purpose of the Brown Act. The use of intermediaries or technological devices for this purpose is also prohibited. Although contact between one member and one other would not be a majority of the membership, the communication could continue in a chain fashion, and result in a collective concurrence. Alternatively, one member could contact several others individually, and develop a collective concurrence in that fashion. Because one party to the communication may unknowingly participate in what becomes a collective concurrence, the better practice is to engage in all discussions about matters within the board's jurisdiction at a noticed public meeting.

Members of the community planning board may receive staff briefings, so long as the comments or positions of the members are not communicated to other planning group board members.

x. Special Meetings

Special meetings are those meetings that are scheduled at times or dates other than at regularly held meetings. A special meeting can be called by a planning group Chair or a majority of planning group members, and must have a specified purpose. It should be limited to only the item that required the meeting to be set, and public testimony on that item must be allowed. The non-agenda public comment required on a regular meeting's agenda may be waived. Written notice is required to all planning group members, local newspapers and radio and television stations that have requested notice 24 hours prior to the meeting along with a 24 hour agenda posting similar to the requirement for a regular meeting.

xi. Emergency Meetings

The purpose of emergency meetings is for matters related to public health and safety. Since these issues are outside the purview of planning groups, emergency meetings are prohibited.

xii. Right to Record

The Brown Act requires that anyone in attendance at a planning group meeting may record the meeting if it can be done without disruption to the meeting. The recording can either be videotape or audiotape. This recording does not have to be shared with a planning group, however if a planning group records a meeting, the recording must be made available to the public upon request.

xiii. Disorderly Conduct

The Brown Act states that in extreme circumstances, the planning group may cause an

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individual to be removed from a meeting if the Chair cannot maintain orderly conduct of the meeting. The meeting room may be cleared if necessary. The meeting may continue (with any press remaining) without an audience or with non-disruptive individuals readmitted.

(b) Subcommittees

i. Standing Subcommittees

Standing subcommittees are generally those in place for an extended period of time that meet regularly on a particular topic. Examples of common planning group standing subcommittees include project review subcommittees and transportation subcommittees. Standing subcommittees must be noticed and held in a publicly accessible location in accordance with Brown Act provisions for regular meetings.

ii. Ad Hoc Subcommittees

Ad Hoc subcommittees are those established for a finite period of time to deal with a special issue or topic such as elections. While not subject to the Brown Act if made up entirely of members of a planning group and constituting less than a quorum, Council Policy 600-24 requires that all ad hoc subcommittee meetings be open to the public and, at a minimum, be noticed on a website or listed on the regular planning group agenda.

iii. Subcommittee Composition

This section states that all subcommittees must be comprised of a majority of planning group members. Non-planning group members on the subcommittee should demonstrate an understanding of their role on the subcommittee, the limitations on their role, and the ability to be defended and indemnified in their planning group role. In order to be indemnified by the City under O-19883, Ordinance Providing for Defense and Indemnification of Community Planning Groups, non-planning group subcommittee members must be identified in the planning group minutes as appointed or elected subcommittee members and must attend the first COW available to them either electronically or in person within sixty (60) days of their appointment.

iv. Recommendations

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

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(c) Abstentions and Recusals

There are two legitimate situations that may prohibit a member from voting. They are recusals and abstentions.

i. Recusals

Recusal is required when a member of a planning group has a readily identifiable, distinguishable, direct economic interest in any project or matter being considered by the planning group. This applies to all planning group member seats including categorized and non-voting seats. If a member has a direct economic conflict, the member must:

1. Disclose the economic interest.
2. Recuse before the item is discussed.
3. Physically leave the planning group seating area.

A recusing member, who is also a member of the applicant team, may assist in the presentation of the project to the planning group.

The planning group chair should ask for recusals before starting any substantive discussion on an action item. The presence of the recusing member in the room in which the meeting occurs does not count toward a quorum for the item that the member recuses on. The vote on the item will not reflect the recusing member at all.

The duty to recuse due to a direct economic interest must be determined on a case-by-case basis. However, there are some common examples that have arisen in planning groups:

- An owner, or part owner, of all or part of the subject property, business or development.
- The project architect, engineer, sales agent, or other team member.
- An employee, in any capacity, of a company, or subcontractor, or representative which is part of the project team.
- A former member of the project team that has received significant compensation for project team work within the past twelve months.

When determining whether to recuse from an item, members should err on the side of caution but situations may arise where a member wishes to contact their community planner for advice. It is expected that planning group members will act in good faith to fulfill their authorized duties. If a conflict is suspected, but it is not recognized by a member, a **two-thirds** vote of the planning group, taken before the item is discussed, can determine that a member should recuse. If the member refuses to recuse, the planning group should make it a part of the public record that a vote of the planning group considered the member ineligible to participate. The participation of the member will be deemed void and the vote of the member not counted toward the planning group recommendation. The refusal by a member to recuse from the planning group discussion and vote may result in discipline of the member under Council Policy 600-24, Article IX 3(a).

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In general, members will not have to recuse themselves from large scale planning policy issues, matters related to land use plans such as community plans, specific plans, and precise plans. Even though actions of planning group members are governed by Council Policy 600-24, state law can be drawn upon for guidance to assist the member in determining whether they have a direct economic interest. State regulations find no disqualifying conflict of interest if the decision affects the member's economic interest in a manner which is indistinguishable from the manner in which the decision will affect the public generally. Relevant factors to determine ground for recusal include:

1. Whether the decision affects a significant segment of the public. As a general rule, this means if the decision affects:
 - ◆ 10 percent of residents and homeowners in the community, or
 - ◆ 25 percent of similar business owners in the community.
2. Whether the decision will affect the same type of economic interest as the public generally, and in a similar manner.
3. Whether, despite affecting the public in general, the decision "uniquely benefits" the member in which case there could be ground for recusal. A member is uniquely benefitted if they as an individual stand to gain direct financial benefit from the proposed action.

ii. Abstentions

Abstention is voluntary but strongly recommended where a member has legitimate, non-economic, personal interests in the outcome that would, at minimum, give the appearance of impropriety, or cast doubt on their ability to make a fair decision, or a member lacks sufficient information upon which to cast a vote. The vote on the item will reflect the abstaining member as an abstention since they are still counted in a planning group quorum for that item, regardless of when they declare their abstention.

An abstention should normally be declared prior to the start of the item. The member should declare the abstention and the reason for the abstention. If a planning group member realizes they need to abstain in the middle of a discussion item, they should immediately announce that fact and not participate in the item any further. It is inappropriate for a planning group member to participate in a planning group debate, ask questions, express opinions, perhaps even make the motion or the second, and then abstain from voting.

If there are multiple abstentions due to a lack of information, the planning group should consider a continuance in order to receive additional information. There should be agreement among the planning group members that more information is necessary to allow the planning group to make an informed decision, and the group should be as specific as possible about what information would assist it in formulating its

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recommendation.

The need to abstain is generally determined on a case by case basis. However, there are some common examples of abstention:

- ◆ A member lives adjacent to a proposed project, does not have an economic interest in the project, but wishes to participate as a concerned neighbor rather than a member of the planning group.
- ◆ A member has a personal relationship with the project team which may be perceived as a bias towards the project.

(d) Meeting Documents and Records

i. Agenda by Mail

As previously discussed, the official Brown Act notice of a meeting is the physical posting of the agenda in a place accessible to the public at least 72 hours in advance of the meeting. In addition, planning groups generally mail and/or email the agenda to planning group members and other interested parties in advance of the meeting. The Brown Act states that requests for mailed copies of the regular agenda and any accompanying material must be granted although a cost-recovery fee may be charge for providing this service. A request to receive agendas and materials may be made once for each calendar year but must be renewed by January 1st of the following year. Mailed agendas/materials must be distributed when the agenda is posted, or upon distribution to the planning group, whichever occurs first.

ii. Agenda at Meeting

Any written documents, including agendas, project plans, project assessment letters, and environmental documents must be made available to the public at the time they are made available to the planning group. Planning groups may establish a procedure for ensuring the availability of documents such as by making project materials available for review at the nearest library branch and/or by referring individuals to the Development Services Department; however, all project review documents should be accessible for public review at planning group meetings. A cost-recovery fee may be charged for the cost of reproduction of any materials requested by the public.

iii. Minutes

Minutes must be provided to the City within 14 days of approval. Minutes should include attendance of planning group members, a recordation of the votes, and may include a listing of individuals who voluntarily sign into the meeting.

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iv. Records Retention

The City Planning & Community Investment Department is developing a procedure to maintain planning group materials following the meetings. Although not the official Brown Act notice, CPCI posts agendas and minutes on the City's website when they are received in a timely manner.

Section 3. Community Outreach

Section 3 addresses the duty of planning groups to seek out broad community participation. Planning groups should consider a variety of outreach efforts such as creating a planning group website, networking with other active local organizations, placing articles in local newspapers, etc.

Planning groups are strongly encouraged to coordinate outreach with CPCI by sending:

- ◆ Announcements about planning group meetings, and elections, to be posted on the City's TV24 television station. As stated, CPCI must receive meeting agendas one week before the meeting to be posted in time.
- ◆ Updates about the planning group for distribution on the CPCI general interest e-mail list. This covers a broader swath of the city than any one planning group mailing list. It may capture the interest of community members who have been more involved in citywide matters.

Section 4. Planning Group Roster and Annual Report

This section addresses the duty of planning groups to maintain current rosters and prepare annual reports for CPCI.

Planning groups may keep two sets of elected membership rosters:

- A roster for City use-only. *See* example at Attachment A
- A summary roster to respond to public inquiry. *See* example at Attachment B.

City Use-Only Roster

- Member Name
- Home Address
- Telephone and Fax Numbers
- E-mail address
- Start Date of Service
- Term Expiration Date
- Eligibility Category
- Seat Category, if any.

Public Roster

Same but excluding home address, telephone and fax numbers, and E-mail address.

Providing this information gives CPCI the ability to determine compliance with CP 600-24 rules governing eligibility to serve, and it allows CPCI to efficiently transmit information on projects,

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training sessions, and other City meetings and functions that may be of interest to particular planning groups. Most planning groups collect roster information from application forms used to recruit prospective planning group candidates.

Annual reports should be five pages or less, and should include the following topics:

- ◆ Introduction
- ◆ Administrative Matters
- ◆ Community Plan Preparation and Implementation
- ◆ Special Projects
- ◆ Summary of Project Review
- ◆ Planning Group Objectives
- ◆ Attach Meeting Minutes for Past Year
- ◆ Roster Summary

A sample annual report format is provided at Attachment C. At minimum, the annual report should include a summary list of accomplishments and objectives, and major actions on large projects and policy matters. While the annual report may be prepared by a single member or a subcommittee of the planning group, it must be discussed and voted on by the planning group as a whole before being forwarded to CPCI by the end of March each year.

Section 5. Financial Contributions

This section prohibits planning groups from requiring the payment of any dues or fees; however, they may accept voluntary financial contributions. Some planning groups have community fundraisers to defray administrative costs. The City recommends against collecting voluntary financial contributions at regular intervals because it creates a perception that contributions are required to participate in the planning group. Contributions may be anonymous.

Planning groups and planning group members should not request or accept in-kind gifts, or contributions from individuals presenting projects to the planning group. It may be acceptable, for a business in the community to provide meeting space for the planning group, as long as the location is open and accessible to the public. To avoid potential conflicts of interest, the planning group must also determine if the business donating the space makes the space available to the public generally. If not, the planning group should not meet at that location. If so, then the planning group should meet elsewhere whenever an agenda item arises that would impact the business donating the space.

Section 6. Community Orientation Workshop

Section 6 requires planning group members to be “COW-certified” by attending an annual Community Orientation Workshop (commonly referred to as “the COW”) within 12 months of being elected or appointed to the planning group. The purpose of the training is to ensure compliance with CP 600-24 and the Brown Act, and to strengthen legal defense and indemnification of members under the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19833). In addition to the annual COW meeting, planning group members may now meet this requirement by taking the on-line Electronic COW, or E-COW.

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Topics covered at the COW and in the E-COW include the basics of planning practice, an overview of the City's governmental structure, the role of the General Plan and Community Plans, the discretionary and ministerial permit process, the California Environmental Quality Act, the regulatory and enforcement functions of the City, and the rules and regulations governing the City's planning group process, as embodied in CP 600-24.

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

ARTICLE VII **Planning Group Officers**

Section 1. Officers

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

Sections 2. Chairperson

Section 2 discusses the basic responsibilities of the chairperson.

Section 3. Vice Chairperson

Sections 3 discusses the basic responsibilities of the vice chair.

Section 4. Secretary

Section 4 discusses the responsibilities of the secretary. Secretaries may seek assistance from others with the following duties:

- ◆ To act as the group parliamentary procedure expert and so monitor meeting procedures related to motions, voting, and public speakers.
- ◆ To collect and assemble materials from meetings for records retention.

Anyone providing assistance to planning group officers should be a planning group member, or COW-certified, to ensure the officers and group will be eligible for legal defense and indemnification under the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19883).

Section 5. Community Planners Committee

Section 5 discusses how planning groups represent themselves on the Community Planners Committee (CPC). Attachment D is the form used to convey CPC representative information to the CPC chair. If neither the representative, nor the designated alternate, can attend a CPC meeting the planning group may send a substitute, who may speak but not vote on behalf of the planning group.

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Section 6. Dissemination of Information

Section 6 stresses that CPC representatives have a duty to report CPC actions back to their planning groups. The CPC representative should forward copies of the CPC meeting agenda and minutes to the secretary for circulation to all the planning group members. Planning group members may also review CPC agendas, minutes, and back up materials for the CPC meetings on the CPCI website at www.sandiego.gov/planning/community/cpc.

ARTICLE VIII Planning Group Policies and Procedures

Article VIII provides a framework for planning groups to develop procedures and policies tailored to the particular needs of their community planning areas.

ARTICLE IX Rights and Liabilities of Recognized Community Planning Groups

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

Section 1. Indemnification and Representation

Section 1 requires planning group members to comply with CP 600-24, and their own adopted planning group bylaws to qualify for representation and legal defense pursuant to the Ordinance Providing for Defense and Indemnification of Community Planning Groups (O-19883).

Section 2. Brown Act Remedies

Section 2 addresses Brown Act remedies and violations. As with other CP 600-24 provisions, the preferred remedy following a valid complaint is self-correction. If a planning group receives a written complaint alleging a Brown Act violation, it should be forwarded to CPCI within 5 business days, for review and referral to the City Attorney, to ensure the correct procedures are followed, all issues are addressed, and remedies are enacted in a timely manner. When deciding whether to self-correct, planning groups should err on the side of caution, since self-correction requires little effort, will likely not change the resulting vote, but will ensure maximum public participation and statutory compliance. When a planning group forwards a complaint to CPCI it should state whether the planning group has already decided to proceed with self-correction.

Section 3. Council Policy 600-24 Violations and Remedies

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

(a) Alleged Violations by a Member of the Planning Group.

It is the responsibility of the planning group, not the City, to address alleged violations of CP 600-24 by individual members. CP 600-24 does not contemplate either CPCI or the City Attorney taking decisive action against planning group members for violations of CP 600-24, although CPCI may, upon request by a planning group, offer advice on how to proceed, based on experience with how other planning groups have addresses similar situations. Planning groups are authorized to conduct an investigation, and where feasible take corrective action, as is

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deemed appropriate by the group. Investigation procedures are outlined and incorporated into the standard planning group Bylaws Shell attached to CP 600-24.

When corrective action is not feasible, removal of a planning group member may be necessary. There may be extenuating circumstances where the benefit of removing a planning group member without any doubt outweighs attempting to continue to operate with that member. Removal must be considered with extraordinary care and thoroughness by the entire planning group, and must adhere to the following procedures.

- a. Any action by a planning group to discipline or remove a planning group member must occur at a scheduled planning group meeting and be noticed on the agenda as an action item.
- b. Due to the significant nature of removing an elected member, and to ensure a fair and public process, standardized procedures for conducting an investigation and hearing are provided in the standardized Bylaws Shell. These procedures detail the following topics. Additional procedures would have to be approved as bylaws amendments. *See* Article II, Section 7.
 1. Documenting a violation.
 2. Conducting an investigation.
 3. Presenting a violation to the planning group.
 4. Recourse for a member who is removed.

(b) Alleged Violations by a Planning Group

It is the responsibility of CPCI to investigate, and attempt to resolve, alleged violations against the multiple members or against the entire planning group.

The phrase “investigation by the Mayor’s office,” as used in this subsection, does not mean a formal criminal or civil investigation. It refers to an informal process, shaped by the nature of the allegations, and will usually involve discussions with individual members, or with the entire planning group, as well as discussions with the planning group members and others, and review of planning group minutes, correspondence, or other documents. CPCI may offer advice on how to proceed, based on their experience with how other planning groups have addressed similar situations, and may discuss the matter with the CPC.

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ATTACHMENTS

- A Sample Planning Group City Roster
- B Sample Planning Group Public Roster
- C Sample Planning Group Annual Report
- D Community Planners Committee Membership Data Form
- E Council Policy Ordinance No. O-19883, “An Ordinance Providing for Defense and Indemnification of Community Planning Groups”

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Attachment A

XXX Planning Group
City Use Roster – Month, Year

Chair

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration	Seat (if applicable)
Email Address	Initial Term Date with Uninterrupted Service	

Vice Chair

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration	Seat (if applicable)
Email Address	Initial Term Date with Uninterrupted Service	

Secretary

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration	Seat (if applicable)
Email Address	Initial Term Date with Uninterrupted Service	

Treasurer

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration	Seat (if applicable)
Email Address	Initial Term Date with Uninterrupted Service	

Elected Members [list each individually]

Name	Telephone Number	Fax Number
Address		
City, State Zip Code	Term expiration	Seat (if applicable)
Email Address	Initial Term Date with Uninterrupted Service	

Community Planner

Name	Phone Number	Fax Number
San Diego Planning Department		
202 "C" Street, MS-4A		
San Diego, CA 92101		
Email Address		

Last updated XXX

Attachment B

XXX Planning Group Public Roster - Month, Year

Chair

Name

Address

City, State Zip Code

Email Address

Telephone Number

Fax Number

Term expiration/Initial Term Date

Seat (if applicable)

Vice Chair

Name

Term Expiration/ Initial Term Date

Seat (if applicable)

Secretary

Name

Term Expiration/ Initial Term Date

Seat (if applicable)

Treasurer

Name

Term Expiration/ Initial Term Date

Seat (if applicable)

Elected Members

List Each Name

Term Expiration/ Initial Term Date

Seat (if applicable)

Community Planner

Name

San Diego Planning Department

202 "C" Street, MS-4A

San Diego, CA 92101

Email Address

Phone Number

Fax Number

XXX Community Planning Group meets monthly on the XXX Day of each month at Location.

For more information on XXX Community Planning Group, contact Name, Chairperson, at phone number/email address.

Last updated XXX

Attachment C

ANNUAL REPORT OF THE XXX PLANNING GROUP Month, Year – Month, Year

Section I. Introduction.

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

Section II. Administrative Issues.

Include the number of meetings held, membership changes, numbers and categories of membership, revisions to the planning group's bylaws, procedures and/or policies.

Section III. Community Plan Preparation and Implementation.

Provide a chronology of participation on a plan update or amendments, ordinance preparation/amendments and rezones, public facilities financing plan, etc. Include, if possible, specifics on key actions taken (dates and results of votes).

Section IV. Special Projects.

Document any special projects discussed and voted on by the planning group. Include specifics on any actions taken. Projects could include policy items, City or regional task forces, General Plan meetings, or political candidate as well as ballot forums.

Section V. Summary of Project Review.

Document the planning group's review and/or actions taken on major discretionary projects. List this information by project name and location if possible. Discretionary projects include variances, street vacations, planned development permits and coastal development permits.

Section VI. Planning Group Objectives.

Address any or all of the above categories. Discussions might include how the planning group operates or interacts or special projects that the planning group would like to pursue.

Section VII. Roster Summary

Provide a summary of the initial roster with any additions and/or deletions along with a final roster.

Attachment D
Community Planners Committee Membership Data Form
COMMUNITY PLANNERS COMMITTEE (CPC)
MEMBERSHIP DATA

Date:

Planning Group Name:

Chairperson's Name:

Chairperson's Address:

Email:

Chairperson, please check one box below:

I am the CPC Representative

I am not the CPC Representative

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

The Planning Group's action on

Date

designated the CPC Representative as:

Name:

Address:

Email:

Alternate CPC Representative:

The Planning Group's action on

Date

designated the Alternate CPC Representative as:

Name:

Address:

Email:

Pursuant to the Community Planners Committee By-laws, this information must be received in order for any community planning group member to maintain active membership and voting eligibility rights in the Community Planners Committee. The completed form can be emailed to CPCCommittee@sandiego.gov or faxed to (619) 234-6478. If you have any questions, please contact Diane Maglaras (619) 236-7067.

Attachment E

COUNCIL POLICY ORDINANCE No. O-19883, “AN ORDINANCE PROVIDING FOR THE DEFENCE AND INDEMNIFICATION OF COMMUNITY PLANNING GROUPS.”

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.

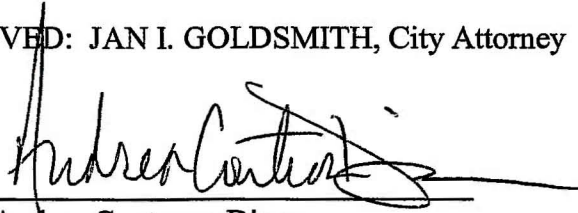
Section 5. In no event shall defense or indemnification be provided against a claim or judgment for punitive damages.

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

ACD:hm
05/22/09
COR. COPY 07/06/09
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.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Jana Richardson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 19883