

CITY OF SAN DIEGO
COUNCIL POLICY 600-24
ADMINISTRATIVE GUIDELINES

2008 Revision - June 6, 2008 DRAFT

ADMINISTRATIVE GUIDELINES

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

Approved July 1991
Amended May 2001
Amended April 26, 2006
Updated ____ 2008

This draft is being published prior to the receipt of written comments and revisions from the City Attorney. Neither does it address the following items' applicability to the recognized community planning groups.

- Fair Political Practices Act
- Public Records Act
- Updated O-17086NS
- City's Ethics Ordinance
- Ex parte advisories

This draft is being distributed without resolution of the above-cited issues. Due to the length of time since the adoption of revisions to Council Policy 600-24, there is interest by planning groups to review this draft thus far. Many topics are fully addressed. Others have notations where further information needs to be added. Comments from planning group members about additional topics to be included or discussions that need revision to be more usable are urged. Send comments to bmccullough@sandiego.gov

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INTRODUCTION TO THE ADMINISTRATIVE GUIDELINES

The Administrative Guidelines are intended to assist recognized community planning groups and City staff in creating, implementing, and amending bylaws established for the operation of planning groups recognized under Council Policy 600-24. Recognized community planning groups consist of the 12-20 elected planning group members discussed in the Policy.

The Administrative Guidelines were originally prepared in 1991 and have been updated after each amendment to Council Policy 600-24 since. They are the result of a need by recognized community planning groups to be able to rely upon a more detailed discussion of appropriate operating procedures and responsibilities than can be provided in the Policy.

With the 2007 revision to Council Policy 600-24, the Administrative Guidelines have been revised and reordered to reflect the sequence of topics covered in the Policy and the attached standardized bylaws shell. The **BACKGROUND** section below starts the section-by-section discussion of the Policy.

The 2008 revision to the Administrative Guidelines reflects the May 2007 Council Policy 600-24 revisions which are primarily related to the applicability of a state law requiring open meetings and records known as the Ralph M. Brown Act (Brown Act) to the City's recognized community planning groups. That determination was made in November 2006 by the City Attorney. The Brown Act is discussed throughout the Administrative Guidelines.

The Administrative Guidelines are intended to interpret provisions of Council Policy 600-24 and to discuss ways to incorporate the Policy requirements into individually-developed bylaws of recognized community planning groups. The Guidelines are not intended to contradict the Policy or to recommend bylaw provisions that are inconsistent with the Policy.

For purposes of Council Policy 600-24, the Administrative Guidelines, and any representation and indemnification ordinance, the term *recognized community planning committee* and *recognized community planning group* are used interchangeably. When *Council Policy 600-24* is abbreviated in the Administrative Guidelines to *the Policy* the meaning remains the same. When *recognized community planning group* is abbreviated in the Administrative Guidelines to *planning group* the meaning remains the same. In addition, an individual planning group may identify itself as a *planning group*, *planning committee*, *community council*, *advisory committee*, or *planning board*, etc. Regardless of the descriptor, the planning group in the community that is the one recognized under this Policy is subject to the Policy, including provisions of the Brown Act, and Administrative Guidelines and ordinances, and is provided the status afforded by the Policy.

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BACKGROUND

This first section of Council Policy 600-24 provides a general description of the City's recognized community planning groups. It describes the scope of authority of planning groups – primarily land use matters. However, it does identify a planning group's role in "implementation of, or amendment to" the community plan. That role, therefore, includes review of discretionary projects and recommendations on transportation issues.

Matters that relate to social issues, such as needle exchange, or issues that are within the purview of a different City body, e.g., the use of parkland for a dog park is within a recreation council's authority, are not within the authority of planning groups.

This section also clarifies that planning groups are advisory bodies to the City. The City Council assigns planning groups areas of advisory authority. Planning groups are not delegated decision making responsibilities as are the Planning Commission and Civil Service Commission. However, the City Attorney determined in October 2006 that because the planning group system is established by an action of the legislative body (the City Council), all planning groups are subject to the Brown Act, similar to the commissions named above.

This is the first Policy section with substantive discussion about the applicability of the Brown Act, stating that the Policy incorporates clear direction to planning groups for compliance with the Act. In order to identify as clearly as possible which provisions of the Policy are Brown Act-required sections, all sections or sentences in the Policy that are Brown Act requirements are clearly identified. It's important to understand that these Policy provisions are ones that have been carefully crafted to be compliant with the Brown Act so that planning groups' precise implementation of them will avoid any question of compliance with the Policy or with state law. Other provisions of the Policy carry penalties for non-compliance, but not the potential legal penalties that non-compliance with the Brown Act carries.

PURPOSE

The purpose of Council Policy 600-24 is simply stated: to establish planning groups' procedures and responsibilities assigned under the Policy and in accordance with the Brown Act. The Policy tries to clearly establish what actions and behaviors of members of a planning group are subject to the Policy and which are outside of the Policy. The Policy does not try to govern actions and behaviors of individuals when they are not acting in a planning group capacity; however, the Policy also clearly indicates that a member who *acts in*

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their member capacity in a manner outside that prescribed by the Policy is violating the Policy and is placing themselves and possibly their planning group in a potential disciplinary situation.

POLICY

This section of Council Policy 600-24 discusses the requirement for recognized community planning groups to create bylaws consistent with the Policy and to operate within them. The section explains that the bylaws shell, which is part of the Policy, has some provisions that have been standardized for all planning groups. Those provisions that are standardized were found to be common among many planning groups and worked well for them. The City Council expressed support for certain standardizations among planning groups but wanted to assure that exceptions could be considered by the City Council. Therefore, the bylaws shell is set up to allow selection of certain options within certain topic areas, e.g., establishment of representative membership categories, the number of years a planning group's terms can be, or the number of seats on a planning group. What is not provided for as an option is going beyond 20 members of a planning group, not having planning group elections in March, or not requiring proof of eligibility to vote in an election. Additionally, no deviations are allowed from those provisions that are based on Brown Act requirements.

Bylaws that are prepared by planning groups and follow the standardized provisions and select from options provided in variable provisions can be accepted by City staff (Planning staff and City Attorney staff). If bylaws deviate from the standardized provisions or choose to include a different option than one provided, the Policy states that the bylaws deviations must be approved by the City Council.

Added into the Policy in 2007 was the requirement that any planning group that has become a non-profit corporation must separate their corporate bylaws from the planning group's bylaws. There are a number of provisions typically included in corporation bylaws that are contrary to the intent of the Policy. Examples are: proxy voting, holding meetings outside the jurisdictional boundary, exclusionary/membership requirements, and secret ballots. Planning groups that have had combined corporation and planning group bylaws are revising them to separate them. 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 the corporation.

This section includes statements about the formation of a new planning group. A new planning group may be formed only in an area or community of the City

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where no recognized community planning group already exists. Citizens in the community may get together and propose a new planning group to the City. Draft bylaws could be developed along with a proposed organization of planning groups seats to represent the broadest variety of interests in the community. Citizens interested in establishing a new planning group are advised to work with their City Council member in developing parameters for a new planning group since the Council must approve the initial bylaws, the proposed distribution of members' seats representing the community, and the actual initial membership of the planning group itself.

City staff often advises citizens that a new planning group will not be supported if the development status of the area is such that the new group would really be a property owners group, i.e., if there were not yet a variety of diverse interests in the community that could be represented on a planning group. Those few planning groups that have been formed prematurely have failed or been severely hampered in the duties of a planning group due to direct economic interests of the members. See Article V, Section 2(c).

(Indemnification paragraph - waiting for revised Indemnification & Representation Ordinance)

Planning group members should familiarize themselves with Council Policy 600-24 and with these Administrative Guidelines to ensure effective planning group operations. If there are specific instances when adopted bylaws do not address certain operational issues, Robert's Rules of Order Newly Revised should be consulted to provide further guidance.

Bylaws of recognized community planning groups identify Council Policy 600-24 as the Policy authorizing the community organization to be recognized by the City to provide land use advice, although Council Policy 600-5 and 600-9 also address the roles of planning groups.

ARTICLE I Name

This article covers a series of "boundary" requirements of a recognized community planning group.

Section 1

This section states that there will be an official name of a planning group and that it is subject to approval of the City Council. Planning groups have changed their official names in some circumstances when community members have felt that a different name better represents the character of the community. Name changes that have been approved have come after extensive discussion with various interests in the community. Change in a planning group's name often accompanies

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a change in the name of the planning area after similar extensive discussion. A planning group's name change is a bylaws amendment, but a change in a community plan name is a General Plan amendment. Therefore, it may be that your planning group name can be changed but would be inconsistent with the community name for awhile - until a plan amendment can be processed to reflect the name change. Additionally, the plan amendment may be approved but printed General Plan maps and community plan maps and contents may not be changed immediately.

Section 2 and Section 4

Section 2 says that all activities of a planning group shall be conducted in its official name. This works with Section 4 to advise planning groups that care should be taken to assure that when a planning group meets, or represents a position it has taken, or conducts subcommittee meetings, that it is acting in its official capacity as a planning group recognized by the City as representing the community. Activities must be conducted in accordance with Council Policy 600-24. Any representation of a planning group's position must be made with the planning group's authorization and knowledge. Some planning groups require that if a position is going to be represented to a City decision maker or other agency that either the chair is the representative, or the planning group will take an action authorizing a different member to represent the position. The provision is to protect a planning group's unique position of representing a community's perspective on an issue without being concerned that others will take it upon themselves, without authorization, to represent the planning group's work.

Planning group members should not identify their status as an elected planning group member when expressing opinions outside of the responsibilities assigned to recognized community planning groups through Council Policy 600-24. Doing so may affect a planning group member's eligibility for indemnification protection. Caution is advised about identifying oneself as a planning group member because the title implies that a planning group has taken a position on that which the member is speaking. If a planning group member feels the need to identify him/herself as a planning group member, a qualifier such as saying you are a "member of the . . . planning group but not representing the planning group's position" is advised. Individual planning groups may set up bylaw provisions suitable to their planning group which advise members about the planning group's desire for the way in which the planning group is represented to others.

Endorsements for activities outside planning groups' Council Policy 600-24-identified responsibilities should also be avoided. Many endorsements sought are for religious-based activities, typically certain holiday celebrations. Other, broader-based, community organizations such as town councils or

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neighborhood organizations, which are not recognized by the City of San Diego as advisors on land use policy, are better suited to endorse a variety of community activities.

Section 3

The boundary discussion in this section of the Policy is straightforward. It does not newly incorporate a reference to the Brown Act requirement about holding regular planning group meetings within the community boundaries but allows the meeting to occur outside the community if a compliant facility is not available within the community. Most planning groups are able to meet within their official boundary at a location that is physically and locationally accessible to all who might be interested in attending the meeting. This section recognizes the situation where a planning group may need to meet outside its boundary temporarily if a facility is not available, or an accessible facility is just outside the community's boundary, or when a planning group may want to hold a joint meeting with another planning group in a different location.

ARTICLE II Purpose of Community Planning Group and General Provisions

This article covers general compliance requirements for activities of recognized community planning groups.

Section 1

This section states the reason for the formation of a planning group: primarily for advice on land use matters, or other matters as requested by the City or other agencies. It's a general description of a planning group's role to inform interested parties about what a planning group does. This broad limitation on activities is also a factor that may be used by the City in determining whether a group will be represented or indemnified if it is legally challenged for some particular activity.

Section 2

This section most fully discusses the role of a planning group in review of discretionary projects. Development projects should be acted upon only one time by a planning group. This does not preclude presentations to a planning group during project development in order to receive early input from the planning group and the community. Staff welcomes and encourages planning groups' early analyses and discussion. The vote on a project should occur during a timeframe where a planning group believes there has been an opportunity for public input. The project should be at a point of certainty where a planning group vote could recommend approval or denial of the project, or recommend

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additional conditions, with some certainty that the project upon which the recommendation is based is the project that actually will be considered by the decision maker (the Hearing Officer, the Planning Commission, or the City Council). Planning groups often identify this point of certainty during the public review period of the environmental document. Other planning groups are prepared to take a position after the first or second Project Assessment Letter sent to the applicant. Until an assessment letter is sent, planning groups have little guidance from staff regarding compliance with the City's policies or regulations and are advised not to take a final position in favor of or in opposition to a project.

It is recognized that items or projects may be considered over a period of time at multiple meetings. If a project has been substantially revised since a prior vote by a planning group, or a planning group received incorrect or additional information, it is at a planning group's discretion that the revised project may be placed on the agenda for a new vote rather than as a reconsideration of a prior vote (i.e., be placed on the agenda and voted on at that meeting with a simple majority vote rather than being voted on as a reconsideration, with a decision at the following meeting). It should be noted that a change in a planning group's membership composition is not a reason to reconsider and revote on a project.

Another example of voting on an action item or development project a second time may occur when it is determined by a planning group that key stakeholders (such as an applicant, adjacent neighbors, or City staff on policy items) were not given the opportunity to participate in a planning group's consideration of the action. Exclusion may have occurred during the meeting where an individual was present, or may be caused by lack of reasonable notice to interested parties. In these cases, a planning group chair may determine that an item should be placed again on the agenda for action. This remedy should not be made available to individuals who should have known about, or who knowingly pass up, an opportunity to participate in a discussion item at a planning group meeting. This remedy does not apply where newly elected members seek to reverse a previously-completed review process.

Bylaws or standard operating procedures may establish clear policies and procedures to guide the way planning groups will review and vote on projects, including timing of votes on projects after the environmental document is available for public review, notification to the community and applicants, and procedures for project review. Planning group members and the public benefit from understanding a planning group's consistent approach to handling project reviews.

Section 3

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This is a simple statement that planning groups working in accordance with Council Policy 600-24 will be provided with staff assistance. Assistance may be from Planning staff in policy matters including community plan amendments, from Development Project Managers on discretionary projects, or from administrative staff on records or noticing matters.

Section 4

The Policy has long stated that a planning group may not discriminate against any person – a planning group member or a member of the public – in any of its activities.

Section 5

It's important that recognized community planning groups maintain and reinforce their independence as non-political advisors to the City on local land use matters. Because of this, Council Policy 600-24 does not permit individual planning group members to use their planning group affiliation when taking a position on, or endorsing, any candidate for elective public office or any ballot measure. Planning groups, as a whole, may take a position on ballot measures, but are not permitted to take a position or endorse any candidate for elective public office.

It is suggested that presentations on both sides of a ballot measure be given to planning groups at the same meeting, and that planning groups should set rules about what kinds of ballot measures they will hear. It would be consistent with the Policy to limit such presentations to planning-related matters.

Presentations by candidates for any elective public office should be discouraged by a planning group. It is recognized that some communities have long-standing traditions of participating in co-sponsoring candidate forums, however, a planning group is advised not to seek new opportunities to participate in or sponsor forums. The City Clerk regularly informs candidates for public office within the City of San Diego about the responsibility of planning groups to refrain from endorsing political candidates as a planning group or as a member of a planning group. Nothing in Council Policy 600-24 or in the Administrative Guidelines or in adopted bylaws of planning groups precludes a member from participating as an individual in political activities of their choosing.

If in doubt, a good general rule of thumb is not to permit use of your planning group affiliation in any distributed election materials or broadcast endorsements of any kind (with the exception noted above regarding planning group endorsement of ballot issues). The prohibition on planning group or group member identification is valid at any forum or in any medium (newspaper, letters) both at and outside of planning group meetings or documents.

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Council Policy 600-24 is silent on the issue of whether planning group members can run for elective (public) office without first resigning from a planning group. However, current planning group members running for office should not use their place on a planning group to make statements about agenda items or planning group matters beyond what other members make comment on. While participating in planning group activities statements should be limited to those in the range of other planning group members.

Past service on a planning group is definitely a qualification to be proud of and may be stated by past members.

Section 6

This is a general advisory that planning groups are part of the planning-related legislative and discretionary review process, and are given set time periods within which to complete their review concurrent with other reviewers. Development Services has indicated that extensions of review periods may be granted to a planning group that is working diligently to complete their recommendations but are dealing with a need for critical information or an ill-timed planning group meeting. However, delays without benefit (such as a simple refusal to consider a project in a timely manner, or requesting information from an applicant that is not relevant to a planning group's review role) may not halt the processing of that project. In those cases, a project may proceed to a decision maker prior to a planning group's deliberation.

Section 7

Planning groups are reminded that any amendments proposed to adopted bylaws do not go into effect until they are reviewed and approved by the City in one of two ways: by Planning staff and the City Attorney's office if the bylaws amendment is consistent with the Policy, or by the City Council if the amendment is not consistent. Unapproved provisions should not be used in any way until the City informs the planning group chair that the amendment is approved. See also Article VIII, *Member and Planning Group Responsibilities Regarding Bylaws Amendments*.

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ARTICLE III Community Planning Group Organizations

This article addresses the structure and representation requirements of a recognized community planning group.

Section 1

Council Policy 600-24 refers exclusively to elected or duly-appointed members of planning groups, i.e., the 12-20 members identified in this section. The provisions in the Policy govern the actions of those members. The Policy calls for officers and Community Planners Committee representatives to be selected or elected from those 12-20 members.

It should be clarified that the “12-20” members allowed in Council Policy 600-24 is a range within which a planning group can select a particular number of members to be identified in its adopted bylaws. This number of members has proven to be a range within which this type of assembly can effectively operate and manage its business. While this number varies by community, a planning group’s particular composition is critical to an effective recruitment and election process where seats can be allocated and terms can be staggered – ensuring continuity of membership while integrating new members into a planning group.

Planning groups may find that a community interest would be better represented by a member filling a seat either through an appointment by the planning group or by the entity that the seat represents. If a planning group finds the need to identify an appointed seat, the reason for the appointed seat should be clearly defined in the bylaws. The responsibilities and level of participation of that seat, such as voting, participation in meetings and subcommittees, and terms of service, should also be defined. In most circumstances, including a limited number of appointed seats in a planning group’s membership would be consistent with the Policy.

If a planning group anticipates that an appointed seat may be converted to another category or to an elected seat at a certain time due to changing needs for community representation, the bylaws should state the procedures and criteria of when and how such a conversion may occur.

In summary, a planning group’s bylaws should clearly discuss the role of any category of seated members in the planning group’s adopted and approved bylaws for issue areas such as elections and voting.

Section 2

This section clarifies that the initial members of a planning group are placed onto a planning group by a vote of the City Council upon the Council’s recognition of the planning group. New members of a planning group, following

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the Council’s initial action, are individuals who are elected by “eligible members of the community” in accordance with provisions of Council Policy 600-24.

“General members” were never part of the Policy. Over time, planning groups developed lists of individuals interested in the activities of a planning group which then evolved into additional categories of planning group members. Often when a planning group established a general membership category, an individual had to meet certain criteria demonstrating a desire over a period of time to participate in the activities of the planning group or to be able to vote for candidates in an election. It was found that sometimes establishing a general membership acted to limit participation of interested members of the public in planning group activities, particularly in elections. There were no effective guidelines about how large a general membership should be or how small it could be. Therefore, these Administrative Guidelines have been revised to delete advice about optional general memberships, and the Policy provisions related to “eligible members of the community” has been strengthened. See Article III, Section 3.

Indemnification and representation has been available only to the 12-20 members of a planning group (vs. general members or non-members on subcommittees) since the original ordinance was adopted in 1992. However, the 2007 revision to Council Policy 600-24 added an exception for a non-member participating on an official subcommittee of a planning group if certain performance criteria are met by that individual. See Article VI, Section 2(b)iii *Subcommittee Composition*.

Section 3

Council Policy 600-24 requires that members of planning groups, to the extent possible, be representative of the various geographic sections of the community and diversified community interests.

An important aspect of ensuring broad community participation includes the Policy requirement that seats on recognized community planning groups be open to property owners, residents, and local business persons. Implicit here is that planning groups shall not discriminate based on race, color, sex, age, creed, national origin, sexual orientation, or physical or mental disability. See Article II, Section 4.

The 2005 amendment to the Policy added descriptions of the three broad categories of representation listed above to provide consistency in interpreting how these interests apply within individual communities. The section also allows planning groups to further define eligibility. Therefore, based on the

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presence of interests in a particular community, a planning group may use the basic categories of eligibility and add to them if interests are present. It should be noted that about half of the planning groups use the listing of categories as they are found in the Policy while the other half adds categories or adds descriptors to categories (usually the business or property owner categories).

Council Policy 600-24 also requires that, “to the extent possible, (planning groups should) be representative of the various geographic sections of the community and diversified community interests.” As a result, many planning groups utilize a geographic distribution of their seats, or a combination of geographic and open seats. Other methods of ensuring diversified community interests include reserving specified numbers of seats for specific organizations (homeowners, renters, businesses) or specific local interests (various districts, park and school boards, business associations). All such approaches, embodied in particular planning group bylaws, are subject to approval by both the Planning Director and the City Attorney for consistency with the intent of the Policy’s diverse representation. If not found consistent at this level, the City Council can review and consider proposed deviations.

For those recognized community planning groups that identify specific seats to be held by business representatives within the community, those seats must be reserved for the businesses that are found in commercial or industrial areas of communities. The growing number of individuals working from their homes has raised the level of interest in planning activities in communities and has encouraged more business people working from home to run for seats on planning groups. Planning groups have expressed an interest in allowing individuals with Home Occupation Permits to fill seats that their bylaws identify as “business” seats. This is not consistent with the intent of the business seat category in Council Policy 600-24 which is to include and encourage participation from business representatives with non-residential business addresses. This does not preclude a planning group from designating a seat as a “home occupation” seat while retaining the representative number of non-residential business seats.

When a planning group finds that there needs to be an adjustment of representation on the planning group due to changing community composition in developing communities, or changing community interests, adopted bylaws can be amended to reflect the community demographics. The categories, number of seats, and timing of the changes can depend on a number of factors, such as the number of new housing units built, the amount of commercial or industrial development, or establishment of other interests in the community. City staff can be contacted to assist a planning group in determining how to achieve planning group representation that is balanced and diverse if a planning group is uncertain about adjusting representation categories.

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Section 4

The goal of this section of Council Policy 600-24 is to provide a length of service that allows individuals to become effective representatives while allowing newly-interested individuals an opportunity to become planning group members.

The basic term limitations in the Policy allow members to serve for up to eight or nine years, depending on the length of their fixed terms. Member 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 service, 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.

A member who has 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.

Nothing in the Policy prohibits an individual from holding concurrent seats on multiple planning groups as long as they meet eligibility requirements for each seat they hold. Losing eligibility for one planning group seat (and invoking removal in accordance with Article III, Section 5) does not necessarily affect a member's ability to comply with another planning group's eligibility requirements.

Members who have served more than eight or nine years may serve in excess of the term limits without a break in service, subject to the following:

1. A good faith effort has to be made by the planning group to develop a list of potential new candidates that exceeds in number the seats that are open for election.
2. If a candidate with service beyond eight or nine years is to appear on the ballot with new candidates, the ballot must identify that the candidate exceeds the planning group's allowable term limits and that the candidate must receive a two-thirds vote to be elected. It should also state 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 receives priority over candidates exceeding the term limit.
3. Only after open seats are filled with new members may candidates with service beyond eight or nine years, who received a two-thirds vote, 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. If a 2/3 vote is not received, the seat remains open.

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4. No more than 25 percent of the total planning group membership can consist of members serving in excess of the specified terms of service. At the time of the election, if 25 percent of the planning group is made up of members serving in excess of the specified terms of service, the candidate with service beyond eight or nine years may not even be considered.

A planning group should have an adopted procedure or bylaw provision which prescribes how those remaining seats may be filled if seats within particular categories remain open after an election. For example, may a seat be filled with a new candidate from another category or with a candidate who has service beyond eight or nine years if they receive a two-thirds vote within that category? If a planning group uses a written procedure to fill a seat remaining open after an election for that seat, the procedure must embody the spirit of items 1-4 above, i.e., not be used as a vehicle to purposefully seat over-limit termed-out members.

If a vacancy occurs at mid-term, a planning group should follow the procedures for filling vacancies prescribed in adopted bylaws. A candidate with service beyond eight or nine years (with less than a one-year break in service) may be nominated to fill the 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.

The term limitation provisions also require that no planning group members may serve as officers of a planning group for longer than eight or nine consecutive years regardless of the number of different officer positions held and even if elected to additional terms by a two-thirds majority. In general, unless there is a severe problem with participation in planning groups, members and officers should try to provide for a “changing of the guard” on a regular basis.

Section 5

This section was added in 2005 because several planning groups found no support in the Policy for attempting to remove members for administrative non-compliance reasons, such as, they were no longer an “eligible member of the community”, no longer eligible for their appointed seat, or had missed too many planning group meetings. This section supports the initiation of a removal process that can be initiated by a planning group on a factual basis. As in all cases of violation of the Policy, the goal is to reestablish compliance; in this case, reestablish eligibility.

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Section 6

This section introduces the issue of violating provisions of Council Policy 600-24 that are requirements of the Brown Act and separates the discussion of potential consequences for violation of those provisions from penalties that are solely related to the Policy. Full discussion was moved to Article IX in 2007.

ARTICLE IV Vacancies

This article contains basic directives about filling vacancies on a planning group at a time other than the scheduled March election.

Section 1

A vacancy may exist due to one or more of the following reasons:

1. After three consecutive absences of the member at regular monthly meetings;
2. After four absences by the member within the 12-month period of April following an election through March; or
3. Upon determination by the Secretary that the member does not meet the membership qualifications outlined in the planning group's bylaws (see Article III, Section 5).

Council Policy 600-24 no longer allows excused absences. This Policy provision was changed in 2005 after a Community Planners Committee (CPC) subcommittee recommendation, CPC discussion, and motion addressing the inconsistent application of excused absences and the impact that long-term absences had on the effectiveness of a planning group.

A member should always be given advance notice about an anticipated action by their planning group to initiate involuntary removal. There is a possibility that misinformation caused an absence or that an apparent inconsistency with membership qualifications is not true. Additionally, the goal of any type of action that can be taken by a planning group against one of its elected members is to first seek a remedy. The member should also be given the opportunity to resign gracefully when confronted with the factual situation. Removal for a violation of eligibility or attendance is usually a factual situation as compared to other violations of bylaws or the Policy. Thus, the process for removal takes less research, consultation with the affected member, with the City, and can be scheduled more quickly at a regular planning group meeting.

For a number, or series, of absences described above, a planning group should

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simply “find that a vacancy exists” upon receipt of a written report from the secretary reporting the absences. Use of adopted minutes which would include planning group member attendance is advised. For ineligibility, the secretary would present documentation to the planning group during an agenda item at a regularly scheduled planning group meeting after having notified the member in question that they are no longer eligible to serve. The planning group, by a majority vote of the membership, should then remove the member based on the factual situation they found.

Section 2

This section gives the option to a planning group to fill a vacancy either by conducting an election or by appointment by the planning group. As with election procedures, a planning group’s procedures for filling vacancies must be clearly defined and as unambiguous as possible. Consider membership categories, methods for candidates to speak on their qualifications or issues, as well as how votes are conducted. It is important that the procedures are communicated and followed consistently, and that an appearance of impartiality is maintained. Vacancies are filled for the remainder of the term of the vacated seat, i.e., not until the next regular election unless that seat is scheduled to be up for election.

It is important to maintain in good faith a diverse representation on a planning group. If a planning group identifies seats by category, the filling of a vacancy should be with a candidate who meets the eligibility requirements for that same category. The individual bylaws can provide some flexibility in the filling of “category” seats as long as the diversity of the planning group is maintained.

Both the action to remove a member discussed in Section 1 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 those casting ballots identify themselves on the marked ballot and the paper ballots are available for review following the item. As with regular elections, guidelines must be set for declaring the vacancy filled, and some period of time following the meeting must be allowed for a challenge. Ballots must be retained as part of the meeting record. A challenge to filling a vacancy is a challenge to a planning group’s action on an agenda item and should be treated as an item for reconsideration. See Article VI, Section 2(a)viii.

Section 3

Keep in mind that Council Policy 600-24 requires that vacancies shall be filled not later than 120 days following the date of determination of the vacancy, and that if the vacancy is not filled by this deadline it can affect the membership or continued operation of a planning group. The 2007 revision of the Policy now allows for a vacancy to continue and the filling of the seat be deferred to the

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March election if the end of the 120 day period falls within 90 days of that election. If this situation occurs, the seat should still be filled for the remainder of the term, not just until the next available election.

If there are no qualified or available candidates to fill a vacancy, and there is another unfilled seat after the next general election, a planning group should consider amending adopted bylaws to reduce the number of members, but not to less than 12.

If a recognized community planning group has difficulty filling a vacant residential seat by the deadline, the planning 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. It is important to make a good faith effort to maintain a diverse representation on a planning group.

If a vacancy results and a planning group membership drops below 12, the planning group should increase its efforts to recruit candidates to fill the vacancy. 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 will 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, 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 towards the term limits of the elected members.

ARTICLE V Elections

While this article sets out specific parameters within which all recognized community planning groups must comply with in the overall election process, many options are presented in the carrying out of the election itself.

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According to Council Policy 600-24, each recognized community planning group is charged with establishing its own election procedures to be incorporated into adopted bylaws or into a procedure referenced in the bylaws. Election procedures are less likely to generate controversy if a sincere effort is made by a planning group to make the process open and accessible to the community. In Article VIII, Section 1(5), the Policy provides criteria that must be addressed in the election procedures but leaves, for the most part, the overall content to the discretion of a planning group. This discretion is necessary, given the diversity of planning groups throughout the City. The Policy does provide specific information as to when and how elections will be conducted. These stipulations should also be reflected in the individual procedures.

Impartiality and Objectivity

It is important to maintain as much objectivity surrounding a planning group election as possible. For example, it is wise to detach any members competing for elected seats from the process. Experience has shown that when candidates running for seats, especially during re-election, are portrayed as being part of a “slate of candidates”, a perception arises that a planning group is not interested in seeking new members or diverse viewpoints, or that the outcome of the election is pre-determined. This, of course, is contrary to the objectives of Council Policy 600-24. Planning groups should not use the word “slate” for the elections since it implies a predetermination or preference for certain candidates by the Elections Committee.

The spirit of fair elections should be maintained even though planning groups are not subject to the formality of the Fair Political Practices Act. While the use of a “slate” by outside organizations promoting the election of certain candidates cannot be prohibited, there should be no distribution or advertisement of a slate of candidates anywhere on the grounds of the voting locations. Individual planning groups can identify off-limit areas at their polling places. Experience with attempts to stop electioneering has shown that the boundaries of the non-electioneering areas must be clearly identified with signs or bollards in order to avoid confrontations or misunderstandings.

Planning group agenda items should not be the venue for expressing support for individual candidates running for election. The Public Comment section of the agenda is not an appropriate time for statements of support for any candidate. On the other hand, a planning group-sponsored forum is an opportunity for all candidates to express their desire or qualifications to be elected to the planning group. The Policy requires eligibility demonstrated prior to a February planning group meeting to allow time for such a forum. Candidates beyond term limits may participate in such forums, but it must be made clear of their potential

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ineligibility, i.e., if it is later determined that an adequate number of eligible candidates will be on the ballot.

It would be contrary to the spirit of a fair election, also, for a planning group member acting in their role as a member of an organization outside the planning group to express a position about a candidate for the member's own planning group.

Individual Planning Group Responsibilities

Because some election operational procedures are not prescribed by Council Policy 600-24, they can be closely scrutinized or challenged by the public—and often are. Therefore, clear election procedures should be provided for in the bylaws and consistently followed. When preparing a planning group's election procedures, it is important to be as detailed and descriptive as possible, while maintaining some degree of flexibility where necessary (e.g., location of "polls"). Clearly define the roles and responsibilities of planning group members participating in the election process, including elections and/or nominating subcommittees. Many planning groups advise that the use of a single Elections Committee has been more beneficial than having both a Nominating Committee and an Elections Committee. In developing election procedures, try to determine the location of polling places, dates, and times of elections to maximize public participation and not planning group convenience. Try to make sure that the election policies in the bylaws or in procedures are readily available to the public and presented consistently. It is useful to prepare detailed instructions that can be distributed in writing.

Section 1

All planning group regular elections must be held in March. This standardized month was established in 1990 to help draw public attention to the planning group process. It also helps with publicizing the process and inviting newly interested individuals to become eligible to participate.

The key to selecting election dates and times other than on the date of the regular March meeting is accountability and transparency of the election process. This Policy section indicates that a planning group may establish alternative times or dates and then defers to Article VIII to direct the preparation of detailed election procedures.

All recognized community planning groups' election provisions in adopted bylaws or procedures should address, but not be limited to, the following responsibilities. While bylaws may contain complete discussions of the issues below, they may also provide the basic policies and defer details to operating procedures that are listed in the bylaws and attached to them. Addressing the following items in election procedures should assure that the issues that are of most concern will be addressed prior to the election and will be in writing and clear to all who inquire:

- Verification of candidate eligibility (making sure that the eligibility is

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confirmed prior to creating a ballot to avoid questioning of candidate eligibility during the election).

- 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 by planning group members.
- Verifying voter eligibility.
- 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 candidates continuing beyond eight or nine consecutive years of service.
- Ballot record keeping.
- Tie-breaking procedures, including a Preferential Voting system, to be clarified prior to the conducting of the election.
- Election challenge procedures.
- Installation of newly-elected members.
- Maintaining confidentiality of secret written ballots.
- Prohibition of electioneering

This section advises planning groups that the City Attorney now requires that any proposed election that will occur on more than one day in March be submitted to the City at least 45 days prior to the election for a determination that the selected dates enhance the ability of the eligible members of the community to participate in the election and that there is adequate security for ballots which are cast on the earlier date(s).

Section 2

The City uses TV24 and the website to publicize the planning group election season. Notices on TV24 begin in the fall, 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. Planning groups have more recently advertised on their own websites. The traditional methods of posting notices at the library, in the grocery store, at the Community Service Center, via email, and in the community newspaper are also still used. While the City has taken on responsibility to promote participation in planning group elections, this section of the Policy requires a good faith effort by a planning group to solicit interest from known community stakeholders.

Section 3

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Voting in an election by secret ballot is allowed even though voting to fill a vacancy at a noticed planning group meeting (as discussed in Article IV Section 1 above) must be made public. This is because the Brown Act requires that any action taken at a meeting of a planning group must be counted publicly. 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 vote requirement. Note that the selection of officers by a planning group cannot be done with a secret ballot.

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

Section 4

Planning groups have an option about when an election becomes final: right after the March meeting or at a special noticed meeting of the planning group some time prior to the April regular meeting. It could be at a short special meeting immediately preceding that meeting. Time must be allowed for voting to be concluded, votes counted, results announced, and for a challenge to be submitted to the Election Committee. The ability and criteria to challenge the election must be clarified as part of the publicity of the election. The seating of new planning group members in April allows reasonable time for a challenge.

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ARTICLE VI Community Planning Group and Planning Group Member Duties

This article contains most of Council Policy 600-24's provisions about the conduct of planning group meetings. It also contains the most references to the Brown Act – since the Act is all about meetings and access to meetings and availability of documents. The majority of the paragraphs in Section 2 (the longest section) have a Brown Act reference, which means that there are challenges possible to these provisions under the remedies provided by state law.

While most planning groups have traditionally operated under procedures very similar to Brown Act requirements, the Policy identifies specifically-required procedures and document-handling provisions to assist and assure understanding and compliance.

Section 1

All meetings of recognized community planning groups, including subcommittees or “executive committees” are required to be open to the public. Given the stated roles and responsibilities of planning groups, there is no justification for an executive session, or closed session, of a planning group since a responsibility of a planning group is to lead the community in public discussion, and make recommendations that represent the community at large. In addition, the Brown Act now requires that all regular meetings of a planning group be open. The Brown Act also requires that all standing subcommittees of a planning group comply with the Brown Act meeting and notifications procedures. See Article VI, Section 2(b)i. The Brown Act also requires that any ad hoc subcommittee of a planning group that has outside members as part of the subcommittee also be noticed and conducted in accordance with the Brown Act. This is compared to ad hoc subcommittees comprised of planning group members only that are NOT subject to Brown Act; however, this Policy requires that they be open and accessible to the public and noticed in some manner prior to the meeting. This ad hoc subcommittee noticing could be handled by a note on the regular monthly agenda. The standard for this type of subcommittee is simpler – it's an issue of compliance with the goals of this Policy of having planning group matters open to the public.

The last paragraph of this section advises planning group members to refrain from conduct that is detrimental to the operation of the planning group. This paragraph is responsive to planning group chairs who wanted to be able to refer to Policy direction in managing meeting conduct. It reflects negatively on a planning group's credibility to have members personally attacking each other, applicants or staff. For behavior found to be detrimental to a planning group, a member of a planning group risks loss of indemnification or protection by the City as well as potential

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removal from the planning group. Conversely for actions during a planning group meeting that causes a disruption to the conduct of planning group business, there is now support for the chair to take decisive action to suspend the meeting in an attempt to regain control. The Brown Act newly supplements the enforcement of an appropriate meeting atmosphere by allowing a chair to remove one or more individuals, or to even clear the room (except for the press) before proceeding. See Section 2(a) xiii for further discussion.

For effective operation, a climate of civility and respect is an essential component of a recognized community planning group's credibility both in its operations and for its relations with the agencies and public with whom it interacts. Involving the widest participation in your community assures that the decisions your planning group makes will be based on all available input from stakeholders affected by your decisions. Issues addressed with full community participation are more likely to have community consensus and lend credibility to a planning group's recommendations to the City's decision makers.

Discussions involving planning group members, members of the public, and individuals making presentations, should be respectful toward all participating individuals. Planning group members can disagree with positions or representations put forward by project applicants, but should do so in a non-threatening and non-personal manner. Planning groups are encouraged to establish codes of conduct in order to facilitate effective meetings.

For behavior by a member that is disruptive and impairs operations or credibility, a planning group may determine that it is appropriate to follow the same discipline and removal process of that member as for a violation of a specific operation provision or Brown Act provision of Council Policy 600-24 or adopted bylaws. There are careful steps to use to assure that a planning group member causing the disruption is aware of the offending behavior and is given an opportunity to cease prior to the planning group starting a removal process. The steps also are meant to insure that a planning group member will not be subjected to a removal process for having a different opinion on a project or issue that the majority of their planning group.

Section 2

This section covers meeting procedures, including voting and subcommittees, plus meeting records. The Brown Act governs many of the provisions in this section, thus limiting options for variability among planning groups' bylaws. Council Policy 600-24 is written to explain the basic requirements of the Act and the Policy (remember that Brown Act paragraphs are so identified). These Guidelines will amplify certain of these provisions.

(a) Meeting Procedures

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i. Regular Agenda Meeting Posting

Posting of a meeting agenda at the meeting location must occur at least 72 hours prior to the meeting. The posting is the noticing that legally meets the Brown Act meeting requirement. There are many ways that a planning group and the City can supplement this posting to make sure that interested parties are well aware of the meeting and the agenda items. Supplemental noticing is especially important given that posting locations at meeting sites may not be open 24 hours a day for viewing.

The City now posts draft agendas forwarded by a planning groups to the City's website. This is a well-used way to access the planning groups' monthly meetings. Draft agendas must be received by the City on the Wednesday prior to the week of a planning group meeting. This allows the posting to the website as well as the inclusion of the agenda's action items on the TV24 television program about planning groups, their activities, and their agendas. If a planning group's agenda, with a description of items, is not received by staff in time to include it in the TV24 show, the meeting location, date, and time is still included along with other planning groups' information.

An important duty of a recognized community planning group is to inform project applicants, neighboring residents and business establishments of any upcoming meeting during which their proposed project will be reviewed or voted upon by the planning group. All meetings during which specific development projects will be discussed or voted on require notification to the affected parties. The method of notification should be indicated in the meeting minutes.

The Brown Act governs the posting of the meeting agenda, but, to the extent possible, planning groups should provide consistent notification to interested and affected parties in a timely and effective manner.

Suggested guidelines for notification include:

- Applicants for development projects should be contacted about a potential item on a planning group agenda during which their projects will be voted on while the chair is preparing the agenda; at a minimum 72 hours prior to the scheduled meeting when the meeting notice is posted.
- Proposed development projects which have a potential for affecting larger areas of the community or whose significance is of a regional nature should be noticed more widely. The City maintains an electronic mail list with broader distribution that can be utilized if a planning group chair so requests. If time is available, the meeting at which such projects are scheduled to be voted on should be noticed in one of the local community papers and/or on community bulletin boards or in public library

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branches.

A planning group is not required to mail a notice to affected property owners or business establishments in the vicinity of a proposed development project. The City's Notice of Application will be provided to surrounding property owners with direction to contact the planning group chair for information on a future planning group meeting at which the project will be considered. However, the planning group should do its best to keep interested parties informed once a request has been made.

In order to assure that interested parties reading the agenda clearly understand the content of the items being considered by a planning group, the Brown Act requires a "brief" description, a clearly-stated 20-word description of the item under consideration, unless the item is very complex, in which case the description can be longer.

Planning groups should include an item to adopt the agenda as the first order of business at a meeting because until a planning group adopts the agenda, it is just a proposed agenda. When a motion to adopt an agenda is made, the motion can delete items from, or rearrange the order of items on, the proposed agenda. Adding items to the agenda at the meeting must be done in accordance with the Brown Act. See subsection viii below. The requirement to notify an applicant about the discussion of his/her project is still required in accordance with subsection i discussed above.

Once an agenda has been adopted, the business items on it are the property of the planning group, not of anyone who submitted the items. Any change to the agenda, once it has been adopted, can be made only by motion of the planning group and requires at least a two-thirds majority to pass.

Once the agenda has been adopted, each item of business on the agenda will come before the meeting unless: (1) no one moves a motion, (2) no one objects to a withdrawal suggested by the sponsoring individual or group, (3) a motion to delete an item from the agenda is made and passed, or (4) the meeting runs out of time before the item can be discussed.

ii. Public Comment

The right of the public to participate in planning group meetings is basic to Council Policy 600-24, however, the Brown Act provides operational specifics. Agenda Items: For any item scheduled on a planning group agenda, or added to an agenda, public testimony must be allowed.

Non-Agenda Items: Basically this section requires that on every planning group

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regular meeting agenda there be an opportunity for receipt of comment on issues not on the agenda but within a planning group’s area of oversight. Therefore political issues and non-planning issues should not be allowed, or at least discouraged and limited.

Time limits: in taking public comment, the chair has flexibility in setting time limits based on the amount of interest in an item. It is best to set a standard number of minutes for non-agenda public comment while varying time on agenda items, depending on length of time devoted to the item on the agenda and the number of public speakers. Members may ask for additional input from speakers at their discretion.

iii. Adjournments and Continuances

This section talks about “adjournments” of planning group meetings. This term refers to both meetings that lose a quorum and must stop proceeding due to a loss of a quorum, and to meetings that are unable to be convened for some reason (lack of attendees, expiration of time, etc.). A Brown Act requirement states that if a meeting is not going to be held, that a notice of it not being held must be posted at the place where the notice of the meeting was originally posted.

The Brown Act states that if a meeting is adjourned there are several options for the items that could not be heard: (1) they can be moved to the next regular meeting of the planning group, and noticed on that meeting agenda per the Brown Act; (2) a special meeting can be held more than 5 days after the original meeting date with a new agenda and noticed prepared and the meeting must be held as a special meeting (see subsection ix below); or (3) a special meeting may be held less than 5 days from the original meeting date and the original agenda may, but is not required to, be used, with the meeting being noticed as a special meeting of the planning group (again, see subsection ix below). If you have questions about meeting these Brown Act noticing requirements, contact the City Attorney’s office for assistance.

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 five days in the future, no new agenda needs to be prepared. To continue an agenda item more than five days, i.e., to your next regular planning group meeting, that future agenda must contain an entry for the item.

v. Consent Agenda

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A section titled “Consent Agenda” may also be added to the agenda. A consent agenda is a practice by which some planning group action items are organized apart from the rest of the agenda and approved in a single motion. This includes all of the proposals that require formal planning group approval but there is no need for planning group discussion before taking a vote because all issues have been fully discussed by a subcommittee and all planning group members understand the position recommended by the subcommittee. This Policy section lists the conditions that the Brown Act identifies for an item to qualify as a “consent” item.

Consent agendas should be used when there are a number of items on which a planning group needs to vote. Consent agendas are used to save planning group meeting time and to help ensure that planning group meetings focus on substantive topics. Through a “bundling” process, the entire set of items of business can be voted on in one action versus taking the time to vote on each individual item. Each of the items included in the vote should be clearly identified in the motion, particularly if the vote is not unanimous. See (d) iii below. It is common practice among many planning groups to place non-controversial development proposals on a consent agenda. The consent agenda usually appears near the beginning of the regular meeting. This allows any item removed from the consent agenda to be placed onto the overall agenda for discussion and action later in the meeting.

Some planning groups have long utilized consent agendas. The Brown Act adds three specific requirements for an item to be placed on a planning group’s consent agenda. The idea is that the item received full discussion and public access at the subcommittee meeting from which a recommendation is coming.

Very importantly, if even one member requests that a specific item be removed, it must be placed on the regular agenda under action items. Any member of the public may also request that a consent agenda item be removed and discussed. It is probably consistent with past planning group practices that if there is comment on a consent item, it must be removed from the consent agenda for full discussion, and the Brown Act reinforces this.

vi. Quorum and Public Attendance

The public may attend any meeting of a planning group or its subcommittees. The Brown Act indicates that a member of the public just interested in attending the meeting may do so without identifying him/herself and may not be kept from the meeting because of the desire to remain unidentified. The Brown Act does not interfere with Council Policy 600-24’s requirements that planning groups establish eligibility of individuals to become a candidate for a seat on a planning group, or to vote in an election. This provision only pertains to attendance at a planning group meeting. The Brown Act also states that no “sign in” list can be

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required nor may an admittance fee be charged to enter a planning group meeting. (Note: this means that planning groups should not meet where there is an admittance fee for anyone who wants to attend a planning group meeting, even if the operator of the location is willing to allow the planning group to meet there – anyone with an interest must be allowed to attend also).

A quorum is defined as a majority of non-vacant seats of a planning group. The Brown Act requires that a quorum be present whenever a planning group wishes to conduct business such as voting on a project or taking other actions. Under Council Policy 600-24, a planning group member who must recuse on an item does not count towards meeting a quorum for that item. Conversely, a member who abstains does count towards meeting a quorum. See 2(c) below for a discussion of abstentions and recusals.

Before calling a meeting to order, the chair should be sure a quorum is present. If a quorum cannot be obtained, the chair should call the meeting to order, announce the absence of a quorum and entertain a motion to adjourn to the next regular meeting (to which the agenda items would trail) or to a special meeting (set either within five days or more than five days away). Without a quorum business cannot be transacted, however, a planning group has met its obligation to hold its regular meeting. Planning groups are advised to adjourn the meeting immediately. The prohibition against transacting business in the absence of a quorum cannot be waived even by unanimous consent.

If a quorum of a planning group is present at the beginning of a meeting, but members leave the meeting temporarily, the continued presence of a quorum is presumed. 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 only actions that can be taken in the absence of a quorum are to fix the time in which to adjourn, recess, or take measures to obtain a quorum (for example, contacting members during a recess and asking them to attend).

The chair should confirm the presence of 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.

It is the duty of members to attend planning group meetings, and to participate according to the roles and responsibilities of a member as authorized in the Policy, adopted bylaws and these Administrative Guidelines. Members intentionally leaving a meeting to cause a lack of a quorum jeopardize the operations and integrity of a planning group.

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Loss of a quorum due to recusals is discussed in (c) below. However, while the Policy used to allow planning groups to act on scheduled agenda items with less than a quorum, that option is no longer available with the application of the Brown Act. A viable solution is to call for a special meeting if an item is time-sensitive. If the agenda item is not time-sensitive then the item should be continued to a later regular meeting when a quorum will be present.

Periodically, planning groups have trouble retaining member interest. The reasons for declining interest can be varied. If your planning group begins to experience problems maintaining a quorum, it could seriously affect the planning group's ability to operate effectively. Upon recognition of this sort of problem, it may be useful for a planning group chair to contact City staff to consider alternative solutions. A planning group whose membership is 20 members may request to amend its bylaws to require fewer members. The minimum number of members allowed is 12. The number of members is not a variable number, it is a specific number between 12 and 20 that a planning group should select and adopt into their bylaws to meet the needs of the community.

vii. Development Project Review

This subsection addresses a planning group's role under Council Policy 600-24 to review discretionary development projects. There is a lot of information about development, in general, on the Development Services Department website. Bulletin 620, which guides planning groups' review of development projects can be found there. Also, DSD conducts training sessions on discretionary projects and the California Environmental Quality Act. The calendar of training sessions is typically posted to the City's website at the start of the calendar year.

It is the duty of a planning group to act in good faith to distribute the information among elected planning group members and with the public. Planning group letters, project plans, project assessment letters and other communications regarding projects and planning group business should be shared with the public upon request.

Staff recognizes the space limitations of planning groups retaining and sharing written information. Individuals may be referred to the Development Project Manager for materials on a development project. By some means, the public must be able to view the material upon which a planning group is basing its project recommendation. In the near future, Development Services anticipates that all distributed project information will be available online and thus available to everyone to review.

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It is a mutual responsibility between a planning group and an applicant for a project forwarded by the City to a planning group to be considered in a timely manner. It's important for a planning group to make an agenda slot available for the applicant, and for the applicant to present the project and listen to the concerns of the planning group, making revisions to the project as appropriate based on input from the planning group and the City.

In order to spend adequate time considering development projects, many planning groups establish standing project review subcommittees. The project applicant's responsibility is to contact a planning group as advised by the Development Services Department upon project submittal, work cooperatively with the planning group to answer questions and resolve issues as feasible, and to attend scheduled meetings of the planning group and its subcommittee(s). If difficulties arise in carrying out any of the above-mentioned responsibilities, either the project applicant or a planning group can contact the assigned Development Project Manager for assistance.

viii. Action on Agenda Items

Several Brown Act provisions are prominent in this subsection. First, 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; and the item may be added only if two-thirds of the planning group (NOT of the members present; two-thirds is the proportion of the filled seats of a planning group) or every member in attendance if less than two-thirds are present, vote to add the item because there is a need to take an immediate action. You may want to consult City staff or the City Attorney to determine if there's a need for an "immediate action"; it may be that the reason you feel urgency is a scheduled hearing date or the close of a project review cycle. Check with City staff or the Development Project Manager to determine if there's flexibility in the deadline you were given.

The next key Brown Act provision in the subsection is the prohibition on proxy voting and secret ballots. 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.

Council Policy 600-24, here and in Article I, Section 4, states that, "the official positions and opinions of the recognized community planning group shall not be established or determined by any organization other than the planning group, nor by any individual member of the planning group other than one authorized to do so by the planning group." Members are advised to not identify themselves as

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members of a planning group when expressing positions on matters either not voted upon by, or outside the scope of duties of, planning groups. 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.

An action of a planning group should be approved by a vote of the planning group; however, there may be certain situations where more timely action may be necessary. In the case where the chair takes unauthorized but appropriate action (such as filing 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. In any case, the bylaws should include a provision stating the acceptability of this ability by the chair to act.

Any recommendation made by a subcommittee must be acted upon by the recognized community planning group to be recorded as an official vote of the planning group. Council Policy 600-24 specifically states in Article I, Section 4, that: "the official positions and opinions of the planning group shall not be established or determined by any organization other than the planning group." Therefore, subcommittee recommendations must be voted on by the entire planning group before being forwarded to the City. The full vote of the elected members of a planning group is especially important when a subcommittee includes members that are not elected planning group members. It is acceptable for subcommittee recommendations to be placed on a planning group's agenda as consent items for action by the full voting board. Only the full planning group's vote should be sent to the City, including votes taken on development projects.

Aside from the circumstances allowing a "re-vote" on a development project [see Article II, Section 2] a planning group may **reconsider** an action that has already been voted on. Roberts Rules of Order Newly Revised suggests that the purpose of reconsidering a vote is to "permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a changed situation that has developed since the taking of a vote."

The basic rules and process to reconsider the item are as follows:

- The motion to reconsider can only be made by a planning group member who was on the prevailing side of the motion.
- The motion to reconsider can be made on the same day as the vote to be reconsidered was taken. The matter can then be set for a future regular, noticed planning group meeting.
- If the motion to reconsider is made later than the day that the matter was voted on, the "matter of reconsideration of ..." must be placed on the

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next regular, noticed planning group meeting agenda, with a description for the sole purpose of voting about whether to schedule a future reconsideration.

- If, by a majority vote, the planning group agrees to reconsider a matter, it should be placed on a future agenda as a regular item for discussion and action.

NOTE: THIS DISCUSSION NEEDS FURTHER REFINEMENT

A planning group is advised to keep in close contact with City staff if the item for reconsideration involves a project or issue that is proceeding on an identified timeline and the planning group was asked to take action on the item within a specified period of time.

ix. Collective Concurrence – **REFINE WITH CITY ATTORNEY INPUT**

This section of the policy is succinct. Any attempt by a planning group member to work with one or more other members outside of a noticed public meeting of a planning group to come to a position on a current or future agenda item is not allowed by the Brown Act. Communications by a planning group member with the responsibility to disseminate factual information from an outside party to planning group members does not fall into this category. An example is electronic distribution by the chair to all members of a notice of public hearing on a change to the Land Development Code, as long as the chair did not initiate a discussion in support or opposition to the amendment through the email message. Because a collective concurrence that violates the Brown Act can start without knowledge of the initiator, the City Attorney suggests that planning group members avoid discussion of pending agenda items outside of planning group meetings.

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x. Special Meetings

Special meetings are those meetings that are scheduled at times or dates other than regularly held meetings. A special meeting can be called for 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 24 hours prior to the meeting along with a 24-hour agenda posting similar to the requirement for a regular meeting.

xi. Emergency Meetings

As stated in the Policy, there is no matter within the responsibilities of a recognized community planning group that would constitute an emergency; therefore, no emergency meetings of a planning group are allowed.

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 be either videotape or audiotape. Note that this record does not have to be shared with a planning group although, in reverse, if a planning group records its meeting, it must be made available to the public upon request. See also subsection (d)iii.

xiii. Disorderly Conduct

The Brown Act states that in extreme circumstances the chair or a planning group, in a joint effort, cannot maintain orderly conduct of a planning group meeting, the planning group may cause an individual to be removed from a meeting, or may determine that, in the public interest, the meeting room should be cleared. The meeting may continue (with the press remaining) without an audience or with certain non-disruptive individuals readmitted. If a planning group chair feels that there is a threat of physical harm in the room, it might be wise to adjourn the meeting permanently for the day, and reconvene at a later date either as a special meeting or at the next regular meeting. In the case of adjournment based on disruption or fear of harm, contact City staff or the City Attorney to determine whether assistance should be provided at the subsequent meeting to prevent a similar disruption.

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(b) Subcommittees

i. Standing Subcommittees

Standing subcommittees must be noticed and held in accordance with Brown Act provisions for regular meetings. Remember that if an outcome of a subcommittee discussion on an issue or project is scheduled as a consent item on the regular meeting agenda, there are three requirements in Article VI, Section 2(b)v that must be met.

ii. Ad Hoc Subcommittees

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 there is some advanced notice of an ad hoc subcommittee meeting. This can be done via website postings or notations on the regularly posted agenda.

iii. Subcommittee Composition

Council Policy 600-24 requires that any subcommittee contain more planning group members than non-members. If there are non-planning group members on the subcommittee, they must demonstrate an understanding of their role on a subcommittee of a planning group, the limitations on their role, and the ability to be indemnified and represented in their planning group role. The Policy delegates the restrictions on non-planning group subcommittee members to the Administrative Guidelines. Specifically, non-planning group subcommittee members:

- Must not take on planning group responsibilities beyond participating as a subcommittee member,
- Must be a regularly participating member of a subcommittee and limit his/her role to contributing to the subcommittee discussion and recommendations to the planning group,
- Must not represent himself/herself as a planning group member to parties outside the planning group, or serve as a spokesperson for the subcommittee in any forum, including City public hearings,
- Must understand that his/her charge is to implement the adopted community plan and judge a project in a manner similar to other subcommittee members, and
- Must not identify himself/herself as planning group members when supporting a political candidate.

Attachment 1 provides a form for subcommittee and planning group chairs to obtain written commitment from non-planning group subcommittee members to comply with the above-stated requirements governing their role.

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iv. Recommendations

Council Policy 600-24 requires that a position of a planning group that is forwarded to the City as the official position from the recognized community planning group come from a vote of the full planning group, not from a subcommittee. Be sure to schedule subcommittee items with time enough to forward to the full planning group for a final vote at a regular meeting. If a situation arises that the subcommittee has voted and the timing of the planning group meeting is such that it will occur after a scheduled hearing, talk to the Development Project Manager as soon as possible to determine if a delay in the hearing is reasonable until your planning group can vote and forward its recommendation to the City.

(c) Abstentions and Recusals

Individuals seek to become elected members of recognized community planning groups to participate in, and vote on, matters of concern to the community. These matters are most typically development projects or land use-related policy votes. Members have an obligation to fully participate in significant issues before their planning group unless there are circumstances unique to them that prohibit their participation. If a member intentionally does not vote on projects, it can jeopardize the credibility of the member to represent the community and the credibility and effective operation of the full planning group, especially if the member participates in the discussion of the item, then does not vote. A continued pattern of non-voting may establish a basis for a planning group to censure or discipline a member.

Unique situations are most likely ones that affect a member financially. In financially-identifiable situations, **recusal** is the appropriate action to be taken by the member. When situations are not clear about the financial effect on members, they might have to, or want to, **abstain**. Each of these situations is discussed below. In addition, this section provides guidance on how to try to determine financial effect, i.e., direct economic interest, outside of certain typical situations. The use of the term “direct economic interest” in Council Policy 600-24 is intentionally different than the Fair Political Practices Act term of “Conflict of Interest”. The Policy intends to create an observance of fairness among planning group members and to direct the members to not participate in agenda items where they may be financially affected. Abstentions and recusals are not Brown Act-governed.

A planning group chair should ask for any recusals or abstentions prior to starting the substantive discussion on any agenda item. Members should be

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ready to declare recusals prior to the item and take appropriate action to remove themselves from the discussion as a member of the planning group. While abstentions declared prior to the item allow a fairer discussion by a planning group, a cause for an abstention might arise during the discussion of an item. The discussions below differentiate between recusal and abstention situations.

i. Recusal

A recusal is required when a member of a planning group has a direct economic interest in any project or matter being considered by the planning group. This would apply to members who are elected to represent specific categories of seats (like a “developer” seat) or are elected into a resident or unspecified seat but have the direct economic interest described below. Council Policy 600-24 requires that a member who has a direct economic interest disclose that interest and refrain from discussing, voting or participating in any manner as a member of a planning group. It is, however, acceptable for the member to assist in the presentation of the project to a planning group, as long as it is clear that the member is acting as an applicant and not as a planning group member. This type of participation is acceptable for planning group members since they are not subject to the City’s Ethics Ordinance. Appointed members of City boards or commissions would be precluded from this type of participation at their own board.

While some direct economic interests must be determined on a case-by-case basis, there are a number of situations that are common among planning groups and can be given as universal examples. These examples of recusal are listed by type of item.

Related to private development projects, members who have an identifiable financial interest in the project through: (1) being an owner or part owner of the property, business or development which is the subject of the application, or (2) being the project architect or engineer, or (3) being an employee (i.e., receiving compensation from a company) of a company which is part of the project team in any capacity, or (4) being a former member of the team of THAT PARTICULAR PROJECT and received compensation within the past six months, or (5) being a compensated board member of a company which is part of the project team in any capacity, or (6) being a compensated board member or employee of a non-profit organization which is proposing a development project or is part of a project team in any capacity.

1. Related to ordinances or large scale planning policy issues: when a financial interest can be identified as affecting a planning group member

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in a manner differently from the public generally. See below on How to Evaluate the Presence of Direct Economic Interest.

2. Related to land use plans (as defined in the Land Development Code): (1) community plans, specific plans, precise plans, and the General Plan, or (2) during a City-initiated amendment or plan, or (3) if there is a land use change on a piece of property and the member is related to the project in a manner described in #1 above. In general, policies and recommendations in a land use plan will affect an individual member the way it affects other members and the public generally.
3. Public agency employees or board members: whether elected or appointed to a seat specified for a particular public agency representative, such as a university, an employee or board member from that agency should be presumed to be unable to benefit financially from a planning group decision involving the member's agency. The member may want to consider abstaining, on a case-by-case basis, if there is an appearance of a non-monetary conflict.

There may be other fact situations that arise and, as it is difficult to provide a definition that would include every eventuality, if there is a question whether or not it is a situation of direct economic interest, it is advisable to err on the side of caution (i.e., disclosure and non-participation). The member may also contact the City for assistance.

If a member has a direct economic interest, the individual is required to recuse by disclosing the conflict to the planning group prior to the discussion of the item and removing him/herself from the planning group seating area and not participating in the discussion and vote. The presence of a 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.

It is expected that members of a planning group 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 a planning group taken prior to the item being discussed can determine that a member should recuse from participating in an item based on the reasons previously addressed in this section. 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 a planning group's discussion and vote may result in censure or discipline of the member by the planning group under adopted procedures. See the discussion in Article IX.

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How to Evaluate the Presence of Direct Economic Interest: There may be situations that cannot be categorized into those discussed in the subsection above. If that is the case, a member of a planning group can use the factors below to come to better understand the need to recuse.

Even though actions of planning group members are governed by Council Policy 600-24, state law can be drawn upon to provide guidance to assist the member in determining whether they have a direct economic interest. The general rule under the state regulations is that there is no disqualifying conflict of interest (in Council Policy 600-24 a direct economic interest) if the decision being made (and the process to get to that 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 help in the evaluation are:

1. Whether the decision affects a significant segment of the public. This is typically defined to mean 10 percent or more of residents/homeowners, or 25 percent or more of similar business owners in the community.
2. Whether the decision will affect the member's economic interest in substantially the same manner as the significant segment identified above. The effects need not be identical for the member's economic interest to be "financially affected in substantially the same manner."
3. Whether, despite affecting the public in general, the decision "uniquely benefits" the member.
4. Whether the member was elected or appointed to fill a seat in a bylaws-specified category, e.g., a business seat, a developer seat, or a university seat. If a planning group's bylaws require (either expressly or impliedly) that a member represent particular interests in the community, the member qualifies for the "public generally" exception as long as their participation is not excluded by the situations specified above. This seems most applicable where a planning group member fills a designated seat, such as for developers, and is considered one of the "12-20 elected members" under the Policy, though it should be considered on a case-by-case basis since members may have a direct economic interest when filling any seat (e.g., a property owner's representative or employee is on the planning group in a resident seat).
5. The financial effect from decisions establishing or adjusting rates, assessments, taxes or fees which are applied on a proportional basis on

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the member's economic interest, as well as on a significant segment of the other elected members of the planning group, is considered indistinguishable from the effect on the public generally.

ii. Abstention

An abstention should be used when a member of a planning group feels that he or she should not participate in the vote of an item for a legitimate, non-financial reason. While it is the obligation of a planning group member to participate in, and vote on, matters before a planning group, it is also the planning group member's obligation to abstain when a legitimate reason warrants it. For any abstention, the member should state the reason for it. There are several identifiable situations that should result in an abstention: when a non-financial conflict exists and when there is a lack of information upon which to base a vote.

Examples are:

1. When there is a possibility that a conflict could exist: the member cannot determine that there is a financial connection to the project but suspects there may be one not known at the time of the planning group discussion.
2. When there is a perception of a conflict: the member knows that the project affects him/her as it does the public generally, but honestly thinks that others will disagree with that position.
3. When the member's property is in proximity to the subject property: the member may want to make personal comments about the project (i.e., make comments that go beyond what the role of a planning group member is in reviewing a project as it relates to the adopted community plan).
4. When the member has a personal relationship (good or bad) with the project applicant and believes the relationship will be perceived by other members as prejudicial toward the project.
5. When a member does not feel he or she has enough information to participate in the vote: this could occur when an item was heard at a prior planning group meeting and a member was not present. In this situation, the member should abstain at the beginning of the item. On occasion, after a presentation on a new item, a member may still not feel he or she has sufficient understanding of the item to vote on it. In this situation, the member participated in the discussion but then abstained when the vote is called. This should be a rare occurrence as each planning group member has the opportunity to ask questions during the

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discussion of the item or even seek a continuance to get the lacking information.

Basically, keep the following guidelines in mind for abstentions:

1. To the degree possible, abstentions should be declared prior to the start of an item. The member should declare the abstention and the reason for it, and not participate in the discussion.
2. If a planning group member determines that he/she will need to abstain in the middle of a discussion on an item, it should be announced immediately and that member should not participate any further.
3. 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.
4. 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 recommendation on the item.

Abstaining members, regardless of when they declare their abstention, ARE counted in a planning group quorum for that item.

(d) Meeting Documents and Records

While there has always been an effort by planning groups and the City to maintain various records and documents for reference and use, the Brown Act imposes specific requirements for retention and availability of documents.

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i. Agenda by Mail

In the past, some planning groups have maintained their own mailing list for their agendas, and other planning groups have depended on City staff to mail agendas, minutes and other materials. The Brown Act requires that planning groups mail agendas and materials that are distributed to planning group members 72 hours prior to a regular meeting to anyone who requests them. The request may be made in advance for a whole year's materials as they become available. A cost-recovery fee is allowed by the Brown Act.

Planning groups may not have the capacity to respond in a timely manner to these requests from the public. Therefore, City staff will mail, or assure distribution, of these requested materials to those who pay a fee for them.

ii. Agenda at Meeting

In addition, any written material given to a planning group at their meeting must be made available to members of the public for inspection "without delay" according to the Brown Act. If City staff, applicants or planning group members prepare the material, it must be available for the public at the meeting; if someone other than those listed above prepares the material for presentation at a planning group meeting, the material must be made available for inspection at the conclusion of the meeting. Again, planning groups may not have the capacity to keep materials available for public review following their meetings, therefore, City staff will assume the responsibility of maintaining materials for review if so requested. If a copy is requested, a cost recovery fee may be charged.

iii. Minutes

This section details the content of minutes. Minutes are required by Council Policy 600-24 to be provided to the City within 14 days of being approved. Minutes should include attendance of planning group members. Including notation of individuals who voluntarily sign into the meeting is optional. Recording individuals who are signing in for the purpose of becoming a candidate for a planning group seat in the future might be a convenient way to keep track of those potential candidates if a planning group does not keep a separate accounting of those interested parties.

In 2007, the Policy added a requirement that non-unanimous votes of a planning group contain a record of who voted for, against, or abstained on a project. The minutes should also reflect whether any planning group member had to recuse. That would be recorded outside of the vote on the item because those members are not counted in the quorum for the item. See subsection (c) and subsection (a)vi above.

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If a planning group videotapes its meeting, that recording equates to minutes and must be made available for review by a member of the public upon request. If a copy is requested, a cost recovery fee may be charged.

iv. Records Retention

The Brown Act requires that planning group records, discussed above, be retained. The City staff has identified two years as the time period for the retention of planning group records subject to the Brown Act based on Government Code regulations pertaining to administrative matters.

Section 3

It is essential to the success of recognized community planning groups that broad community participation be encouraged. To this end, Council Policy 600-24 requires that planning groups periodically seek community-wide understanding of, and participation in, the planning and implementation process. Although interest in the planning group process tends to run highest in areas with controversial developments or neighborhood issues, all planning groups can generate interest and participation by encouraging lively and well-run meetings, and by actively noticing each monthly meeting and the annual election event. Other appropriate means of ensuring participation include networking with other active local and regional planning groups and by getting involved in local community organizing efforts. Care should be taken to avoid a violation of the provisions of the Policy regarding political or religious or discriminatory activity.

Council Policy 600-24 also requires a good faith effort on the part of a recognized community planning group to publicize regularly scheduled meetings and annual elections in neighborhood newspapers and by other available means. In addition to the Brown Act-required posting at the meeting site, this usually includes posting agendas and election notices in public locations, such as local branch libraries, recreation centers, community kiosks or bulletin boards. Many planning groups have developed their own websites upon which election information can be placed. Also, a community newspaper can carry articles about a planning group's activities throughout the year, and publicize the planning groups' elections. With the expanded use of electronic communications, the City is able to use means other than newspapers to engage citizens in the possibility of becoming planning group members. Announcements about planning group elections and planning group meetings are run on the City's TV24 television station. Electronic mail about planning groups can be sent to individuals on the Department's list to receive information about planning-based meetings and events. These efforts are intended to supplement the outreach efforts made by planning groups themselves.

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Section 4

Planning Group Roster

One of the duties of recognized community planning groups is to maintain current rosters of planning group members and to submit these rosters to the City staff. A roster is a disclosable record under the Brown Act, and along with bylaws and annual reports, is made available to the public.

Although it is important to maintain a member roster throughout the year with periodic updates, at least one revised member roster must be submitted to the City in April of each year, following the March planning group elections.

Elected membership rosters submitted for City use should contain, at minimum, the following types of information: **Member Name, Address, Telephone Number and FAX and E-mail address, Date of Initiation of Continuous Service, Date of Term Expiration, Eligibility, and Representation Category(s)**. The three basic eligibility categories are: **(1) Resident, (2) Property Owner, or (3) Local Business Owner, Operator, or Designee at a Non-Residential Real Property Address in the Community Planning Area**. Some planning groups may have other eligibility categories, particularly newly developing areas which do not yet have residents. These categories should be clearly identified, and defined if necessary, in the individual planning group bylaws.

Telephone numbers and email addresses are important to City staff to have the ability to transmit information electronically in a timelier manner. Staff also uses this information to invite planning group members to training sessions and other City functions.

Member roster information could also be collected from prospective applicants for the filling of vacant planning group seats or for prospective candidates for the annual March elections. Remember that asking for this information from prospective candidates for planning group seats should not be confused with requiring individuals to sign in to attend a planning group meeting. A sample Member Roster form is attached for your reference. See Attachment 2A for a Sample Planning Group City Use Roster and Attachment 2B for a Sample Planning Group Public Roster. It is suggested that planning groups use this form, or a form with equivalent information, to help standardize basic member or applicant information.

Note: Planning Groups have requested that their members' addresses and telephone numbers not be given to outside parties who may use the lists for commercial or political reasons. Therefore, the City encourages each planning group to additionally supply the City with a roster (such as in Attachment 2B) containing the following required information: Member Name; Date of Term Expiration; and, Eligibility Category. If the Planning Department has a

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planning group roster in this format, as well as the full mailing and telephone information for the chair, only the basic roster will be made available to non-City requests.

Annual Reports

Council Policy 600-24 requires each planning group to submit an annual report to the City staff by the end of March each year. The importance of the annual report is twofold: it serves as a record keeping tool to help ensure continuity within a planning group in the event of membership and officer changes; and it provides a planning group to the City and the public at large with an opportunity to review what a planning group has accomplished and to set some goals on what a planning group would like to accomplish. The timing of the filing date allows the outgoing planning group membership composition to file a report of its accomplishments.

Annual reports have traditionally varied among planning groups (perhaps necessarily so) and no one format is preferred, provided that it pertains to the accomplishments and objectives of the planning group in carrying out its duty advising the City on community plan preparation, amendments and/or implementation (e.g., reviewing development projects).

Experience shows that the reports are easiest to read if they are prepared with short statements or “bullets.” While the report does not have to follow a chronological format, it would be desirable to record the dates of votes and the vote results for major projects. In addition, it is not necessary to detail every item considered, but major actions of a planning group should be highlighted. Annual reports should be five pages or less; a format is provided on the City’s website and in Attachment 3. Topics that should be included in the Annual Report are:

- I. Introduction**
- II. Administrative Issues**
- III. Plan Preparation and Implementation**
- IV. Special Projects**
- V. Project Review**
- VI. Objectives**

Preparation of the annual report provides an excellent opportunity to account for all the minutes of the previous year. While the report may be prepared by a single member or a subcommittee of a planning group, it must be discussed and voted on by the planning group as a whole before being forwarded to the City.

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Section 5

The City does not recommend that planning groups collect regular voluntary financial contributions since a perception can arise of improper conduct by members or the group. Some planning groups do have fundraisers to defray costs they incur. The City does not typically reimburse planning groups for any expenditure, although certain materials can be provided to planning groups upon request. Planning groups are advised not to request or accept contributions from individuals presenting projects to the planning group. It is acceptable, and common, for a business in the community to provide meeting space for the planning group as long as the location meets the accessibility requirements of the Brown Act.

Section 6

Members of recognized community planning groups may find the Council Policy 600-24 requirements of membership different than membership in other organizations they participate in. The basic premise of the Policy is community involvement, and the Brown Act requires a series of procedures comply with that open meetings state law. In order to familiarize newly-elected planning group members with their roles and responsibilities under the Policy and the Brown Act, members are required to attend a Community Orientation Workshop (COW) within 12 months of being elected or appointed to a planning group.

The COW session focuses on the roles and responsibilities of elected members of planning groups. The training session discusses the legal indemnification ordinance adopted by the City Council regarding planning groups and how planning groups and their members would be eligible for protection under the ordinance. The COW also discusses the Brown Act and the provisions of it that apply to the type of organization that planning groups are.

Typical topics covered in the “Big 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 Council Policy 600-24. Four-hour orientations are scheduled typically in May, after the City receives updated roster information. An abbreviated session is typically held in the fall. It is important to attend a COW within 12 months of becoming a planning group member since non-attendance is a violation of the Policy and may open the member up for a challenge.

It is the duty of the Chair of each individual planning group to notify the City staff of the election or appointment of new members. As noted above, indemnification is denied the new planning group member until a training session is attended. Newly elected members are strongly encouraged to attend the first available session.

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Non-planning group members on subcommittees may attend a COW as space allows. See Section 2(b)iii on subcommittee composition for requirement for non-planning group participants.

Note: As of June 2008, staff is preparing an online training to replace the Council Policy 600-24 portion of the required training. It is expected that topic-based sessions, as well as Brown Act and operational issue sessions, will continue on a regular basis.

ARTICLE VII Planning Group Officers

Section 1

This section contains basic information about officers and terms for officers. Additional officers, beyond the three named in Council Policy 600-24, are clearly allowed to be added to a planning group's bylaws. The roles for all officers should be articulated in the bylaws where the standardized shell indicates.

Sections 2 and 3

These sections discuss the basic responsibilities of the chairperson and vice chairperson.

Section 4

The secretary has significant responsibilities in establishing and maintaining Brown Act-required records. The secretary may identify others on a planning group to take on any of the responsibilities to assist and to assure that all required records and meeting procedures are observed. For example, many planning groups appoint a Parliamentarian to monitor meeting procedures related to voting and public speakers. Also, the secretary could identify someone to assist in the collection and assembly of materials from meetings that must be retained in accordance with the Brown Act. It is strongly suggested that anyone providing these types of assistance be a planning group member to assure proper training and legal representation and indemnification in the case of a legal challenge to a planning group.

Section 5

As a means to ensure communication and to solicit citizen input on citywide issues among the various recognized community planning groups in the City, the Community Planners Committee (CPC) was instituted. Council Policy 600-24 designates each planning group chair to also be a planning group's representative at the CPC. Planning groups may designate by "specification" (i.e., vote) someone other than the chair to be the CPC representative, and planning groups may select an alternate to attend when the designated representative cannot attend the CPC

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meetings. If neither individual is available to attend, a planning group representative may attend a CPC meeting and speak on behalf of the planning group, but may not vote on the planning group's behalf. It is the responsibility of any planning group representative to CPC to report back to that planning group about the pertinent items addressed at CPC. Often items heard at CPC are subsequently forwarded to individual planning groups for action.

CPC meetings provide a forum to discuss citywide planning issues. The meetings often include presentations by City staff or other speakers on topics within the purview of CPC. The meetings are an opportunity to network with other community leaders and to question staff on important policy or development issues. Positions taken by CPC on important issues provide a key link with decision-makers at City Hall and in the various City Departments.

The planning groups' role has expanded to take in many task forces and special projects outside of typical planning issues. When so requested, CPC provides members to many of these efforts. In addition, CPC has formed subcommittees to review various issues in depth, and has made recommendations of great value to City decision makers.

The form submit the names and mailing information for a planning group's CPC representative and alternate is Attachment 4 to these Guidelines and is available at the CPC portion of Planning's website.

Section 6

This section is a reminder to CPC representatives that, in agreeing to be their planning group's representative to CPC, they have agreed to bring back to their own meetings a discussion about the topics being discussed at CPC. There has been feedback to City staff that this does not always happen, so CPC representatives should be selected with the understanding about the individual's capacity to take responsibility to be this important communication link. All the CPC materials are posted on the City's website now, so that any planning group member, or any member of the public, can have access to agendas, minutes and materials for the CPC. CPC meetings are also subject to Council Policy 600-24 provisions incorporating the Brown Act.

ARTICLE VIII Planning Group Policies and Procedures

This article, which is replicated in the standardized bylaws shell, provides a framework for organizing a planning group's necessary operating procedures and policies. All of the topic areas suggest optional issues that a planning group may want to include as individual procedures. The topic areas covered are: Community Participation; Planning Group Composition; Member and Planning Group Responsibilities; and Elections. Discussions can be added into

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any of these topic areas.

Below are some discussions, included in the 2006 version of the Administrative Guidelines, that were found to be helpful but don't fit directly into the discussions in Articles I - VII above.

Conduct of Meetings

Introductions at the Meeting: It is highly recommended that, at the beginning of any meeting, the chair introduce the planning group members and explain the planning group's planning advisory role to the City. Each member may also introduce themselves and the role they fill on the planning group (e.g., a resident seat, a business seat, etc.). Planning group members should sit together at the front of the room so the audience can clearly identify them as the elected, voting members of the planning group. To help audience members become familiar with the elected representatives of the planning group, City staff, upon request, will prepare name plate "tents" for use by the planning group.

It has been found to be extremely beneficial to a, planning group and to the members of the audience, for the Chair to introduce each agenda item with an identification of the agenda number, the subject of the item, indicate whether it is an information item or action item, indicate how the public will be able to participate, and ask who among the planning group members are eligible to participate in the item (i.e., ask for recusals and abstentions). This introduction gives everyone in attendance a clear understanding of a planning group's intent toward the agenda item, and allows the chair to manage the agenda item to its conclusion.

Robert's Rules of Order Newly Revised: The hierarchy of documents affecting planning group operations are: Council Policy 600-24, including Brown Act provisions adopted into the Policy, adopted bylaws, and the Administrative Guidelines. Robert's Rules of Order Newly Revised should be utilized only when a planning group encounters a situation where the governing documents are silent and utilizing them will not be contrary to adopted bylaws.

Debates on Motions: The paragraphs below discuss the use of Robert's Rules of Order Newly Revised; however, it contains some specific direction about when to NOT to use Robert's Rules of Order Newly Revised, but instead to use this discussion as guidance to develop or amend planning group bylaws. Individual planning groups are encouraged to adopt procedures for discussing items such as time limits for planning group discussion, sequencing of public input, and timing of motions, complying with the Brown Act requirements as applicable and discussed in Article VI, Section 2.

Business is accomplished in meetings by means of debating motions. The word

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“motion” refers to a formal proposal by two members (the mover and seconder) that a planning group take certain action. Robert’s Rules of Order Newly Revised directs that discussion on an item be started by placing a motion on the floor. However, the types of items that planning groups consider often benefit from having discussion on an item prior to making a motion. A pre-motion discussion assists in looking at all the information being presented, allowing the public to speak to all the information, and reviewing any subcommittee recommendations or conditions. There is also benefit in that a clearer, better worded and fully-developed motion can be proposed. So, while Council Policy 600-24 and bylaws are silent on initially placing a motion on the floor, be careful to choose use this option situationally to benefit the operation of your planning group, for example, a subcommittee’s recommendation may be presented as a motion to debate.

Normally, a planning group member may speak only once on the same question, except for the mover of the main motion, who has the privilege of “closing” the debate (that is, of speaking last). If an important part of a planning group member’s speech has been misinterpreted by a later speaker, it is in order for the planning group member to speak again to clarify the point, but no new material should be introduced. If two or more people want to speak at the same time, the chair should call first upon the one who has not yet spoken. Planning groups may want to adopt rules limiting the time a member may speak in any one debate (for example, five minutes). The mover of a motion may not speak against his or her own motion, although the mover may vote against it. The mover need not speak at all, but when speaking, it must be in favor of the motion. If, during the debate, the mover changes his or her mind, he or she can also inform the planning group of the fact by asking the planning group’s permission to withdraw the motion.

Points of Order: Any member of a planning group is responsible for raising a point of order at the meeting if they view an action by the planning group to be in conflict with the planning group bylaws. At that time a review of the bylaws may be warranted to determine the appropriate action. Planning group members should not hesitate to raise a point of order as soon as they believe a conflict has arisen. Waiting until later to raise it, or contacting the City staff or City Attorney’s office after the fact, greatly reduces the likelihood that a procedural problem can easily be rectified.

A planning group’s bylaws may allow the chair to recognize audience members who indicate they want to raise a point of order. As a rule, however, the ability to raise a point of order is reserved for planning group members.

Calculating a Vote: Most motions of a recognized community planning group are decided by a majority vote. A majority vote is half of the eligible voting members present plus one. For example, if a planning group consists of 16 members but only 12 are present and all are eligible to vote on an item, a majority vote would

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be seven.

There are situations when a member of a planning group should not vote on a matter before the planning group. See the discussion under Article VI, Section (c). Basically, if a planning group member must recuse on an item, his/her presence at the meeting is not counted in the quorum or in calculating a majority vote. For example, if 18 members are present and four must recuse on an item, a majority vote would be eight. Similarly, abstentions are not included in the calculation of a majority vote, although they do count toward the quorum for the meeting and for the agenda item.

Council Policy 600-24, Article VI, Section 2(d)iii requires accounting for all votes on an item. Therefore, votes forwarded to the City must include the number in favor, number in opposition, and number of abstentions. Additionally, when a vote is not unanimous, the names of the planning group members must be included for each of the categories. If any planning group member is recusing, the minutes should reflect their recusal, but their vote is not counted in any one of the three voting categories. For example, again using a quorum of 18, when there are ten in favor, four opposed, and four **abstentions**, a vote of a planning group in favor of an issue would be shown as “10-4-4”. As stated above, recusals do not count toward a quorum or in the vote, so a vote with ten in favor, four opposed and four **recusals** would be shown as “10-4-0”.

Voting Rights of the Chair: Participation of the chair in voting on action items is not discussed in Council Policy 600-24 other than in this Article, however, the standardized bylaws shell provides an option to select from for the role of the chair in voting: one where the chair both debates and votes; or, one where the chair debates but does not vote except to make or break a tie; or, one where the chair neither debates nor votes. Given the nature of the business of planning groups, and the responsibility of elected members to participate in planning group business, chairs are encouraged to participate in some manner in planning group discussions, however, it is recognized that the role of the chair should be the one that best facilitates discussion on the planning group.

Member and Planning Group Responsibilities

Bylaws Amendments: When a recognized community planning group desires to amend its bylaws, the amendment should be discussed in accordance with procedures or bylaw provisions previously set up by the planning group. A planning group may choose to create a subcommittee which will review and propose revisions to the bylaws. The subcommittee will submit a draft to the full planning group at a regular meeting for discussion. Consultation with City staff and the City Attorney’s office is advisable at this point: staff can advise whether revisions as proposed for a vote of a planning group are consistent with Council Policy 600-24. An early indication from staff may avoid the need for repeat votes on bylaw amendments by the planning group.

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After a planning group has voted to approve a proposed bylaw amendment, it should be forwarded to the assigned community planner for approval by City staff and the City Attorney in accordance with Council Policy 600-24. Staff will review the amendment for conformance with the Policy once it is formally submitted. Informal review prior to submittal makes the subsequent submittal process easier but is not the point in time that the revised bylaws can be used. If consistent, it can be approved by staff and City Attorney. If the proposed bylaw amendment is not consistent with the Policy, and a planning group and City staff cannot develop provisions that suit the need of the planning group and meet the requirements of the Policy, then the planning group can request the amendment be forwarded to the City Council. The Council may: 1) agree with staff that the amendment is inconsistent with the Policy and reject the proposed bylaw amendment; 2) may disagree with staff, find the proposed amendment consistent with the Policy; or, 3) determine that the proposed amendment is worthy of approval and may waive the Policy provisions and approve the amendment.

Any proposed bylaw amendment is not effective until it is approved by the City. planning groups may not use bylaw changes until they are notified by City staff that the bylaw amendments have been approved by the City.

Planning groups using the standardized bylaws shell and selecting from options provided in certain sections are likely to be found in compliance with the Policy. Proposed changes by planning groups to language in the shell will need to be considered by the City Council. The reason for proposing the standardized bylaws shell in 2007 was to give planning groups a stronger bylaws update framework. It was also intended to provide standard language that could be interpreted consistently among planning groups, by City staff, and by the City Attorney. Over time, evolution of innocuous language by individual planning groups led to different meanings and difficulty in interpretation by planning groups themselves and by City staff.

The bylaws shell is intended to remove areas of doubt and to allow focus on more substantive bylaws issues.

If a proposed bylaw amendment affects adopted election procedures, a planning group should begin its bylaw amendment process well in advance of the elections, in order to allow sufficient time to complete the review and approval process. Amendments should be submitted to the City staff in early fall; otherwise the bylaws will likely not be approved in time to prepare for the March elections. If the bylaws are not approved prior to the start of any election activity, including the forming of the Elections Subcommittee, then the current bylaws must be utilized throughout the election process. Planning

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groups should keep in mind how the amendment affects candidate eligibility and organization of the election process if applicable, and adjust the time schedule accordingly.

Elections

Promoting Planning Group Elections: this section of a planning group's bylaws should echo Council Policy 600-24's direction to planning groups to take responsibility for promoting elections, although specific techniques can be detailed in adopted procedures. It is critical that a planning group takes responsibility to promote elections within the community, and to promote candidate opportunities in ample time for newly-interested individuals to become eligible to be candidates. General election announcements should be made early to reach a wide geographic and diverse population in the community. Candidate eligibility requirements should be publicized by a planning group in advance in order to ensure that those who want to run qualify for candidacy in accordance with the bylaws. The City has also begun to publicize elections through the City's website and the City's TV24 programming.

The following list contains suggestions for promoting both candidate opportunities and the general election:

1. Announce at planning group meetings.
2. Announce on the printed and distributed planning group agendas.
3. Announce on planning group websites if applicable.
4. Announce on email listings.
5. Announce in community newsletters, newspapers
6. Display flyers at Community Service Centers, libraries, bulletin boards and other meeting places.
7. Distribute flyers throughout the community.

Majority and Plurality Votes: Many recognized community planning groups' bylaws indicate that a majority vote for a candidate is required for a planning group seat to be filled. This has caused elections with more than two candidates for one seat to have to conduct repeated balloting to meet the requirements to attain a majority vote. It also caused one planning group to be successfully challenged and have to hold a repeat election when it tried to use plurality to seat new members when their bylaws stated a majority requirement.

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It is permissible for a planning group, whose bylaws call for a candidate, to be seated by a majority vote to limit the number of ballots cast to determine the outcome. For example, a planning group may write into its bylaws that any seat up for election must receive a majority vote, however, after e.g., five successive votes if a candidate does not attain a majority of the votes cast, the winner may be declared as the candidate having the most votes cast for that seat. This is, in essence, a reversion to a plurality vote after a certain number of rounds of balloting.

It is also permissible for a planning group to amend its bylaws to allow an alternative voting calculation method. A planning group may use a “Preferential Voting System”, as described in Robert’s Rules of Order Newly Revised, as follows: on the ballot, where there are more than two candidates for one seat, instruct the voters to indicate a numerical preference for each candidate, e.g., a “1” is given to the voter’s first choice candidate, a “2” for the second choice candidate, etc., for all candidates. In counting the votes for a given planning group position, for each candidate, the “1”s, “2”s, etc. are counted. If one candidate receives a majority of the votes, that candidate is elected. However, if no candidate receives a majority, the votes originally given to the candidate receiving the least number of “1”s are distributed to the other candidates that were given “2”s. The ballots are again counted to see if, with those redistributed votes, someone receives a majority of the votes. If no one receives a majority of votes cast, the next lowest candidate’s ballots are redistributed to the candidates indicated by the number “2”, and the votes are again counted to determine if a majority has been received by one candidate. Eventually, without conducting subsequent rounds of balloting, a majority winner is determined.

For some planning groups, a plurality voting system is the easiest voting system to administer. If a planning group’s organization seats just the top vote-getters, either by category or a list of open seats, a plurality system is well-suited to accomplish the goal of seating the candidates in order of preference of the eligible voters in the community. Implementing a requirement of a majority vote could place significant administrative burden on a planning group, causing multiple votes and the need for outside assistance.

Bylaws should be established clearly identifying a plurality or majority voting requirement. It is important that planning groups follow their adopted bylaws method and any procedures that support it. A challenge to voting irregularities may wholly negate an election, causing the determination that a new process must be initiated.

**ARTICLE IX Rights and Liabilities of Recognized
Community Planning Groups**

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This article was significantly changed since the 2006 Administrative Guidelines due to the application of the Brown Act to recognized community planning groups. The Brown Act carries with it a possibility of civil remedies and criminal penalties for violation of its provisions. Penalties under Council Policy 600-24 rise to the level of removal of a member from a planning group or the removal of recognition from an entire sitting planning group. Thus, when the Policy was rewritten, the provisions in the Policy that emanated from the Brown Act were clearly identified, even in the case where prior compliance was similar. The intent was to associate the potentially severe penalties of Brown Act violation with violation of the Brown Act-based Policy provisions.

Another factor contributing to the new Policy section is the update of O-17086 NS – the prior “indemnification ordinance”. Planning group members operating in compliance with the Policy and their adopted bylaws, after attending a Community Orientation Workshop, understood that they would be protected against challenges to them by outside parties. In 2006, a challenge to one planning group caused an interpretation of the adopted ordinance that a lawsuit for money damages would allow for representation but that a lawsuit challenging procedures or operations of the planning group would not. **In 2008 the ordinance was rewritten to... to be determined after adoption.**

Section 1

Council Policy 600-24 still requires planning group members to operate in compliance with the Policy and adopted bylaws in order to receive indemnification and representation. The Policy goes on to refer to findings in the indemnification ordinance that also must be complied with. These findings include: **to be determined after adoption.**

Section 2

This section addresses Brown Act remedies and violations. As with other Policy provisions, the preferred solution is voluntary remediation. It is anticipated that any conflict that is challenged, based on the Brown Act, will need to be reviewed with the City Attorney’s office immediately to ensure proper procedures are followed, issues addressed, or remedies enacted as soon as possible. **City Attorney must add to this section.**

Section 3

Members of recognized community planning groups have been elected by the community to act in good faith and with due diligence within the assigned responsibilities of Council Policy 600-24 and planning group bylaws. There have been circumstances when planning groups or planning group members have violated, sometimes knowingly, the Policy or their adopted bylaws. Inappropriate actions can be brought to the attention of a planning group or staff by members of the public, or may be observed by City staff. Occasionally, planning group

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members contact staff about actions of their own planning group members.

Actions by a planning group member, or by a planning group as an entity, that are violations or are inappropriate can result in discipline against an individual member or a planning group, and may result in the loss of the ability for the individual or planning group to be indemnified or represented by the City if legal action is taken.

There has been occasional need for an in-depth review of a planning group's handling of the particular situation or method of operation.. Planning groups expressed fear that a complaint form would draw exaggerated or unfounded complaints about the groups. However, City staff and the City Attorney's office believe that there will be more accountability in asking anyone inquiring about planning group operations to be required to make their inquiry in writing, and it is understood that a planning group will be contacted in an effort to resolve an issue. See Attachment 5 for a draft form (will be finalized with these Administrative Guidelines).

Individual Members' Actions

Some types of inappropriate actions by a member of a planning group can be remedied. If this is a possible course of action, it is preferable to seek a remedy prior to pursuing a more severe discipline. However, there may be circumstances in which a member's removal from a planning group is necessary because it greatly benefits a planning group's ability to continue to operate effectively, and with credibility, in carrying out its duties in accordance with Council Policy 600-24.

Removal of a planning group member is a serious action which must be pursued only in extreme cases. It must be considered with care and thoroughness by a planning group, and any action must occur in a public setting. A planning group determination to proceed with discipline or removal of a member must follow a clear procedure that should be thoroughly discussed in the planning group's bylaws.

Removal of Elected Planning Group Member Based on Eligibility: Certain factual situations may occur where, utilizing clear bylaws provisions, a recognized community planning group member is no longer eligible to be on a planning group. These situations, in accordance with Council Policy 600-24, are: (1) after three consecutive absences of the member at regularly scheduled meetings; or, (2) after four absences by the member within the 12-month period following an election. In addition, a member may change their residence or business address and may no longer qualify under a planning group's membership categories. It is not within a planning group's discretion to allow an individual who has lost eligibility according to the adopted bylaws to continue serving on the planning group to complete a term of service since the determination of ineligibility is

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immediate and irreparable.

A majority vote of a planning group at a regularly scheduled meeting may remove an elected member if, based upon documentation, the planning group secretary has determined that the member has become ineligible to serve because the member is not in compliance with the membership requirements of the planning group's bylaws. In this case, the planning group should provide the member with evidence showing the ineligibility and allow the member an opportunity to review it prior to putting the matter on a meeting agenda for a planning group vote. An ineligible planning group member should be given the opportunity to resign prior to the more formal step of scheduling a planning group action for removal.

Discipline or Removal of an Elected Planning Group Member: As discussed above, any action by a planning group to discipline or remove a member must occur at a scheduled planning group meeting and be advertised on the agenda as an action item. A two-thirds majority vote is required, and the action must be an open vote.

Due to the significant nature of removing an elected member, and to ensure a fair and public process, specific parameters for conducting an investigation and hearing in a discipline matter have been inserted into the standardized bylaws shell so all planning groups can be certain of the process to follow.

Some actions by a planning group member may be in conflict with Council Policy 600-24 or a planning group's adopted bylaws but can be remedied. For example, a planning group vote with an undisclosed ineligible member, or a member failing to disclose a direct economic interest, are examples of situations that may be remedied by a planning group taking corrective action.

The action of removing a member is entirely within the purview of the elected planning group. Both the City staff and the City Attorney defer to a planning group regarding the process and the decision to remove an elected member. Upon request, however, the City may advise a planning group about other planning groups' experience in similar situations to help the planning group's perspective about the severity of the disciplinary action it is contemplating.

Violations by an Entire Planning Group

Council Policy 600-24 recognizes community planning groups as self-elected and generally self-governing organizations. City staff and the City Attorney advise planning groups about how to comply with their bylaws and the Policy. City staff will refer bylaws questions back to a planning group when a planning group's adopted bylaws address an issue but the planning group is hesitant to carry out the bylaw provision, or when a planning group wants to interpret a bylaw provision in a manner differently than it has been used in the past.

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There may be situations, however, that require assistance from outside a planning group to resolve an issue that involves the planning group as a whole.

If a planning group's actions result in verifiable violations of Council Policy 600-24 or of their adopted bylaws, City staff will first work with the planning group chair and members to remedy the situation. Staff may discuss the issues with the chair, or may ask for a meeting with various planning group members. In some cases, discussions are documented in written correspondence. The goal is to provide assistance to a planning group to correct its actions so that credibility is maintained and the violation is eliminated and not repeated.

In cases of severe documented violations, or continued violations after counseling by City staff, City staff may request the assistance of the Community Planners Committee to determine an advisable course of action. The CPC members' experience in dealing with similar situations can help find a remedy – which continues to be the goal of City staff, even in cases where violations are severe and damaging. If there is a determination by the CPC that a planning group violated Council Policy 600-24 and/or adopted planning group bylaws, CPC will strive to recommend a corrective action.

If CPC either declines to consider the matter or is unable to recommend corrective action, City staff will pursue corrective action with the offending planning group, continuing to seek an outcome that will retain or restore the planning group's credibility and advisory role. Only in the most difficult-to-remedy circumstances will staff recommend that recognition conferred to the established planning group membership under Council Policy 600-24 be revoked and be reestablished with an alternative organization or membership.

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ATTACHMENTS

1. **ACKNOWLEDGEMENT OF RESPONSIBILITIES BY NON-PLANNING GROUP MEMBER OF A SUBCOMMITTEE**
- 2A. **Sample Planning Group City Use Roster**
- 2B. **Sample Planning Group Public Use Roster**
3. **Annual Report Format**
4. **Community Planners Committee (CPC) Membership Data Form**
5. **Inquiry Form - DRAFT**

REFERENCES [TO BE ADDED]

COUNCIL POLICY 600-24

O-17086 NS INDEMNIFICATION ORDINANCE OR SUBSEQUENT

RALPH M. BROWN ACT - GOVERNMENT CODE SECTIONS 54950-54963

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Attachment 1

**ACKNOWLEDGEMENT OF RESPONSIBILITIES BY
NON-PLANNING GROUP MEMBER OF A
SUBCOMMITTEE**

Council Policy 600-24, Article VI, Section 2(b)iii states: “Non-members, who are duly-appointed by a planning group to serve on a subcommittee, may be indemnified by the City in accordance with Ordinance No. O-17086 NS, and any future amendments thereto, provided they satisfy any and all requirements of the Administrative Guidelines.”

Listed below are the requirements of the Administrative Guidelines that govern the participation of a non-planning group member on a subcommittee. In essence, while the planning group and the City appreciate the expertise that the non-member brings to the subcommittee, responsibilities and privileges, including representation and indemnification, are dependent on the non-member’s compliance with the conditions below.

A non-member:

- Must not take on planning group responsibilities beyond participating as a subcommittee member,
- Must be a regularly participating member of a subcommittee and limit his/her role to contributing to the subcommittee discussion and recommendations to the planning group,
- Must not represent himself/herself as a planning group member to parties outside the planning group, or serve as a spokesperson for the subcommittee in any forum, including City public hearings,
- Must understand that his/her charge is to implement the adopted community plan and judge a project in a manner similar to other subcommittee members, and
- Must not identify himself/herself as a planning group member when supporting a political candidate.

I acknowledge the above limitations on my participation on a planning group subcommittee. I also understand that, while I am not obligated to, I am welcome to attend any planning group training session on a subject matter that is relevant to my role as a subcommittee member, or in which I have an interest.

Non-Member Signature

Chair or Subcommittee Chair

Date

Recognized Community Planning Group

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Attachment 2A

NAME **Planning Group** **City Use Roster – Month, Year**

Chair

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

Vice Chair

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

Secretary

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

Treasurer

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

Planning Group Members (list individually for each planning group member)

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

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

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Attachment 2B

NAME **Planning Group** **Public Roster - Month, Year**

Chair

Name

Address

City, State Zip Code

Fax Number

Telephone Number

Fax Number

Term expiration/Initial Term Date

Email Address

Seat (if applicable)

Vice Chair

Name

Term Expiration/ Initial Term Date
With Uninterrupted Service

Seat (if applicable)

Secretary

Name

Term Expiration/ Initial Term Date
With Uninterrupted Service

Seat (if applicable)

Treasurer

Name

Term Expiration/ Initial Term Date
With Uninterrupted Service

Seat (if applicable)

Planning Group Members (list individually for each planning group member)

List Each Name

Term Expiration/ Initial Term Date
With Uninterrupted Service

Seat (if applicable)

Meeting Date: Monthly the (1st, 2nd, 3rd, or 4th)(Monday, Tuesday, Wednesday, or Thursday)

Meeting Location: Address, Business Name, any special directions on building access

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

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Attachment 3

ANNUAL REPORT OF THE (NAME OF PLANNING GROUP) Month, Year through 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. 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. 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. 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.

Submitted on Behalf of the (Name of Planning Group)

Chair

Date

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COUNCIL POLICY 600-24
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Attachment 4

COMMUNITY PLANNERS COMMITTEE (CPC)
MEMBERSHIP DATA

(Name of planning group)

_____ **Chair** _____ **Date**

I am the chair and am the planning group's representative to CPC

Name: _____

Address: _____

e-mail: _____

On _____ the planning group designated the alternate to CPC as:
DATE

Name: _____

Address: _____

e-mail: _____

OR

On _____ the planning group designated the representative to CPC as:
DATE

Name: _____

Address: _____

e-mail: _____

On _____ the planning group designated the alternate to CPC* as:
DATE

Name: _____

Address: _____

e-mail: _____

* If the chair is to be the CPC alternate, no action of the planning group is required.

City staff must receive this information pursuant to CPC bylaws in order for any planning group to maintain active membership and voting rights in CPC. E-mail this completed form to the Planning Department at SDPlanningGroups@sandiego.gov or return it to staff at the start of the first CPC meeting that these representatives will be present.

Note: This form is available on the City's website at:
<http://www.sandiego.gov/planning/community/pdf/cpc/cpcmemberdataform.pdf>

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Attachment 5 – DRAFT – DRAFT - DRAFT

**RECOGNIZED COMMUNITY PLANNING GROUP
INQUIRY FORM**

In accordance with City of San Diego Council Policy 600-24, entitled “Roles and Responsibilities of Recognized Community Planning Groups”, any organization that is the recognized planning group for a community operates under certain agreements with the City, including complying with Council Policy 600-24 and with City-approved bylaws.

This form is to be used by any individual or organization wishing to inform the City of San Diego about a potential issue of non-compliance by a recognized community planning group. The City staff and City Attorney’s office will investigate and respond to the inquirer and the planning group.

Date: _____

Name of Planning Group: _____

Date of Incident, if any: _____

Description/Summary of Incident or Issue:

(provide summary here; continue on 2nd page or attach documentation if appropriate)

The City may request more information from you, and the resolution of the issue may involve your further participation. Please provide contact information as follows:

your name _____ phone number _____
email address _____.

Additional Individuals to Contact: _____

Resolution by City: _____

Resolution by Planning Group: _____