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DATE ISSUED:

REPORT NO.

ATTENTION: Council President and City Council
Docket of May 22, 2007

SUBJECT: Revisions to Council Policy 600-24

REFERENCE: Land Use and Housing Committee Report No. 06-155, dated October 20,
2006 Pertaining to "Recognized Community Planning Group Bylaws
Update Process"

REQUESTED ACTION:

Amend Council Policy 600-24 titled "Standard Operating Procedures and Responsibilities of recognized Community Planning Groups", including a standardized bylaws shell (Attachment 1).

STAFF RECOMMENDATION:

Approve the amendments.

SUMMARY:

Overview

In response to direction from the Land Use and Housing Committee (LU&H), revisions are proposed to Council Policy 600-24 and the recognized community planning group bylaws shell to address committee direction, reflect the applicability of the Brown Act and make other clarifying changes. This report provides background information on what led up to the changes, discusses the changes in detail, and describes input received from the Community Planners Committee (CPC) and staffing implications.

Background

On October 17, 2005, the City Council approved revisions to Council Policy 600-24 titled "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups" (R-300940) which were generated after a two and a half year effort by a CPC subcommittee and City staff. Comprehensive revisions were made to address a variety of issues that staff, planning groups and City Council members identified as interfering with effective planning group operations. Subsequently in 2006, and at the suggestion of the CPC subcommittee, the City Planning and Community Investment Department (CPCI) developed a bylaws shell based on Council Policy 600-24 which standardized typical planning group operations. The shell provided options in some areas where planning groups could tailor their operations consistent with the Council Policy. CPCI began working with planning groups to revise their bylaws to conform with the Council Policy 600-24 revision 18-month timeline.

On October 25, 2006, LU&H considered a report from CPCI on the recognized community planning group bylaw update process. The primary discussion centered on whether bylaws should be standardized among planning groups and how planning groups could deviate from shell. LU&H generally agreed with the concept of standardizing planning group bylaws but wanted a process by which planning groups could deviate from the bylaws shell when appropriate. By a 4-0 vote, LU&H voted to refer revisions to Council Policy 600-24 to the City Council including a reference to the bylaws shell with its standardized provisions and direction to include a process for planning groups to apply for variances with the right to appeal to LU&H.

On October 27, 2006, the City Attorney issued a Memorandum of Law opining that recognized community planning groups are subject to California's Open Meeting Law, the Ralph M. Brown Act (Attachment 2). The opinion stated that because planning groups are created by the City Council pursuant to Council Policy 600-24, they are legislative bodies subject to the Brown Act. As such, planning group meetings must strictly adhere to the Brown Act's provisions for open and public meetings.

Subsequent to the LU&H meeting and receipt of the Memorandum of Law, CPCI began working with the Attorney's Office on draft revisions to Council Policy 600-24 and the bylaws shell to reflect revisions discussed at LU&H and the applicability of the Brown Act. In addition, other minor changes were made to reorganize the Policy and shell for clarity and reflect the new strong Mayor form of governance.

CPCI provided draft revisions to Council Policy 600-24 and the bylaws shell to CPC with their March 27, 2007 agenda packet. At their request, staff returned to the CPC meeting of April 24th with additional revisions suggested by the City Attorney to discuss the documents. CPC members provided extensive input on the documents and passed two motions. In response to CPC input, CPCI has made several changes to the Policy and bylaws shell (see discussion below). Changes were provided to the City Attorney's Office on May 1, 2007 for review. However, final Attorney comments were not received as of the date this report was written.

Proposed Revisions to Council Policy 600-24 and the Bylaws Shell

As outlined above, draft revisions to Council Policy 600-24 and the bylaws shell have been made to: 1) standardize provisions discussed at LU&H and reflect committee input, 2) reflect applicability of the Brown Act, and, 3) add clarity and reflect the Mayoral system of governance.

1) LU&H Issues - As previously described, LU&H acknowledged that having a standardized bylaws shell would be desirable to allow planning groups to better focus their time and energy on the referred issues and increase public participation in the voting system. However, LU&H also acknowledged that due to specific planning group issues, it may be appropriate for planning groups to deviate from the standardized bylaws shell from time to time.

CPCI has included a revised standardized bylaws shell as an attachment to Council Policy 600-24 (Attachment 1). The shell closely mirrors the order and format of the Policy with article and section numbers and headings closely matching those of the Policy. In addition, the Policy and the bylaws shell have been revised to standardize a number of specific provisions that were discussed at the October 25, 2006 LU&H hearing. These are provisions that planning groups should consistently adhere to. Provisions include: the number of voting members, excused absences, election of officers, voter eligibility, candidate eligibility, subcommittee composition, voting on bylaw revisions and requiring additional information from project applicants. Some groups have indicated they do not agree with standardization for one or more of the provisions listed. Attachment 3 includes a summary of the provisions and describes how Council Policy 600-24 and the bylaws shell address them; some provisions have been revised based on CPC input.

LU&H also directed that Council Policy 600-24 and the bylaws shell include additional sections which allow a process for planning groups to apply for variances from the bylaws shell, with the right to appeal to LU&H. As outlined in the draft Policy and shell (Article II, Section 7), the Mayor's Office and City Attorney will approve bylaws that are consistent with Council Policy 600-24 and the bylaws shell. The Mayor's Office does not believe that staff should be responsible for evaluating the merits of proposed deviations from the bylaws shell. Instead, proposed deviations will be forwarded to the responsible Council Office(s) for potential Council consideration. LU&H directed that planning groups have the right to appeal for variances through LU&H. However, this would not enable all council offices to vote on proposed deviations within their districts. Thus, the revisions to Council Policy 600-24 and the bylaws shell state that proposed deviations will be referred to the City Council for consideration.

2) Brown Act - Council Policy 600-24 and the bylaws shell have also been revised to reflect that recognized community planning groups must now operate in conformance with the Brown Act. Applicable provisions of the Brown Act have been added to the appropriate section of the Policy and shell and clearly identify whether they are Brown Act requirements in order to allow planning group members to know which procedures are subject to state law. Brown Act provisions have been added to address the accessibility of meeting facilities, agenda posting, meeting adjournments, subcommittees, meeting documents and records and other requirements. In addition, the Policy and shell clearly outline various remedies for violations of Brown Act provisions.

3) Other Changes - other changes have been made to Council Policy 600-24 and the bylaws shell to improve the clarity, organization and accuracy of the policy. A reorganization was made to consolidate meeting procedures, subcommittees, abstentions and recusals, meeting documents and records under Article VI titled "Community Planning Group and Planning Group Member Duties". In addition, a new Article IX consolidates "Rights and Liabilities of Recognized Community Planning Groups" while clearly delineating what constitutes a violation of the Brown Act versus a violation of other portions of Council Policy 600-24. In addition, references to the City Manager were changed to the Mayor's Office to reflect the City's new strong Mayor form of governance. In addition, the Policy states that planning groups will have six months from adoption of the Policy and bylaws shell to amend their bylaws.

CPC Issues

CPCI provided draft revisions to Council Policy 600-24 and the bylaws shell to CPC in their March 27, 2007 agenda packet. Staff did not request that CPC form a subcommittee to evaluate the revisions because a subcommittee had been extensively involved in the previous revision process and the current changes are more straightforward and less subject to interpretation. Further, due to the need to expeditiously revise planning group bylaws to reflect the Brown Act, staff wanted to submit changes to the City Council in a timely manner. At the March 27th meeting, CPC members requested time to review and comment on the revisions. Staff returned to CPC at their meeting of April 24, 2007 with additional revisions suggested by the City Attorney's Office. At the meeting, staff reviewed the proposed changes to Council Policy 600-24 and bylaws shell with CPC in detail.

CPC had concerns about two specific revisions to Council Policy 600-24 and the bylaws shell: requiring community elections for two or more concurrent vacancies and requiring candidates for election to have attended three planning group meetings prior to the February meeting. The provision to require elections by all eligible individuals of the community for two or more concurrent vacancies on a planning group was added to allow the community at large to have input into a majority of elected seats. However, CPC members believed the requirement was unnecessary and would create an undue burden on planning groups to conduct broad elections throughout the year. Thus, CPC approved a motion to recommend striking the proposed language. In response to this motion, CPCI has modified the language to allow planning groups to choose whether they will elect members for two or more vacancies or conduct a broader election with all eligible individuals of the community.

CPC also had a concern about the requirement that, in order to be a candidate in a March election, an eligible individual of the community must have documented attendance at three meetings prior to the February meeting. This provision was added to ensure that candidates demonstrate a proven interest in the planning group prior to running for election and to discourage single issue candidates. However, CPC considered this provision onerous and believed it would prevent good candidates from running. CPC approved a motion to recommend elimination of the requirement to attend three meetings for planning group candidates and give groups the option of choosing how many meetings, if any, would be required for candidates to run. In response, CPCI has modified the Policy and the bylaws shell to provide an option of requiring one, two or three meetings prior to becoming a candidate for election.

In addition to the formal motions, individual CPC members provided many comments on the revisions which staff has evaluated and made several modifications to the Policy and shell in response. Attachment 4 contains a summary of CPC input received and staff response to the input. Of particular concern to some of the members was Article IX of bylaws shell that outlines a procedure for planning groups to investigate alleged Council Policy 600-24 violations by a planning group member. In response to CPC input during the 2005 Council Policy 600-24 revision process, language was added to the adopted Policy to give planning groups the responsibility to investigate and try to resolve individual violations. The procedures have been further defined in the bylaws shell to

give planning groups guidance on how to conduct investigations. CPC members voiced concerns at the April 24th meeting that they lack the expertise, resources and authority to conduct investigations which may also subject them to litigation. However, staff has retained the language in order to reflect 2005 changes to Council Policy 600-24 and empower planning groups to handle violations by individual members.

Staffing

Under direction of the Mayor's Office, CP&CI provides staff assistance to the City's 42 recognized community planning groups. Upon adoption of an amended Council Policy 600-24 and bylaws shell, CPCI will work with planning groups on revisions to their bylaws. In addition, staff will begin working on revisions to the Administrative Guidelines for Council Policy 600-24 to provide recognized community planning groups with a more detailed discussion of operating procedures and responsibilities. Costs associated with providing assistance to planning groups to revise their bylaws will be managed as part of the CPCI work program, with possible delay to other community planning program elements.

In discussing Brown Act provisions that planning groups must now adhere to, several planning group members indicated they are not set up or funded to meet Brown Act requirements such as mailing agendas, providing copies of materials or retaining records. CPCI agrees with this assessment and believes these tasks should be centralized within the City. Part time administrative staff will be utilized for ongoing administrative support of the planning groups to reduce the budgetary impacts of these new requirements.

Conclusion

CPCI, on behalf of the Mayor's Office, recommends approval of the draft revisions to Council Policy 600-24 including a standardized bylaws shell. Revisions have been made to reflect LU&H input, incorporate the Brown Act and make other clarifying changes. In addition, staff has made additional revisions based on CPC input.

FISCAL CONSIDERATIONS:

Costs associated with providing assistance to all recognized community planning groups to revise their bylaws to come into compliance with the amended Council Policy 600-24 provisions will be managed as part of the CPCI work program, with possible delay to other program elements. Part time administrative staff will be utilized for ongoing administrative support of the planning groups to reduce the budgetary impacts of these new requirements.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On October 25, 2006, the Land Use and Housing Committee voted 4-0 to refer revisions to Council Policy 600-24 to the City Council to reference the bylaws shell with its standardized provisions, and to include a process for community planning groups to apply for variances with the right to appeal to LU&H.

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On October 17, 2005, the City Council voted to adopt Resolution R-300940 to amend Council Policy 600-24 and direct that planning group bylaws be amended to reflect the revised council policy by April of 20907.


COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

City staff worked closely with community planning groups and the CPC on revisions to Council Policy 600-24 that were approved in October of 2005. Proposed to incorporate LU&H direction, the Brown Act and other changes were given to the CPC on March 27, 2007 and April 24, 2007. Staff discussed the proposed changes with CPC at their April 24, 2007 meeting. As a result, staff agreed to make many of the changes to the Council Policy and bylaws shell suggested by CPC.

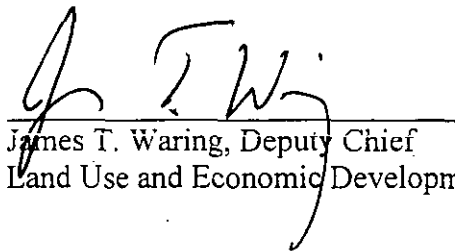
KEY STAKEHOLDERS and PROJECTED IMPACTS:

Key stakeholders in this effort are existing and prospective community planning group members who will work on and operate under revised community planning group bylaws. In addition, the revisions will positively affect City departments, project applicants and the general public who interact with community planning groups by providing more standardized operating procedures.

Respectfully submitted,



William Anderson, FAICP, Director
City Planning and Community Investment



James T. Waring, Deputy Chief
Land Use and Economic Development

WARING/ANDERSON/MPW

Attachment(s):

1. Draft Revisions to Council Policy 600-24 and the Bylaws Shell, dated May 8, 2007
2. City Attorney Memorandum of Law dated 10/27/06 titled "Application of the Brown Act to Meetings of Community Planning Groups and the Community Planners Committee"
3. Revised Council Policy 600-24 and Bylaws Shell Provisions discussed at the Land Use & Housing Committee on 10/26/06
4. CPC Comments of 4/24/07 on draft revisions to Council Policy 600-24 and the Bylaws Shell with Staff Responses