

SAN DIEGO CITY COMMUNITY PLANNING GROUPS

SUMMARY

The 2017/2018 San Diego County Grand Jury (Grand Jury) received a citizen's complaint alleging that the City of San Diego Community Planning Groups (CPGs) tend to delay hearing certain items as a method of restricting growth in their communities. CPGs make recommendations to the City Council, Planning Commission, city staff and other governmental agencies on development projects in their community.

Following an investigation of CPG actions, policies, and procedures, the Grand Jury recommends that the Mayor of San Diego:

- Review Community Planning Group boundaries and determine if consolidation of some CPGs should take place.
- Determine if the Planning Department should develop methods and provide resources to improve recruiting that could result in more diverse CPG membership.
- Determine if members of the Planning Department staff should attend all CPG meetings.
- Consider directing San Diego City Neighborhood Services Department staff to closely monitor CPG actions and provide timely guidance to preclude requests for inappropriate project additions or modifications.
- Determine if all CPG members should be required to complete the eCOW training each time they are reelected or reappointed.

INTRODUCTION

The City of San Diego General Plan, the framework for long-term zoning and planned development, is composed of 52 separate local community plans. Each Community Plan includes a set of distinct neighborhoods that share common interests. Those local interests are represented by 43 CPGs (some CPGs cover multiple Community Plans) that are organized according to Council Policy 600-24. The CPGs' responsibilities include preparation or periodic revision of the Community Plan and review of discretionary project proposals, i.e., those that involve some variation from the Community Plan.

A CPG has 12 to 20 members who represent their geographical community and its interests. Members of CPGs are elected from the CPG's geographical area and include property owners, residents, and people doing business in that area.

A proposed development in a planning area begins when a developer submits a discretionary project (a project that requires that a special permit or approval be granted at the discretion of a decision maker) to the City Development Services Department (DSD). The DSD refers the developer to the appropriate CPG for discussion and review. (Developers often elect to take their projects directly to the CPG for preliminary review prior to submission to DSD in order to expedite review and acceptance). The CPG then evaluates the proposal, considering any deviations from the Community Plan and the interests of the community, and makes recommendations regarding what is needed to warrant approval. The recommendations of the CPG, along with its final approval or disapproval of the proposal, usually carry significant weight in the City's subsequent approval of the project.

PROCEDURE

The Grand Jury interviewed:

- Members of the City of San Diego Neighborhood Services Department.
- Members of the City of San Diego Development Services Department.
- Members of the City of San Diego Planning Department, including senior planners who are assigned to Community Planning Groups.
- Chairpersons of several City of San Diego CPGs.
- Representatives of development contractors who have had experience dealing with San Diego City CPGs.
- Members of Planning and Development Services for the County of San Diego and a Chairperson of a County of San Diego Community Planning Group in order to understand the differences between city and county CPGs.

The Grand Jury reviewed:

- Bylaws of selected City of San Diego and County of San Diego CPGs.
- Agendas and minutes from recent CPG meetings.
- Articles from the San Diego Union Tribune and the Voice of San Diego.
- Report: “Democracy in Planning,” by Circulate San Diego.
www.circulatesd.org/democracy in planning.
- City of San Diego electronic Community Orientation Workshop (eCOW).
- San Diego City Council Policy 600-24, the Policy Guidance, the Administrative Guidelines for Policy 600-24, San Diego Developmental Services Community Planning Groups Informational Bulletin 620, Government Code §§54950-54963 (The Brown Act), the City of San Diego Municipal Code, and the County of San Diego Board of Supervisors Policy I-1.

DISCUSSION

The complaint received by the Grand Jury alleged that CPGs tend to delay hearing certain items as a method of limiting growth in their communities. A recent article in the San Diego Union-Tribune voiced a similar complaint.

The complaint filed with the Grand Jury suggested specific reforms, among them:

- Consolidate the 43 CPGs into 6.
- Make every effort to enforce diversity requirements for CPG membership.
- Require that CPG consideration of development projects be done in a timely manner.
- Require that training of CPG members focus on community planning issues to better prepare them to address their main charge.

Consolidation of Community Planning Groups

City Council Policy 600-24 regarding the boundaries of a planning group’s authority states:

“A boundary for a Community Planning Group’s area of authority is based on the boundary of the applicable adopted community plan. The boundary is intended to give a community planning group the advisory responsibilities over an area that has been established based on logical,

man-made, or geographic boundaries. In some cases, the City Council may determine that a boundary other than that of an adopted plan is the appropriate boundary for a Community Planning Group's oversight, and may identify an area smaller than, or more encompassing than, an adopted community plan."

The City of San Diego has 43 CPGs that cover 52 geographical areas with Community Plans. CPGs examine and make recommendations regarding discretionary developments. The Community Plans were designed to encompass, to the greatest extent possible, neighborhoods with common interests and concerns. Diverse local representation on a CPG ensures consideration of the concerns, interests, and special knowledge of the residents, property owners, and business operators in that area.

To be a member of a CPG an individual must be at least 18 years old and be affiliated with the community as a property owner, a resident, or a local business person. Diverse participation in a CPG is often a function of the degree to which development is seen as changing the character of the community. The character of the community, defined in part by the number of residents, the number of property owners, and the number of business owners, varies greatly among communities and thus impacts the ability of CPG's to maintain diverse members. CPGs that are less active or have less complex development projects often have low participation and consequently may have difficulty filling all of the seats on the board. Those that have relatively homogeneous constituencies may also have difficulty.

Some citizens have proposed that the City could increase the efficiency of its staff by reducing the number of CPGs and by expanding the size of Community Plan areas covered by selected CPGs. For example, such consolidation has already been done in establishing the Carmel Valley Planning Board, which includes the communities of Carmel Valley, Fairbanks Country Club, North City Subarea 2, Pacific Highlands Ranch, and Via De La Valle. However, similar consolidation across other communities may be difficult to achieve. San Diego is a city of neighborhood-defined CPGs that take pride in their unique identities. Consolidation of CPGs is generally seen as diluting or ignoring the individuality of each community, and would create strong opposition. Given this, it seems more reasonable to propose that only CPGs that lack sufficient public interest and encounter difficulties in filling board seats should be considered for consolidation.

Diversity of Community Planning Group composition

San Diego City Council Policy 600-24 requires a diverse CPG membership but fails to provide guidelines or recommendations for achieving that goal. Instead, it is left to each CPG to determine how this is done. Attaining diversity depends on three factors: the composition of the community, the level of interest within the community, and the recruitment efforts of city government and the CPG.

The composition of communities varies widely. For example, if there are few businesses, in a rural or predominantly residential area, it may be difficult to get much business representation on the CPG, particularly if most are small, owner-operated businesses. Interest within the community depends on the degree to which the community plan under consideration or the

proposed development projects impact that community. For example, in a residential bedroom community with little land for development, the interest of the community in its CPG may be low. But a community with multiple ongoing projects that affect housing density or involve major transportation or infrastructure construction projects may attract many potential CPG members. Council Policy 600-24 provides that “the city shall publicize the elections of the community planning groups through the City website, City TV24 programming, electronic mail, the City’s webpage, and other effective means.” That policy provides that the CPGs “...utilize means appropriate to the communities to publicize the group’s eligibility requirements for candidacy and the upcoming elections.”

Each CPG forms its board of directors by ballot under the processes required by Council Policy 600-24. Generally, with some minor variations as allowed by the policy, notices of board vacancies are published, eligible candidates from the community step forward, notices of election dates and times are published, and the members of the board are elected by the general public in attendance at the meeting. The specific terms of membership and voting are controlled by the bylaws of each CPG. The Council Policy allows local variations such as whether the candidate or voter must have attended prior CPG board meetings. The Grand Jury found no evidence that such local requirements restrict membership.

The County of San Diego has a different system for electing CPG members. San Diego Board of Supervisors Policy I-1 states: “Elections for planning groups that have been authorized by the Board of Supervisors will be conducted by the County Registrar of Voters the first Tuesday after the first Monday in November of each even-numbered year.” Policy I-1 goes on to say: “If by 5:00 p.m., on the 88th day prior to the election, the number of candidates does not exceed the number of positions to be filled, the Registrar of Voters shall not conduct an election of such planning group, but shall certify the qualified candidates to the Board of Supervisors for appointment. When the number of available positions equals or exceeds the number of qualified candidates, the Board of Supervisors shall, during a regular Board meeting, appoint qualified persons to the planning group as nominated by the Supervisor(s) of the applicable district(s).” The Grand Jury examined this policy and did not recommend that the City use this method of election because in 2012 and 2014 slates of candidates from thirteen of eighteen CPGs were not placed on the ballot because the number of candidates in the slate was less than or equal to the number of vacancies. In 2016 fifteen of eighteen slates were not placed on the ballot. Thus, the election system used by the County results in CPG members being appointed by the Board of Supervisors, rather than being elected by the public, in a large majority of cases.

In communities that have little development activity, interest in CPG membership is often low. This inactivity makes it difficult to attain and maintain membership numbers and a diverse membership. Consequently, in these communities people who are willing to serve often remain on the board for extended periods, sometimes exceeding the term limits defined in San Diego City Council Policy 600-24. The alternative is to declare the CPG inactive. Membership data from all CPGs over the last five years show that for the almost 1700 members of the 43 CPGs there have been about 80 members that have served six years, about 80 members have served seven years, about 70 members have served eight years, and about 80 members who have served nine or more years. Membership data also show that about 65% of CPGs have five or more members who have served six or more years and about 5% of CPGs have five or more members

who have served nine or more years. Of almost 1700 CPG members who have served during the past five years the City can identify the affiliation of only about 500 (~30%). The lack of affiliation data makes it impossible to analyze the diversity, or lack thereof, of City CPGs. These data demonstrate that membership of many CPGs is not as widely representative of the Community as desired because there are limited numbers of new members who volunteer to participate. It also demonstrates that term limits may be ignored when there are insufficient new volunteers. The data suggest a lack of concern by the city for the diversity of CPG membership.

Administrative Guidelines for implementation of Council Policy 600-24 are equally vague as to how the CPGs can achieve effective and diverse membership. To address these issues, the city and the CPGs need to increase awareness of the importance of membership diversity. The use of community newspapers and other outreach methods to provide necessary candidates for board positions could improve membership recruiting and result in a more diverse CPG membership.

Facilitating CPG Consideration of Development Projects

The original complaint proposed that CPGs should consider development proposals in a more timely manner. To determine how to facilitate timely review of proposals, the Grand Jury examined several issues that appear to affect the efficiency of the review process. These include reducing the need to send proposals back to the CPG for further explanation and limiting requests for modifications, some of which may appear unrelated to the original proposal.

The Grand Jury found little evidence to support the assertion that CPGs frequently make requests or demands for changes that are frivolous or unrelated to the project under review. Several witnesses mentioned a particular case in which a CPG requested that \$3.5 million be set aside for actions that had no relation to the project under review, but the City Planning Department overruled this request as it lacked legal justification. The Grand Jury found no evidence of other clearly unjustified requests, although some requests for modifications of proposals were only loosely linked to the project under review.

These incidents demonstrate that a CPG could make inappropriate requests of a developer if the Planning Department is not fully involved in the review process. Unless dealt with immediately and decisively, such requests or demands could delay the progress of the development project. When a member of the Planning Department is available at CPG meetings to advise on these matters as they arise, the CPG usually drops requests that are excessive in cost or are otherwise not feasible. Requests with a weak relationship to the project can sometimes lead to beneficial, or at least acceptable, compromises if the Planning Department becomes involved to ensure compliance with applicable rules and standards. If demands that are judged to be unreasonable persist, the Planning Department can refer the project to the Planning Commission or the City Council for resolution. If a Planning Department representative is not involved when these issues arise, the resolution is generally delayed at least until the next CPG meeting, one month later, while the matter is submitted to the Planning Department. If City of San Diego Planning Department staff were required to attend all meetings of their assigned CPGs they would be able to intervene and provide timely, professional advice with an increase in efficiency and a reduction in processing time.

Prior to the onset of the “Great Recession” in 2008, Planning Department representatives attended almost every CPG meeting and were available for immediate response to questions raised during consideration of discretionary development and other issues. However, as development activity declined, the City reduced staffing levels and the Planning Department reduced the frequency of its attendance at CPG meetings. Unless more intensive involvement was required, as when a CPG was revising its community plan, visits were reduced to about once each quarter. As the economy improved, the City has actively promoted development. Some controversial projects involving infill or affordable housing have created a more pressing need for immediate staff advice to expedite project evaluations.

CPG members are volunteers; motivated, well-meaning citizens, who may, nevertheless sometimes act without legal justification by raising issues outside the scope of the proposal. Such incidents could be minimized if professional Planning Department staff members were present at CPG meetings to alert the group to potential problems or errors. Similarly, CPGs could review development projects more efficiently if Planning Department staff attended every CPG meeting to answer procedural questions. Simply examining a CPG meeting agenda to anticipate issues needing City Planning Department input is ineffective because there can be unexpected questions or issues that result in delays. Any additional costs incurred by requiring Planning Department staff attendance at every CPG meeting could be balanced by reduced project approval times.

City of San Diego CPG member training.

San Diego City Council Policy 600-24, Article 6, Section 6 states: “It shall be the duty of each recognized community planning group member to attend an orientation training session administered by the City as part of planning group and individual member indemnification...” The City conducts training for new CPG members by the Community Orientation Workshop (COW); an electronic version (eCOW) is available online. New planning group members must become “COW certified” by attending an annual COW within 60 days of being elected or appointed to the planning group. The training facilitates compliance with Policy 600-24 and the Brown Act, as well as providing the basis for legal defense and indemnification of members. As an alternative to the annual COW meeting, CPG members may meet this requirement by taking the online eCOW, but only if attending the in-person workshop is not possible within 60 days. City Planning Department representatives can also provide additional training to CPG members by providing guidance on specific issues raised during CPG meetings. Under present policy no further training or refresher training for continuing CPG members is required. Since some members are reelected for subsequent three or four year terms, there should be a requirement for refresher training to ensure members stay current on appropriate planning policies and procedures.

Finally, the Grand Jury noted that an independent study on San Diego City CPGs, *Democracy in Planning* by Circulate San Diego, although focused on changing the way CPGs conduct meetings and elect members, made some of the same recommendations (ongoing training, City staff attend CPG meetings, member diversity) as are contained in this report.

FACTS AND FINDINGS

Fact: The City’s Community Plan boundaries created within the General Plan establish community planning areas that are determined by the character of that area.

Fact: Community Planning Groups are established to maintain adherence to the community plan and to represent the interests of the residents, property owners, and business owners in each community planning area.

Fact: The City can identify the affiliation (resident, property owner, business owner) of only about 30% of the members of the CPGs for the past five years.

Fact: Planning group members are elected by and from eligible members of the community.

Fact: To be an eligible community member, an individual must be at least 18 years old, and shall be a community property owner, resident or local business person.¹

Fact: Term limits for board membership may be ignored or overridden if there is not a sufficient number of new candidates for election.

Finding 1: The work of some Community Planning Groups can be delayed by a lack of diverse membership and citizen interest.

Finding 2: The degree to which members of CPGs are representative of the geographic sections of the community and diverse community interests cannot be determined.

Finding 3: Selective consolidation of some CPGs in adjacent areas could, in some cases, increase diversity and facilitate the review and processing of development proposals and community plans

Fact: CPGs review discretionary projects and make recommendations to the City government on land use matters.

Fact: In their advisory capacity Community Planning Groups sometimes request from developers additions or modifications to a project that are unrelated or only marginally related to the proposed development.

Finding 4: San Diego City Council Policy 600-24 Guidelines provide sufficient guidance on inappropriate additions or modifications.

Finding 5: If a request with a marginal relation to a project occurs, it can either be resolved by the city staff without significant delay in the process or form the basis for satisfactory compromises between the developer and the CPG.

Fact: San Diego City Council Policy 600-24 and the guidelines relative to that policy provide guidance for the diverse composition of the CPGs.

Fact: Diverse membership is necessary to represent the varied residential and business interests of the community.

¹ San Diego City Council Policy 600-24, Article 3, Section 3

Finding 6: Membership of some CPGs is not sufficiently diverse to represent their communities.

Finding 7: In some cases, there are insufficient volunteers to allow CPGs to maintain a diverse membership.

Finding 8: Neither the CPGs nor the City have recruitment procedures that meet the stated goal of increased diversity.

Fact: Members of the City of San Diego's Planning Department do not attend every CPG meeting.

Finding 9: Policy, procedure, or development issues sometimes arise during CPG meetings and if left unanswered or incorrectly answered, can result in unnecessary confusion or delays.

Finding 10: If members of the City Planning Department attended all CPG meetings, issues could be resolved in a timely manner.

Fact: The City of San Diego conducts an annual in-person Community Orientation Workshop (COW) and has an electronic version (eCOW) of that training available on-line.

Fact: City of San Diego new CPG members receive training when they initially assume their duties.

Fact: Continuing CPG members are not required to review the orientation materials once they have begun serving on the board.

Finding 11: The training provided by the City of San Diego - the Community Orientation Workshop (COW) or the electronic version (eCOW) - provides adequate preparation for new CPG members.

Finding 12: Periodic review of training materials would help continuing board members stay current on the Brown Act and changes in City policies.

RECOMMENDATIONS

The 2017/2018 San Diego County Grand Jury recommends that the Mayor of the City of San Diego:

18-01: Review Community Planning Group boundaries and determine if consolidation of some CPGs should take place.

18-02: Determine if the Planning Department should develop methods and provide resources to improve recruiting that could result in more diverse CPG membership.

- 18-03: Determine if members of the Planning Department staff should attend all CPG meetings.**
- 18-04: Consider directing the San Diego City Neighborhood Services Department staff to closely monitor CPG actions and provide timely guidance to preclude requests for inappropriate project additions or modifications.**
- 18-05: Determine if all CPG members should be required to complete the eCOW training each time they are reelected or reappointed.**

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if

requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
Mayor, City of San Diego	18-01 through 18-05	7/17/18