

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: February 16, 2007
TO: Honorable Mayor and City Council
FROM: City Attorney
SUBJECT: **Second Docketing Request:** Approval of Newly Adopted Bylaws for the La Jolla Community Planning Association, Inc. Per Council Policy 600-24

Please docket for consideration the approval of the La Jolla Community Planning Association, Inc., [LJCPA] newly adopted bylaws on the City Council agenda as soon as possible. This is our second docketing request. See Attachment 1, February 2, 2007 docketing request.

The City Attorney is in receipt of the February 13, 2007 memorandum from Deputy Chief Jim Waring to Council President Scott Peters advising the City Council against approval of the newly adopted bylaws for the La Jolla Community Planning Association. (Attachment 2.) The City Attorney is also in receipt of the February 15, 2007 memorandum from Council President Scott Peters responding to the City Attorney's request to docket the newly adopted bylaws for the LJCPA and Mr. Waring's request to not docket the request. (Attachment 3.) By his February 15, 2007 memorandum Council President Peters denies the City Attorney's docketing request and further provides legal advice as to how the LJCPA may proceed:

The LJCPA is not without recourse to address issues related to its upcoming elections. According to the attached memorandum [Attachment 2], the Mayor's Office is prepared to consider on an expedited basis amendments that address two main goals of the LJCPA's ad hoc bylaws committee: to eliminate proxy voting and to decrease the number of meetings required for voting.

In order to make these two aspects of its proposed bylaws revisions effective for its March 1, 2007 election, the LJCPA would need to convene a special meeting, vote to approve these two revisions, and submit those revisions to CPCI. Given the time-sensitive nature of the request, CPCI has committed to reviewing and approving these amendments within 48 hours of submission. I respectfully request that the City Attorney review and approve these two amendments within the same expedited timeframe.¹

See Attachment 3. The issues raised regarding the LJCPA are legal questions. The City Attorney is the Chief Legal Advisor to the City. The City Attorney has advised the LJCPA, CPCI, and the Council President regarding these legal questions. It is not necessary for the LJCPA to hold yet another meeting to adopt the same changes to the LJCPA bylaws approved by the LJCPA at a special meeting on January 18, 2007 and ratified by the LJCPA on February 1, 2007.

The February 13, 2007 memorandum states, in part:

Limiting changes to the LJCPA bylaws to the selective amendments, which were discussed in the January 29 letter [Attachment 4] to the LJCPA, would serve as an interim measure to address the issue of proxy voting and membership and voting requirements in time for their utilization for the March 2007 planning group elections. The CPCI staff believes these two amendments could be found consistent with the adopted Policy and could be approved by the CPCI Director and City Attorney within one week of submission of the selective amendments after approval and forwarding by the LJCPA.

See Attachment 2. Council Policy 600-24 provides that subsequent amendments to adopted bylaws of community planning groups may be approved by the Planning Director and City Attorney if determined to conform with the Policy. Bylaws that deviate from Council

¹ Charter Section 40 provides, in part "The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties..." Council President Peters is not the legal advisor to the City and is not authorized to practice law as a City Councilmember. Further, Council President Peters is on inactive status with the state bar. Charter Section 12 (j) provides, "Council members, including the Mayor, shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties." Council President Peters has been admonished repeatedly not to provide legal advice to the City.

Policy 600-24 must be presented to the City Council for approval. The City Attorney and Planning Department have determined that certain provisions in the newly adopted LJCPA bylaws do not conform with Council Policy 600-24 and, therefore, must be taken to the City Council for approval. The City Attorney has already determined that the LJCPA bylaw changes regarding the elimination of proxy voting and the change to the membership requirements to reduce the attendance requirements from three meetings to one meeting are in conformance with Council Policy 600-24.

The LJCPA does not need to hold another special meeting. The LJCPA does not need to re-adopt the bylaws, nor re-adopt any subset of the bylaws. Those changes in conformance with Council Policy 600-24 have already been approved by the City Attorney. Only those changes not in conformance with Council Policy 600-24 must be approved by the City Council.

The City Attorney encourages prompt action to address the concerns of the LJCPA.

MICHAEL J. AGUIRRE, City Attorney

By



Karen Heumann
Assistant City Attorney

KH:jb

Attachments

cc: Jim Waring, Deputy Chief, Land Use and Economic Development
Bill Anderson, Director, City Planning and Community Investment
Betsy McCullough, Deputy Planning Director, City Planning and Community Investment
Tim Golba, President, La Jolla Community Planning Association, Inc.