



**COUNCIL PRESIDENT SCOTT PETERS  
FIRST DISTRICT**

**MEMORANDUM**

DATE: February 15, 2007

TO: James T. Waring, Deputy Chief, Land Use and Economic Development  
Michael Aguirre, City Attorney

FROM: Council President Scott Peters 

SUBJECT: La Jolla Community Planning Association's Proposed Bylaw Amendments

---

Thank you both for your efforts to assist the citizens of La Jolla in updating the bylaws of the La Jolla Community Planning Association ("LJCPA"). I am in receipt of a memorandum from the Mayor's staff requesting that the LJCPA's proposed bylaw amendments not be docketed until the City Planning and Community Investment ("CPCI") Department completes revisions to Council Policy 600-24.

When the City Council is asked to waive provisions of Council Policy 600-24 and to accept bylaws that do not conform to it, both CPCI and City Attorney review are required prior to Council action. Without CPCI review, City Council action on this matter would be ill-timed and, therefore, based on the request made by the Mayor's staff, the item will not be docketed at this time.

The LJCPA is not without recourse to address issues related to its upcoming elections. According to the attached memorandum, 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.

I urge the LJCPA to proceed in this manner so that two of the committee's major changes can be implemented in time for the upcoming elections.

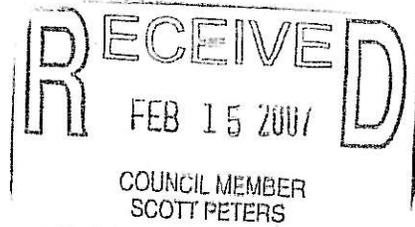
I thank the Mayor's office for facilitating expedited review of these issues out of respect for the ad hoc committee's diligent efforts to revise its bylaws. This interim measure will ensure that the elections will proceed in a more democratic manner.

The Mayor's staff has repeatedly directed the LJCPA to use its existing bylaws and has advised the LJCPA membership that continued violation of Council Policy 600-24 would result in a recommendation to the City Council that the LJCPA be decertified. I value the input of the LJCPA and do not want this board to lose recognition as an official advisory body to the City. I encourage the LJCPA to comply with the request made by the Mayor's staff. Continued noncompliance will trigger decertification and accompanying loss of indemnification.

Again, I thank the City Attorney for bringing this item to our attention and look forward to working with both the City Attorney and CPI in the next few months regarding changes to the Policy and the standardized bylaws.

cc: William Anderson, FAICP, Director, City Planning and Community Investment  
Betsy McCullough, AICP, Deputy Planning Director, City Planning and Community Investment  
Karen Heumann, Assistant City Attorney, City Attorney  
Alex Sachs, Deputy City Attorney, City Attorney

CITY OF SAN DIEGO  
MEMORANDUM



DATE: February 13, 2007  
TO: Council President Scott Peters  
FROM: James T. Waring, Deputy Chief, Land Use and Economic Development  
SUBJECT: Docketing Request: Approval of Newly Adopted Bylaws for the La Jolla Community Planning Association

---

The City Planning and Community Investment (CPCI) Department was copied on email correspondence, dated February 2, 2007, (see Attachment 1) from the City Attorney's office requesting the docketing of bylaws recently approved and put into effect by the La Jolla Community Planning Association (LJCPA). The Mayor's office advises the City Council against authorizing bylaw amendments for the LJCPA, or any recognized community planning group, in advance of revisions to Council Policy 600-24 (Policy) "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups" that are in process.

Why is the Mayor's office making this request of Council? What difference does it make if the LJCPA wants to amend its bylaws? The answer is that this issue is not a La Jolla issue. It is an issue for a system with 42 individual community planning groups. If the planning group system is going to survive, to which both the Mayor and Council are firmly committed, there must be standardization of process. Can we as a City say it is okay for La Jolla to write its own bylaws and then deny that right to other groups? Of course not.

The fact is, the City does not have the staff necessary to individualize community planning group procedures. And even if it did, would that really be a good use of taxpayer money? Planning groups were created to advise the City on local land use matters. That is the work and where the focus must be. Focus anywhere else is a waste.

This is especially true, given the City Attorney's recent opinion on the application of the Brown Act to recognized planning groups. Following this opinion will increase the administrative burden on individual groups and City staff. The preliminary CPCI budget has been modified to provide \$250,000 in new personnel expenses and \$100,000 in non-personnel expenses solely for community planning group administrative support. And these numbers assume uniform bylaws!

Without qualification, I can say that opening up bylaw customization across the City will create chaos that may ultimately lead the City being unable to provide any organizational or administrative support. At that point, these hard working volunteer citizens will find themselves having to address complex questions of governance and Brown Act compliance, which could make it impossible for them to do the work they want to do. We must not let this happen.

Please keep in mind that the La Jolla group, or any group, may adopt any rules of operation they choose. The issue is whether they will be recognized as an official planning group. Official groups receive indemnification from and representation for the City and have their votes recorded on staff reports to the Planning Commission and City Council. Recognition as an official group is a privilege not a right. If any given group believes the restrictions the City imposes as a condition to the privilege of recognition are too great, they can operate without certification, as many citizens groups do.

As a procedural matter, proposed bylaw amendments are reviewed by the CPCI Director and City Attorney for conformance with the Policy. If proposed bylaw changes are not consistent with the Policy, and the planning group and City staff cannot develop provisions that suit the needs of the planning group and meet the requirements of the Policy, then the proposed bylaw amendments require approval by the City Council.

In October, 2005, the Policy was amended and community planning groups were directed to update their bylaws within 18 months to comply with the Policy changes. CPCI staff had been working on a uniform bylaws shell that incorporated the Policy changes. In addition, an approach to standardization that would allow for options or exceptions was discussed with the Land Use and Housing Committee on October 25, 2006.

On October 27, 2006, in a Memorandum of Law, the City Attorney concluded that recognized community planning groups, created by the Policy, are governed by the Brown Act and must comply with its provisions. As a result, CPCI advised all recognized community planning groups to stop their bylaw update efforts, pending revisions to the Policy that would further standardize operating procedures and incorporate revisions to implement the Brown Act. Planning groups were advised to operate under their adopted bylaws until that time.

Policy revisions will be taken to the City Council in the next few months. The proposed revisions attempt to establish a standard operational foundation for planning groups and bring planning groups into compliance with the Brown Act. The compliance period for the 2007 revisions to the Policy will be extended six months upon City Council adoption. At that time, staff will work with the planning groups to revise bylaws and approve those that are in compliance with the Policy.

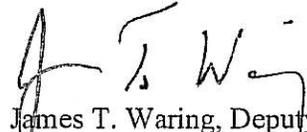
In a letter to the LJCPA, dated January 29, 2007 (see Attachment 2) Tim Golba, Chair to the LJCPA, was advised against premature bylaw amendments given that the Policy is being revised. However, at a February 1, 2007 meeting of the LJCPA, the membership voted to adopt changes to their bylaws and to put them into effect prior to City Council consideration of deviations from the Policy.

We recognize the importance of remedying the proxy voting provisions of the current City-approved LJCPA bylaws and the desire for changes to the membership and voting requirements to ensure greater voter participation in the March 2007 elections. In deference to the hard work undertaken by the LJCPA ad hoc bylaws subcommittee to bring their bylaws into compliance

expeditiously in response to a lawsuit filed in 2006, my staff and the City Attorney's office have made a commitment to immediately review and approve selective amendments related to proxy voting and membership and voting requirements.

Limiting changes to the LJCPA bylaws to the selective amendments, which were discussed in the January 29 letter 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. The LJCPA has been informed that these bylaw changes represent only an interim step, and that the LJCPA bylaws would need to be fully amended to incorporate provisions of the Brown Act and Policy changes that are being drafted.

Therefore, the important matters of expanded participation can be addressed before the next elections, without the potential negative consequences of a loss of uniformity and discipline in the governance procedures.



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

JTW/CW/ah

Attachments:     1. Email from Alex Sachs, Deputy City Attorney  
                      2. Letter to Tim Golba, Chair, LJCPA

cc: William Anderson, FAICP, Director, City Planning and Community Investment  
Betsy McCullough, AICP, Deputy Planning Director, City Planning and Community Investment  
Mike Aguirre, City Attorney, City Attorney's Office  
Karen Heumann, Deputy City Attorney, City Attorney's Office  
Alex Sachs, Deputy City Attorney, City Attorney's Office

**From:** Alex Sachs  
**To:** Betsy Kinsley; Betsy McCullough; Cecilia Williams; Chris Cameron; Clementina Giordano; Ed Plank; Keely Sweeney; Lesley Henegar; Michelle Strauss  
**Date:** 2/2/2007 2:36:04 PM  
**Subject:** 1472 - Request for Approval - La Jolla CPA Bylaws

Hi:

As most of you know, the City Attorney has determined that the bylaws approved by the La Jolla CPA and ratified last night are consistent with the CP 600-24. To the degree they deviate from CP 600-24, they are within the scope of deviations which the City Council can approve.

Earlier this afternoon I delivered the attached 1472 packet to Council President's office, w/a copy to the Docket Office on 9th floor.

The City Attorney's request was for this to be docketed on Tuesday, February 6th, given the timeliness of the action in advance of the March LJCPA elections (and the legislative recess the week after next). We understand from Scott's office that this is not possible, next week, but the the item will be docketed in normal course.

We just wanted to give you all a heads up on this. Cecilia and Lesley and Keely talked w/us about this last night. Thanks. Alex @@@@

Alex W. Sachs  
Deputy City Attorney, Real Property Section  
Office of the San Diego City Attorney  
619/533-5800 - 619/533-5875 (direct)

**CC:** Catherine Bradley; Jeff Van Deerlin; Karen Heumann; Kathryn Burton



## THE CITY OF SAN DIEGO

January 29, 2007

Tim Golba  
Chair, La Jolla Community Planning Association  
c/o Golba Architecture Inc.  
1025 West Laurel Street Suite 106  
San Diego, Ca 92101

Dear Mr. Golba:

In an email to Alex Sachs and Betsy McCullough dated January 18, 2007, you asked for answers to three questions:

1. With the adoption of these bylaws that are not approved by the City, will the City of San Diego indemnify the LJCPA while the newly adopted bylaws are reviewed by City Staff?
2. Will the city continue to recognize the LJCPA if we operate under the newly adopted bylaws?
3. Will this in anyway expose the LJCPA to de-certification if we begin to operate under these bylaws as adopted by members of the Corporation?

These questions followed a special meeting of the recognized community planning group held to adopt revised bylaws that had been developed by a subcommittee. We have answered all three questions below.

If the La Jolla Community Planning Association (LJCPA) continues to operate under current City-approved bylaws while City staff reviews your revised bylaws, you will be indemnified as a recognized community planning group under Council Policy 600-24 (Policy) "Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups" until your new bylaws are approved by the City. The exception would be if you utilize proxy voting which is now prohibited in the updated Policy. All recognized community planning groups have been instructed to refrain from proxy voting, even if contained in their current bylaws, until bylaws are revised to remove the provision.

If the LJCPA chooses to operate in accordance with bylaws that were approved at the January 18 meeting which have not yet been reviewed or approved by the City, you are in violation of Policy. Bylaw changes adopted by a planning group are not in effect until they have been approved by the City. If the LJCPA operates under a set of bylaws that have not



**Land Use and Economic Development**  
202 C Street, MS 9B • San Diego, California 92101-3864  
Tel (619) 235-5716 • Fax (619) 236-7344

been approved by the City, City staff would be in the position of recommending to the City Council the removal of planning group recognition from the LJCPA unless the indisputable Policy violation is immediately remedied. Also, please be advised that a clear and knowing violation of the Policy removes the protection of the Indemnification Ordinance.

Since it is always our goal to recommend remedial action to a recognized community planning group before engaging in a more drastic course of action, we recommend the following to the LJCPA:

1. Continue to operate in accordance with your current City-approved adopted bylaws with the aforementioned exception of proxy voting.
2. If the LJCPA wishes to adopt, and have City review of, the *LJCPA Corporate Bylaws Final Draft December 15, 2006*, the LJCPA must initiate another vote on the proposed bylaws to submit to the City given that the quorum of the planning group was lost on January 18 prior to the final vote on the bylaws. In accordance with the Policy and Roberts Rules of Order, a quorum must be present to conduct business. As a corrective action, the City Attorney proposes the LJCPA agendaize for their next meeting, consideration of the ratification of actions taken without a quorum. As a procedural matter, proposed bylaw amendments are reviewed by the City Planning and Community Investment (CPCI) Director and City Attorney for conformance with Policy. If proposed bylaw changes are not consistent with the Policy, and the planning group and City staff cannot develop provisions that suit the needs of the planning group and meet the requirements of the Policy, then the proposed bylaw amendments require approval by the City Council. Only the City Council may waive provisions of the Policy and approve amendments that are exceptions to the Policy. Please be advised that a preliminary review of the *LJCPA Corporate Bylaws Final Draft December 15, 2006* identifies provisions that are exceptions to the Policy and outside the scope of approval by City staff. Therefore, the proposed bylaw amendments cannot be approved by the CPCI Director and City Attorney, and require review and approval by the City Council.
3. Alternatively, staff acknowledges that a recommendation posed at the LJCPA meeting on January 18 for selective amendments related to proxy voting and membership and voting requirements, rather than the wholesale changes to the bylaws, was discussed but not made subject of a formal motion. Limiting changes to the LJCPA bylaws to the selective amendments that were discussed at the January 18 meeting could be an interim measure to address the issue of proxy voting and membership and voting requirements. The City 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.

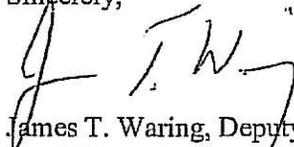
Page 3  
Mr. Golba  
January 29, 2007

All recognized community planning groups were advised to cease their bylaw update efforts until the Policy was revised, and to operate under their adopted bylaws until that time. While we advise the LJCPA against premature bylaw amendments given that the Policy is being revised to incorporate provisions to implement the Brown Act, we recognize the importance of remedying the proxy voting provisions of the current City-approved bylaws and the need for changes to the membership and voting requirements to ensure greater voter participation in the March 2007 elections. Be advised that the remedial actions for bylaw changes represent only an interim step, and that the LJCPA bylaws would need to be fully amended to incorporate provisions of the Brown Act and Policy changes that are being drafted.

Policy revisions will be taken to the City Council in the next few months. The compliance period for the 2007 revisions to the Policy would be extended 6 months upon Council adoption.

Finally, it has been asserted that the LJCPA's corporate status allows it to undertake certain actions without regard to the City's requirements of recognized community planning groups. That very well may be true, however, any action undertaken without regard to the requirements of Policy cannot be legitimized on the basis of the LJCPA's corporate status. Obviously the City cannot dissolve the corporation; however, the City Council can remove the planning group recognition conferred by Policy to the corporation. Continued violation of the Policy will result in such a recommendation to the City Council.

Sincerely,



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

JTW/BAM/CW/ah

cc: Scott Peters, Council President, Council District 1  
Bill Anderson, Director, City Planning and Community Investment  
Betsy McCullough, Deputy Planning Director, City Planning and Community Investment  
Cecilia Williams, Program Manager, City Planning and Community Investment  
Lesley Henegar, Senior Planner, City Planning and Community Investment  
Karen Huemann, Deputy City Attorney, City Attorney  
Alex Sachs, Deputy City Attorney, City Attorney