

## **TIERRASANTA BYLAWS REVIEW – SUMMARY SHEET**

Council Policy 600-24 was updated in November 2014. As directed by City Council, community planning groups have been tasked with updating bylaws to reflect the changes to the council policy including removing references to the “elections handbook,” new applicability of the Brown Act and availability of a Bylaws Shell that provides structure for many topics that the handbook suggests bylaws include. City staff has drafted an amendment to the Tierrasanta Community Council bylaws to comply with Council Policy 600-24.

The following items were identified by City Staff as possible revisions to the group’s bylaws. Please review and provide recommendations on each item.

1. Article I – Name, Section 6 – staff recommends that this section be removed. Inclusion of the location and address of the Tierrasanta Community Council would require a vote by the planning group to change the bylaws if the location ever changed.
2. Article II – Purpose of the Community Planning Group and General Provisions, Section 6 – Bylaws are not permitted to prevail over Council Policy
3. Article III – Community Planning Group Organizations, Section 1 – staff recommends that the language in this section becomes less stringent to allow meetings to be requested from additional parties and the opportunity for meeting to be cancelled in the listed months.
4. Article III – Community Planning Group Organizations, Section 2 – Geographies that make up the planning group was moved to this section to be better consistent with the bylaws shell. Staff suggests that one or two members be required from each geography with the remainder of positions going to the highest votes no matter where those potential members work or live. Text was moved in this section to more relevant articles regarding vacancies and elections.
5. Article V – Elections, Section 5 – Planning Groups can no longer reference the Elections Handbook in the bylaws, but must include the election requirements either here in Article V or later in Article VIII.
6. Article VI – Community Planning Group and Planning Group Member Duties, Section 2 – Add number of committee members to the bylaws. It is required that a set number be established for committees in order to meet quorum and Brown Act requirements. Additionally, remove text stating the committees can have a majority of members that have served as Tierrasanta Community Council members in the past. This is not permitted.
7. Article VIII – Planning Group Policies and Procedures, Section 2 – text was relocated to the section on vacancies. Additionally, it is noted again, that this is a possible location for adding information relating to the election process.
8. The additional ten pages that include exhibits and the election process need to be added to this document for review.

## **ELECTIONS POLICIES & PROCEDURES REVISIONS TO YOUR BYLAWS**

All community planning groups are being asked to remove references to the “Elections Handbook” which was prepared in 2004 and attached to the Administrative Guidelines at that time. The Handbook contains advice & information that is incorrect based on some significant changes to Council Policy 600-24 in 2007 & 2014 including: removal of references to “general membership”; new applicability of the Brown Act; and, availability of a Bylaws Shell that provides structure for many topics that the Handbook just suggested bylaws include.

Article V, in possible combination with Article VIII, should provide all the election guidance required by your CPG. The Administrative Guidelines are now the advisory source. The Elections Handbook was reviewed and several issues identified as important were added into the Administrative Guidelines discussions in Article V.

Below is a checklist compiled from Council Policy 600-24, the Bylaws Shell, and the Administrative Guidelines which identifies all the topics that should be addressed in your bylaws in either Article V or VIII.

- Setting election date/s and time/s and location, including poll closing time
- Identifying the election as [possibly] concurrent with, BUT NOT AT, your regular March meeting
- Clarifying that an election concurrent with a cpg meeting is separate from the meeting in order to allow secret written ballots
- Methods of promoting the upcoming election
- Managing the process: establishing an Election Committee, management of poll location/s, detail handling of voting and if there are multiple voting locations; allowing mail-in ballots?
- Candidate eligibility: verification of eligibility; requiring a candidate statement?; determining eligibility of write-in candidates if anticipated
- Dealing with candidate's absence from scheduled candidates' forum
- Poll management: verification of vote eligibility advertised and handled at the polls; prohibiting electioneering at time of voting;
- Ballot control: assuring proper categorization according to seats; how many seats available; write-in candidate availability; tie-breaking procedure; using plurality to declare winner?
- Counting ballots – when, by whom, how to account for a candidate beyond 8/9 years; write-in candidate determination when counting
- Holding of the election ballots post-election; maintaining the confidentiality of secret written ballots
- Reporting results to the chair; identifying next steps if a seat remains unfilled
- Election challenge criteria and procedures – see draft revisions of Administrative Guidelines Article V, Section 4 on next page; your bylaws can reference this process, or include it if preferred.
- Installation of new members

## **EXCERPT FROM DRAFT ADMINISTRATIVE GUIDELINES**

### **ARTICLE V    Elections**

#### **Section 1. Election Timing & Procedures**

Article V addresses planning group election procedures. The planning group must make the election process fair, open, objective, and accessible, to the entire community of eligible voters. Council Policy 600-24 establishes a few mandatory election requirements but charges each planning group with the responsibility of adopting specific election procedures. Community planning groups may find the most recent edition of Roberts Rules of Order useful to develop election procedures that will give the entire community confidence in planning group elections. Such confidence is more likely to result in trust, acceptance and in fewer election challenges. Also, consulting with other community planning groups with successful election procedures is recommended.

General elections for all community planning groups are held during the month of March every year or every other year. Community planning groups should seek enough new candidates to exceed the number of seats open for election. Community planning group bylaws shall establish a minimum number of meetings required to have attended in order to be a candidate for election as outlined in the Bylaws shell. However, candidates must have attended a minimum of one of the group's last 12 meetings prior to the February noticed regular or special meeting of the full planning group. Each community planning group's bylaws must specify the number of meetings a potential candidate is required to attend: it is an OPTION presented in the bylaws shell. Some groups have indicated issues with an individual signing into the meeting for purposes of establishing attendance and then leaving without staying for the business of the meeting. It is up to individual groups to determine if their bylaws/election procedures qualify the length of time someone must remain at the meeting in order to have it qualify toward the required number of meetings, e.g.: for the voting items of the meeting; or for the time of the meeting as identified on the agenda. Identifying the requirement proactively removes potential disagreements later about whether an individual was at the meeting 'long enough'.

Community planning groups are asked to adopt specific election procedures and place them in their bylaws: groups should address the following election procedures in writing prior to the election in a format available to all group members, potential candidates, and the public.

- Verification of candidate eligibility prior to printing a ballot
- Creating a ballot with all candidates appropriately represented
- Handling of write-in candidates, if applicable, including how to verify eligibility for a write-in candidate's name on a submitted ballot
- Handling of a candidate's absence from a scheduled candidates' forum
- Location(s) of polls, including managing multiple concurrent polling locations, if allowed
- Clarifying that the election is NOT AT but may be CONCURRENT WITH the group's regular March meeting
- Management of the polls

- Verification of voter eligibility (i.e. driver's license, utility bill)
- Ballot construction & content
- 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 a candidate continuing beyond eight or nine consecutive years of service
- Clarifying whether a plurality voting system is being used, or if a majority is required for a seat to have a declared winner
- Ballot record keeping
- Tie-breaking procedures
- Election challenge procedures
- Timing of installation of newly elected members
- Maintaining confidentiality of secret written ballots
- Prohibition of electioneering (actively trying to convince voters to vote for a specific candidate at the time of the election)
- Next steps if a seat remains unfilled due to lack of, or ineligibility of, a candidate, or as a result of a successful election challenge

When a community planning group plans to provide the opportunity to vote on more than one date in March, these procedures must be outlined in their adopted bylaws. If the community planning group wants to use this option and it is not in the adopted bylaws then the voting procedures for such an election must be submitted to the offices of the Mayor and City Attorney, respectively, for review and approval at least 45 days in advance of the first day of voting.

## **Section 2. Publicizing Elections**

Community planning groups must demonstrate a good faith effort to publicize planning group elections and candidate eligibility requirements. They may use their own websites, posting notices at libraries, grocery stores, and other community meeting places as well as sending emails and placing a notice in the community newspaper. In addition, the City uses TV24 and the City's website to publicize the planning group election season.

A chairperson can raise the visibility of being a planning group member by indicating the role of the group and its members at the start of each meeting. The chair can provide a brief statement about the duties of the group and what kinds of actions the group may be taking. The chair can mention the group operates under its own bylaws which are consistent with the overarching Council Policy 600-24. Some chairs do this regularly, but it can be done particularly in the months leading up to the election to add to the group's advertising efforts.

### **Section 3. Voting by Secret Ballot**

Voting in a separately-scheduled election by secret ballot is allowed even though voting by community planning group members to fill a vacancy at a noticed group meeting (as discussed in Article IV, Section 1) must be public. An election that is held separately from a Brown Act-noticed meeting does not constitute a “meeting” of a community planning group and is therefore not subject to the public meeting requirements. A community planning group vote at a meeting of the group, including but not limited to electing officers or filling a vacancy, if done by written ballot, must be publicly reported according to the Brown Act Section 54953(c)(2) , including who voted for, against, or abstained. If a vote is conducted verbally, it should be recorded in the minutes.

Council Policy 600-24 states that if voting follows or precedes a regular meeting of the planning group that ballots must be available for a specified period at the election.

A proxy is the authority given by one person to another to vote in his/her stead. Per Roberts Rules of Orders, proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and non-transferable. In this section, CP 600-24 states that proxy voting in elections is not allowed under any circumstances. (Note that this is a deviation from rules of a non-profit organization. If a community planning group is also a non-profit, and the group members are also members of the non-profit board, then voting for the community planning group members must follow CP 600-24 and not the non-profit criteria for selecting new board members.)

### **Section 4. Finalizing Election Results**

An election becomes final after announcing the election results at a noticed community planning group meeting unless explicitly stated otherwise in the group’s bylaws. Time must be allowed for voting to be concluded, votes counted, results announced, and for a challenge to be submitted to the Election Subcommittee. The ability and criteria to challenge the election must be stated as part of the publicity for the election. This allows for the seating of new community planning group members in April as required by CP 600-24. The most straightforward way to display your challenge process is to write the process clearly in your bylaws and reference that section in your election publicity.

A recommended sequence to reflect in Election Procedures that a community planning group is asked to put into Section 5 of this Article in their bylaws would be:

- Conduct the voting and convene (or reconvene) the group meeting
- Election Subcommittee members, or other identified group members, count the ballots; confirm the eligibility of any write-in candidates who attract enough votes to put them into a position to potentially win the seat
- The Election Subcommittee (or group) chair announces the results of the election. Also announced is the 24-hour period allocated for the Elections Subcommittee to receive a challenge to the election
- If no challenge is received then the results become final and will be certified by the community planning group chair and forwarded to the City. New members are seated for the group’s April regular meeting
- If a challenge is received, the Elections Subcommittee immediately discusses the

challenge to determine if there is any substance provided by the individual filing the challenge and whether: either there is no substance to the challenge and the election results can be certified, new members can be seated in April and a ratification vote of the Subcommittee's findings can be placed on the April agenda for a majority vote of the voting members of the community planning group; OR whether there is substance to the challenge and the group officers should discuss with the Subcommittee the appropriate resolution, including declaring a seat vacant and determining how to fill it, or declaring a new election is needed.