

(O-88-185 REV. 1)
ORDINANCE NUMBER O-17086 (NEW SERIES)
ADOPTED ON APRIL 25, 1988

AN ORDINANCE PROVIDING FOR LEGAL
REPRESENTATION TO AND INDEMNIFICATION OF
COMMUNITY PLANNING COMMITTEES AGAINST CLAIMS
FOR DAMAGES.

WHEREAS, the successful implementation of the Progress Guide and General Plan of The City of San Diego requires the thoughtful and deliberate development of community plans; and

WHEREAS, the development of community plans requires the cooperation and participation of citizens who have the personal knowledge of the needs and aspirations of their respective communities; and

WHEREAS, the City Council has adopted Council Policy 600-5 entitled "Community Plans" which provides in part:

1. That in urbanized areas the citizens' group has established, to a reasonable degree, a formal organization structure which is capable of providing proper coordination and communications with City staff forces. In nonurbanized areas the Planning Commission will serve as the citizens' group unless and until a citizens' group is recognized by the City Council; and for whatever period the Commission performs this function, it shall do so with the invited participation of the chairmen of existing citizens' groups representing areas contiguous to that which is the subject of a proposed development plan.

2. That said citizens' organization contains as broad a base of local representation as is feasible and practical, and it is expected that community real property owners will be active in the leadership and the formation of any such programs.

3. That said citizens' organization has an awareness of its duties and responsibilities in participating in the planning process and acknowledges a willingness to accept these responsibilities.

4. That said citizens' organization shall, in collaboration with City staff, select appropriate study area boundaries and present a tentative outline of

objectives and its work program.

5. That during an early stage of the work program the citizen planning group shall, in consultation with property owners and City staff, establish and submit reasonable time schedules for the various phases of the program to the Planning Commission.

WHEREAS, the City Council has adopted Council Policy 600-9 entitled "Community Planners Committee" which provides in part:

1. This citizens' organization shall be composed of the chairman, or officially designated representative, or alternate of each of the community planning committees as recognized under Council Policy 600-5, and shall be known as the "Community Planners Committee."

2. In its advisory capacity, this citizens' organization shall participate in reviewing and recommending to appropriate bodies actions deemed necessary and desirable for the timely and continued effectuation of goals, objectives and proposals contained in the General Plan.

3. This citizens' organization shall be responsible for participating in an advisory capacity in the comprehensive review of the General Plan as prescribed in Council Policy 600-7.

4. In the discharge of its responsibility in the five-year comprehensive review of the General Plan, this citizens' organization shall function as a nucleus committee to which augmentation may be necessary and desirable to insure maximum utilization of local citizen resources. Selection of such augmentation shall be the responsibility of the Mayor and City Council and shall be only of such duration as is necessary to complete the preparation of General Plan revisions for recommendation to the Planning Commission and City Council for adoption.

5. This citizens' organization shall undertake such other studies or make such recommendations on citywide issues related to the General Plan as may be requested by the City Council, Planning Commission and Planning Department, City Manager or other official City agency.

6. This citizens' organization shall serve in an advisory capacity to the community planning committees officially recognized under Council Policy 600-5 primarily to achieve the desired objective of insuring

maximum coordination on a comprehensive or citywide basis and promotion of solutions of matters of mutual concern shared among the communities of San Diego.

WHEREAS, the City Council has adopted Council Policy 600-24 which provides a procedure under which citizens who are interested in participating in the planning process in an advisory capacity may form organizations and request recognition, in their advisory capacity, by the City Council as community planning committees; and

WHEREAS, community planning committees devote countless hours of their time and substantial private resources in assisting The City of San Diego in the development and implementation of community plans and the Progress Guide and General Plan; and

WHEREAS, the voluntary efforts of community planning committees are of inestimable value to the citizens of the City of San Diego; and

WHEREAS, recent developments have caused community planning committees to become concerned about possible exposure to litigation arising from participation in the planning process; and

WHEREAS, the concerns about personal exposure to litigation have jeopardized the vitality of the planning process and, unless eliminated, may cause the collapse of the process that provides essential citizen participation; and

WHEREAS, Section 40 of the Charter of The City of San Diego provides, inter alia, that the City Attorney shall perform such other duties of a legal nature as the City Council may by ordinance require; and

WHEREAS, the Council of The City of San Diego finds and declares that the provision of legal services by the City Attorney and the indemnification against damages resulting from a judgment against any community planning committee or the elected or appointed member thereof serving and acting in such capacity would constitute expenditure of public funds which serves the highest public interest and purpose; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. Except as hereinafter provided, the office of the City Attorney shall defend and The City of San Diego shall indemnify the Community Planners Committee established by Council Policy 600-9, and any community planning committee established pursuant to Council Policy 600-24, hereafter collectively referred to as "Committee," and the duly elected or appointed members thereof against any claim or action against such committee or member if all of the following

circumstances exist:

A. The person is a duly-elected or appointed member of a committee recognized and operating in accordance with Council Policy 600-9 or Council Policy 600-24; and the person attended a community planners' training course conducted by the Planning Department of The City of San Diego prior to participating in the activity which gave rise to the claim or action against the committee or member;

B. The alleged act or omission occurred or was authorized during a lawful meeting of the committee or subcommittee thereof;

C. The alleged act or omission was within the reasonable scope of duties of a committee as described in Council Policies 600-5, 600-6, 600-9 and 600-24 and was not in violation of any provision of the bylaws adopted by the committee and approved by the City Council;

D. The member or committee has made a request in writing to the City for defense and indemnification within five (5) working days of having been served such legal papers; and

E. The member or committee has performed his, her or its duties in good faith with such care, including reasonable inquiry, as an ordinarily prudent person or persons in a like position would use under similar circumstances.

Section 2. The City of San Diego may decline to represent a member or a committee that would otherwise be entitled to defense and indemnification under this ordinance if either of the following circumstances exist:

A. The member or committee does not reasonably cooperate with the City Attorney in the defense of the claim or action; or

B. The member or committee acted or failed to act because of fraud, corruption, actual malice or bad faith.

Section 3. In the event the City Attorney determines that a member or a committee is not entitled to or should not receive a defense and indemnification under this ordinance, the City Attorney shall promptly advise the City Council and the member or committee.

Section 4. The provisions of this ordinance apply only to members of committees established and recognized by the City Council pursuant to Council Policy 600-9 and Council Policy

600-24.

Section 5. Representation and indemnification shall not be provided by The City of San Diego in any administrative or judicial proceeding initiated by a committee or its members against The City of San Diego, its agencies or representatives or any other party or organization nor shall representation and indemnification be provided to a committee or its members against damages to any person or organization which are alleged to have resulted from the initiation of any administrative or judicial proceeding by a committee or its members.

Section 6. In no event shall representation or indemnification be provided against a claim or judgment for punitive damages.

Section 7. This ordinance does not constitute an admission or a waiver of the position of The City of San Diego that committees are not official advisory boards of The City of San Diego and the members thereof are not officers, employees or servants of The City of San Diego.

Section 8. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By

Frederick C. Conrad

Chief Deputy City Attorney

FCC:cc:ta

03/31/88

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Or.Dept:Plan.

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