

By-Laws & Resolutions Advisory Committee
September 3, 2021
Microsoft Teams

Present: Chair Jim Trummel and Committee members Lora Pangratz, Bob Hillegass and Keith Kaiser were present. Also, present were Board liaison Camilla Rogers, Josh Davis, OPA Marketing and Public Relations Director and Greg Ellison of Bayside Gazette. Chair Jim Trummel called the meeting to order at 1:02 PM.

The agenda was approved.

The minutes of the August 20 2021 meeting were approved.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

Status Report: The status report, dated August 30, 2021, was reviewed. It was noted that all the sections to be considered will have had at least an initial review upon conclusion of the agenda for this meeting. The report is attached these minutes.

Sections 3.01, 4.07(a) and 5.02(a) eligible to vote and eligibility to vote: Proposed amendments to these sections were reviewed and revisions made. The agreed upon proposal is attached to these minutes.

Section 4.04 Members' meeting notice: A proposed amendment to this section was reviewed and revised. The agreed upon proposal is attached to these minutes.

NEW BUSINESS

Section 10.02 OPA associate members as committee members: This is a proposal that came from a meeting of the Executive Council (committee chairs). Options for the proposal were discussed. The proposal has not been previously reviewed by the Work Group. Attached to these minutes are the options considered by the Committee and a request for review by the Work Group.

Section 5.12(a)(4) removal of a Board member by Association members: This proposal came from a member of the Association. The concern expressed by the member is that it is impossible to remove a director because of the high vote threshold. This proposal has not been reviewed by the Work Group. After discussion of the topic, the Committee decided to forward its comments to the Work Group for its review and guidance regarding the proposal. The comments for the Work Group are attached to these minutes.

Sections 4.07(a) and 5.14(l) clarification of Secretary's petition responsibilities: This is a proposal from a Committee member. It is intended to clarify the responsibilities for review of petitions, in particular the certification of a valid petition. The agreed proposal is attached. This proposal has not been reviewed by the Work Group and it will be forwarded to the Work Group for review.

Summary comment: The Committee has now reviewed all proposals for amendments of the By-laws. The chair will begin to assemble all proposals into one package for review by the Committee and the Work Group.

The meeting was adjourned at 3:09 PM on a unanimous vote of the Committee.

Jim Trummel
Minutes recorder

Eligible to vote

Add new section 1.11

Section 1.11. "Eligible to vote" refers to a member who meets the voting rights requirements of sections 3.01(c), (d) and (e).

Revise the first sentence of 3.03(c) to read:

(c) The Secretary shall confirm that the member is eligible to vote, and valid proxies are delivered to the Elections Committee no later than forty-eight (48) hours prior to the beginning of the meeting.

Deleted: ensure that the member's eligibility to vote is confirmed...

Revise the second sentence of 3.05 to read:

The Elections Committee shall require identification and verify that the member is eligible to vote.

Deleted: members

Deleted: eligibility

Revise the second sentence of 4.07(a) to read as follows:

The petition must be in a format prescribed by a Resolution adopted by the Board of Directors.

Deleted: and signed by members eligible to cast a vote.

Revise the first sentence of 5.02(a) to read as below.

(a) Eligibility. All candidates must be one of the owners of record of real property in the Subdivision on the first day of January of the year in which the election is to be held and eligible to vote.

Deleted: under Section 3.01(c)

Revise section 3.01(c) and add sections 3.01(d) and (e) as follows:

(c) Payment of the annual charge levied by the Board of Directors is a prerequisite to the right to vote.

(d) The voting rights of a member may also be suspended in accordance with Section 5.13(e).

(e) No member may vote if, thirty-five (35) days prior to the voting deadline, the member has failed to pay the annual charge, including any assessed interest levied by the Association.

4.04 Notice of Meetings

4.04(b) revise to read as follows:

(b) Adequate notice of a meeting shall be deemed to have been given to any member if mailed or sent electronically to the address designated by the member for this purpose.

Deleted: provided

4.04(c) add new (c) to read as follows:

(c) A single notice, addressed to indicate it is to all members, shall be sent to the address designated above. It is the responsibility of the recipient to forward such notice as necessary to other members who hold property in common with the recipient. Notice to members shall be sent without regard to being eligible to vote.

Associate Members as Committee members: Section 10.02

Background: During the Executive Council meeting May 26, 2021 there were comments to the effect that committee member recruitment could be enhanced if Associate Members were allowed to be committee members. The chair of By-laws and Resolutions agreed to add the topic to the ongoing review of the By-laws.

Discussion by By-laws and Resolutions:

a. It would be necessary to formulate amendments to the By-laws and Resolution C-01 that would authorize and implement the suggested action. In particular, the parameters of participation of an Associate Member would have to be established in some detail.

b. Concern was expressed regarding a potential conflict of the interest of the owner of the property and the interest of an Associate Member residing at the property. A means would have to be developed to authorize the Associate Member to not only participate in a committee, but also act in the capacity of the owner. The possibility of using a proxy approach was discussed. It is recognized that the current By-laws provisions for proxies is limited to voting on issues at a members' meeting.

c. The discussion was expanded from committee membership to a more complete authorization to act for the owner of the property. This would include determining the extent to which an owner could formally authorize an Associate Member to act in place of the owner and the means by which this authorization would be conveyed to the Associate Member and informed to the Ocean Pines Association.

Options: The following options were discussed:

a. Pursue an option of only permitting Associate Members to participate in committees. This would require a By-laws amendment and resolution provisions (likely in C-01) implementing the scope of such participation.

b. Pursue an option of an expanded authority, granted by the owner (perhaps in the form of a proxy), to allow an Associate Member to act for the owner. This would require a By-laws amendment as well as determining the means of implementing the authorization and its content, possibly in a resolution.

c. Advise the Executive Council that the proposal is an undesirable alteration of the rights and obligations of membership in the Association.

d. Associate Members have rights of membership in the Association as described in The Charter SIXTTH, paragraph 7. The primary exception is the right to vote. An option would be to communicate the range of opportunities available for community participation by Associate Members.

Consideration of Options:

The topic considered by By-laws and Resolutions did not come from the Work Group and discussion was expanded beyond the original suggestion from the Executive Council. By-laws and Resolutions requests guidance as to whether any of the options that would implement some form of Associate Member participation should be pursued.

Removal of a Director by Association Members Section 5.12(a)(4)

Background:

An Association Member expressed concern that the provisions of the By-laws make it impossible for Association Members to remove a director from office. The specific concern is that the vote threshold is too high. In accordance with Section 5.12(a)(4) the vote of a majority of the votes that could be cast in the referendum is required for removal.

Discussion: The committee reviewed the history of the By-laws provision for removal of a director by the membership. The By-laws adopted in 2008 reduced the vote to remove requirement from 2/3rd of the votes that can be cast to the current provision of a majority of the votes that can be cast. For comparison purposes, the Maryland Code provision is also that removal of a director requires a majority of votes that can be cast. Note: There is a Code provision applicable to non-stock corporations in which the director removal provision can vary from what is otherwise required in the Code. Other discussion items included:

- a. It is not desirable to have a removal provision that can be used by a minority to remove a director.
- b. Director elections typically do not have a majority of ballots returned making a removal referendum unlikely to succeed.
- c. The removal provision could be made similar to the referendum Section 4.08(c) proposal (“supermajority”).

Comment: The concern from the Association member did not originate with the Work Group. The expressed concern is reasonable in the context that Association voting history makes it questionable that a majority of votes that can be cast is an achievable result. However, the committee does not want to begin weighing options between what is too easy for removal and what is too difficult without further guidance from the Work Group. If the removal topic is not to be pursued further, the committee will advise the member of the decision.

Background: A member of By-laws and Resolutions has proposed revisions to 4.07(a) and 5.14(l) that would add detail that is missing from the petition review responsibilities of the Secretary. The Secretary is to file a public report with the Board when a petition is rejected. However, the requirement for certifying a valid petition is less clear. The proposed amendments are as follows:

4.07(a) revise the last sentence to read:

Within ten (10) calendar days after a petition is filed, the Secretary shall certify **in writing to the Board of Directors** that the petition meets the requirements of this Section or file a public report with the Board, specifying the basis for rejecting the petition.

Deleted: of Directors

5.14(l) revise the section to read:

5.14(l) The Board of Directors shall consider a petition submitted under Section 4.07 **and certified as valid by the Secretary** at a meeting of the Board within sixty (60) days of the petition being filed.

Comment: The committee considers this proposal to be a useful addition to the By-laws. However, it has not been previously reviewed by the Work Group.