

The By-Laws & Resolutions Advisory Committee
January 7, 2022
Microsoft Teams

Present: Chair Jim Trummel and Committee members Lora Pangratz, Keith Kaiser, Steve Jacobs, and Bob Hillegass. Also, present were Director Colette Horn, committee liaison and Josh Davis, OPA Marketing and Public Relations Director. Chair Jim Trummel called the meeting to order at 1:03 PM.

The agenda was approved

The minutes of the December 17, 2021 meeting were approved.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS

Board Candidate criteria Charging Document: A proposed amendment to the By-laws prepared by Steve Jacobs and a supporting amendment to the application form of Resolution M-09 prepared by Keith Kaiser were discussed. The proposals include the revisions agreed to at the meeting. It is intended that this be the Committee response to the Charging Document for review by the Board and counsel.

Resolution M-09: An amendment to Resolution M-09 prepared by Director Horn was discussed. The proposal is attached. During discussion of the proposal, it was decided to replace the application form (Attachments A and B) with those prepared by Keith. It is intended to have M-09 before the Board as a first reading at the January 22, 2022 meeting.

The remaining agenda items were deferred to a future meeting due to time considerations.

NEW BUSINESS

The next meeting was scheduled for January 21, 2022 at 1:00 PM on Microsoft Teams.

The meeting was adjourned at 4:07 PM.

ARTICLE V

THE BOARD OF DIRECTORS

This Article of the By-Laws is to be the only authority for issues of membership, term of office, qualification, candidacy, election, vacancies, organization of the Board, conduct and notice of meetings, quorum determination, permissible actions, compensation, resignation and/or removal, powers and duties of the Board of Directors. [This language is an attempt to address the concerns of some relating to language in the DR's and Charter about beneficial ownership and its application to Board elections and practices of the Board.]

Section 5.01 (unchanged)

Section 5.02. Candidates for Election (unchanged)

a. Eligibility.

(1) All candidates must be owners of record as listed in records of Worcester County Land records [need correct name of office in County Clerk's office] and/or the automated compilation of records found in the Maryland Department of Assessments and Taxation of real property in the subdivision the first day of January of the year in which the election is to be held.

(2) Notwithstanding the provision in Section 3.01(c) of these bylaws, any candidate for the Board of Directors shall have paid the annual charge, including any assessed interest by the Association by May 15th of the year of the election.

(3) No member shall be a candidate for election as a Director of the Association if he or she is an incumbent Director completing a second consecutive full term of office, has a familial relationship through marriage, parentage or is a sibling of any other member currently serving on the Board.

(4) No member shall be a candidate for election as a Director of the Association if he or she is an employee of the Association as of the date the candidate's application is submitted for consideration by the Secretary.

(5) No corporate entity (including but not limited to a Corporation, LLC, Partnership or agency) that is listed as the owner of record may have an individual residing full or part-time be a candidate for the Board of Directors.

Did not address the issue of litigation, 3 year residency or part-time resident. There are traditional forms of legal ownership [tenancy by the entirety, tenancy at will, tenancy in common, etc.] which may give rise to the same concerns found in Section 5.02(a)(5) - potential conflict of interest between the association and the entity such as a corporation or LLC. This is a matter which demands review by counsel.

(b) Search Committee (unchanged)

(c) Candidate Applications. Each member who desires to be a candidate for election to the Board of Directors shall complete an application form (as developed by the Election Committee and) provided by the Search Committee. The candidate must list their full legal name (First, Middle, Last including any prefix or suffix). The form shall also require the candidate to provide appropriate documents which identifies the candidate as the owner of record or is the named Trustee if a trust is listed as the owner of record. The form shall be submitted to the Committee not later than May 10th and shall state that the candidate meets the requirements of paragraph (a) of this section and is willing to serve as Director if elected. At the candidate's option, the application form may include the candidate's experience, past participation in Association governance, and reasons for becoming a candidate. All candidates shall be informed that upon inclusion in the list of eligible candidates the completed application shall be made available to the members of the association electronically and by any other means deemed by the Elections Committee. [Did not include reference to legal counsel since it would seem to be a disincentive to run if the candidate had to secure legal counsel or in the alternative went to the Board's counsel which would create a conflict of interest for counsel. In addition, the restriction on corporate entities avoids potential conflicts between the duties owed by a board member to the association and the duty owed by a corporate officer to the corporate entity.]

(d) The Secretary shall verify that the Association's records as of May 15th as well as the records required in Section 5.02(a) support each candidate's eligibility and shall submit a list of eligible candidates to the Elections Committee not later than June 1st. If at any time during the time frame of the election process, the Secretary is informed of a question of a particular candidate's eligibility, the Secretary shall review all appropriate information and documentation and make a report to the Board of Directors as expeditiously as possible. The Board shall then consider and vote on a motion to disqualify the candidate in question after the candidate is given an opportunity to respond to the report of the Secretary. If the motion passes the Board shall make public notice of the disqualification of the candidate within three business days. If the ballots for the election are printed, the ballots will be mailed, the election will continue and all votes will be tallied. Votes for the ineligible candidate will not be counted towards determining the winner of the election. This will be the same procedure should a candidate die, ceases to own property as defined in Section 5.02(a) or withdraws from the election. Candidates may be disqualified at any time during the election process up to and including the last date for submission of ballots. [Note: did not include reasons for disqualification since it is unclear if there would be reasons other than those provided for in eligibility paragraph 5.02(a) or if that paragraph needs other criteria. Avoided use of the term "any reason" "for cause" and attempted to answer Director Parks' concern about the use of the word "conclusion". Additionally, limited the decision making of the Secretary since while he/she has delegated authority from the Board, the decision to disqualify a candidate should be on the Board as a whole.]

The Daly proposal has added a new paragraph 5.02(g) which it seems to raise a host of questions, not the least of which is that it applies to a "board member" and not a candidate and therefore would not seem to be an appropriate addition to 5.02 which addresses Candidates for Election. Additionally, it was not included in the Charging Document which the committee received from the Board. It may be that the grounds for deciding a board member should be found ineligible to serve as listed in the new 5.02(g) are appropriate, in need of expansion or limitation. It may also be appropriate to impose the same conditions on a candidate for election to the Board, but that is certainly a matter for further discussion.

It appears that the remaining Sections in the Daly proposal 5.03, 5.04 and 5.05 do not have changes in those Sections from the current by-laws.

EXPLANATION

In addressing the request of the Board in the Charging Document we took into consideration the discussion at our last committee meeting, the proposal of Director Daly, the comments in response to that proposal by Directors Parks and Peck (as provided by Jim). In addition, we were aware of comments and discussion found on various social media posts which raised issues that we felt needed, for the future, to be addressed. Assuming this was edited properly, existing language is in black, new, proposed language is in red and explanatory information is in blue. Keith Kaiser took it upon himself to develop a revised candidate questionnaire. While that document may be revised as the committee and Board see fit, it is our opinion that the questionnaire is a significant improvement over the current one and strikes the proper balance between identifying eligibility requirements that need to be in the bylaws and other information which the voting members can and should take under consideration when voting. The candidate questionnaire that Keith developed will be sent under separate cover for your consideration.

ATTACHMENT A

OCEAN PINES ASSOCIATION, INC. BOARD OF DIRECTORS ELECTION INFORMATION & CANDIDATE APPLICATION FORMS

Attached is the OPA Candidate Registration Form. To be considered by the OPA, this form must be completed and returned to the OPA General Manager's office at the Administration office at 239 Ocean Parkway to the attention of the Search Committee no later than the end of Association business on May 10th of the year of election. If Association offices are not open on May 10th, or not open for a full business day, Candidate Registration Forms are then due no later than the end of business the next full business day of the Association offices.

For your convenience, additional information is provided that gives a brief description of Board responsibilities. Additional corporate documents are available for review at the OPA Administration Office. The OPA Elections Committee supervises the election process and will provide further instructions to all candidates in addition to that below.

Board Responsibilities

- The Ocean Pines Association is governed by a seven member Board of Directors elected by the lot owners who make up membership in the homeowners association.
- Section 5.13 of the By-Laws establishes the Powers of the Board. Section 15.14 establishes the duties of the Board.
- The Board determines operational and fiscal policy and assesses property owners at a rate set annually. These assessments provide the funds for the operation of the Association.
- The Board sets a meeting schedule for the coming year at the Organization Meeting after the election of directors. A Board member who misses three consecutive regular meetings is subject to removal for cause.
- Board members do not receive monetary compensation for their service.
- Board members serve three year terms on a staggered basis. Directors cannot seek reelection after serving two consecutive terms.
- A Board candidate must be an owner of record on January 1st of the year of the election and not have unpaid annual charges or vote suspended by the Board as of May 15th of that year.
- Board members may be assigned as Board liaison to Advisory Committees.

Elections Committee

- The Elections Committee has the responsibility for administering the election process. See Board Resolution M-06 Elections and Referendums Procedure. The Committee will provide further instructions and information for all candidates.
- Candidates will be requested to supply information, which will be distributed to the media and included with ballots sent to Association members. This includes biographical information, and answers to questions prepared by the Elections Committee. Candidates will be asked to participate in a Candidates Forum.

Resolution M-09 Attachment B: Candidate Registration Form, approved by the Board of Directors: XXXX XX, 2022



ATTACHMENT B
OCEAN PINES ASSOCIATION, INC.
BOARD OF DIRECTORS [YEAR] CANDIDATE REGISTRATION FORM

1. **Applicant's Full Legal Name:**

(Attach a copy of a state issued ID)

Property Owned

I have owned property in Ocean Pines since (date):

List of all Ocean Pines property addresses for which I have an ownership stake:

(If your legal name as provided on your state issued ID does not appear on the property deed(s) listed, attach supporting documentation for proof of ownership. Corporate entities including but not limited to a Corporation, LLC, Partnership or agency are not allowed.)

Contact Information: Home Phone _____ Mobile Phone _____

Primary Phone to use: Home Phone _____ Mobile Phone _____

Email Address: _____

Mailing address if different from above: _____

2. **A response to the following questions is mandatory. A "YES" answer to any of the following questions makes you ineligible as a candidate for the Board of Directors pursuant to the Ocean Pines By-Laws:**

- Are you an incumbent Director completing a second consecutive full term of office?.....YES ___ NO ___
- Do you have a familial relationship through marriage, or parentage; or are you a sibling of any member currently serving on the Board of Directors?.....YES ___ NO ___
- Are you ineligible to vote under section 3.01(c) of the Ocean Pines By-Laws?.....YES ___ NO ___
- Are you currently an employee of the Ocean Pines Association?.....YES ___ NO ___

3. **Comments on the following questions are not mandatory. However, be advised, these issues have proven to be of interest to voters and may become known as part of the candidate vetting process.**

- Have you been convicted of a felony within the past 5 years?
- Are you currently under investigation by Local, State, or Federal Agencies for any alleged crime?
- Have you ever served on any HOA Board of Directors where you were forcibly removed?
- Are any other owners of the property listed above currently serving on the Board of Directors?
- If the property listed above is part of a Trust, are any members of that Trust, representing any other real property in Ocean Pines, currently serving on the Board of Directors?



ATTACHMENT B
OCEAN PINES ASSOCIATION, INC.
BOARD OF DIRECTORS [YEAR] CANDIDATE REGISTRATION FORM
(Continued)

4. The following types of information is suggested, but optional. Attach related information to this application as you desire:

Memberships in social clubs and/or organizations
Service on any OPA Advisory Committees
Chairmanship of any committees
Service on executive board of any organizations in Ocean Pines
Service in other communities where you have resided
Education
Work Experience

5. Disclosures and agreements

You agree:

- that you will immediately notify the Secretary should any of the information provided on this form change at any time prior to the reading of the votes
- that should any of the information provided on this form be found to be incomplete or inaccurate at any time prior to the reading of the votes, the Board shall have cause to consider rescinding your eligibility as a candidate for the Board of Directors
- that should any of the information provided on this form be found to be incomplete or inaccurate after your election to the Board, the Board shall have cause to consider removing you
- that if you are approved as a candidate for the Ocean Pines Board of Directors, information provided on this form will be available to the association members, the public and the media
- that if elected, you will familiarize yourself with the Ocean Pines community governing documents, uphold them, and honor the fiduciary responsibility to all association members.

I meet the Director eligibility requirements of Section 5.02 of the Association By-Laws and am willing to serve as Director if elected. To be considered by the OPA, this form must be completed and returned with all attachments to the OPA General Manager's office at the Administration building at 239 Ocean Parkway to the attention of the Search Committee no later than the end of Association business on May 10th of the year of the election. If Association offices are not open on May 10th or not open for a full business day, Candidate Registration forms and attachments are then due no later than the end of the next full business day of the Association offices.

Required Attachments:

1. Copy of a State Issued Identification
2. Supporting documentation of Proof of ownership as required by Section 1

Optional Attachments:

1. Response to any non-mandatory questions of Section 3
2. Desired Biographical work experience information per Section 4

Applicant Signature

Date

For Office Use Only:

Received by OPA Date: Signature: OPA Designee	Received by Association Secretary Date: Signature: OPA Secretary	Verification of Property Ownership Section 1 Above Date: Signature: OPA Secretary	Verification of candidacy pursuant to Ocean Pines By-Laws Section 2 Above Date: Signature: OPA Secretary
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RESOLUTION M-09
CANDIDATE SEARCH PROCESS FOR OPA
BOARD ELECTIONS

1. **Purpose.** This Resolution establishes the formation, roles and responsibilities of the Search Committee and the procedures for candidate search.
2. **Authority.**
 - a. The candidate application process is described in Section 5.02 of the By-Laws.
 - b. Section 5.02(b) of the By-Laws requires that a Search Committee (Committee) be appointed by the President and approved by the Board not later than February 1st each year.
3. **Search Committee.**
 - a. Each Committee term shall extend until the appointment of the succeeding Committee, or February 1st of the election year, whichever is the first to occur.
 - b. No Committee member shall serve more than three consecutive terms.
4. **Candidate Application Form Due Date.** If the Association offices are not open on May 10 or are not open for a full business day, Candidate Applications are then due no later than the end of the next full business day of the Association offices.
5. **Roles.**
 - a. The role of the Committee is to stimulate community interest in the forthcoming Board election, solicit candidates from a broad spectrum of the Ocean Pines membership, provide information to, or otherwise assist potential candidates with the application process. The Committee shall verify that all applications received are sent to the Secretary of the Association (Secretary) for validation of eligibility. The Secretary will forward the list of all eligible candidates to the Elections Committee who will conduct the election itself. All of the above participants shall be actively supported by Association Management and Staff.
 - b. The President of the Association shall appoint a Director to serve as liaison to the Committee. The liaison shall not be a Director that is eligible for reelection.

6. **Search Committee Responsibilities.** The Committee shall:

- a. Hold meetings that are public and announced in advance to association members in accordance with Resolution C-01.
- b. Work with appropriate OPA Staff to publicize the coming Board election and search for candidates, in Association and local media. This notification shall include eligibility requirements, Board duties and responsibilities, where, when and how to obtain and submit applications, and typical election events and timelines.
- c. Contact individuals who may have an interest in becoming a candidate. This includes, but is not limited to, persons who have served on Ocean Pines Association committees, have been active in community organizations or affairs, or recommended by another member. The Committee goal is to cast as broad a net as practical and not to form any advance judgments on who may or may not be the best candidate. Validation of eligibility shall be the responsibility of the Secretary after all applications are received by the deadline date.
- d. Work with the GM and appropriate OPA staff to establish locations in the Administration Building where applications can be obtained and submitted. Committee members may also provide interested members with application forms directly or they may be printed from the OPA web page. However, all completed applications must be submitted to a Search Committee box in the Administration Office. The applications will be time-stamped, dated and stored in a secure location by an assigned staff member who is designated by the General Manager. Attachments A and B to this resolution comprise the current application form.
- e. Monitor the incoming applications and ensure that the Secretary is provided with all candidate applications as soon as received, but no later than the date specified in the By-laws. The Committee shall submit a list of candidate applications to the Secretary no later than May 15th.
- f. Access to the Search Committee box shall be limited to the Search Committee, assigned staff member and Secretary.
- g. While nothing will preclude an individual candidate from announcing their intention at any time, the Committee is not authorized to release any applicant, potential candidate, or candidate information to the public.

- h. Submit a Committee Report to the Board of Directors no later than June 30th. This report shall include:
 - i. A summary of Committee activities during the search process.
 - ii. Problems encountered.
 - iii. Recommendations for improving the search process.
 - i. Materials selected by the Committee, including a confidential list of the people contacted and their possible future interest shall be retained for the next Committee. The materials shall be stored in a manner that is accessible only to the Committee as well as those Association staff members designated by the General Manager. The General Manager is responsible for making suitable storage space available. Materials that have been stored may be destroyed after one (1) year.
7. **Staff Assistance.** The Association General Manager shall designate such staff personnel as may be necessary to assist the Committee in the performance of its responsibilities. The Secretary shall provide the list of candidates to the Association for release to the membership and public upon completion of candidate verifications. The Committee may destroy stored files after one (1) year.
8. **Candidate Search Responsibilities of Secretary.** The Secretary is responsible for verifying the eligibility of candidates in accordance with 5.02(d) of the By-Laws.
- a. Candidate eligibility under 5.02(a), (c), and (d) of the By-Laws is defined as:
 - i. Owner of record of real property in the subdivision since the first day of January in the year of the election. **The secretary shall use the Worcester County land records to verify ownership.**
 - ii. No unpaid annual charges as of May 15th of the year of the election.
 - iii. The Board of Directors has not suspended the member's vote under the provisions of 5.13(e) of the By-Laws, as of May 15th of the year of the election.
 - iv. The candidate has completed the **Candidate Registration Form** (application form) required by 5.02(c) of the By-Laws and is included as an attachment to this Resolution, **and has provided attachments required by the Candidate Registration Form**

- v. The Secretary may seek information from an applicant regarding the registration form but may not grant time to complete the form or correct information on the form that has been submitted.
- b. The verification of the eligibility of additional candidates, if there are any such applications under 5.02(e) of the By-Laws, shall be the same as in the preceding subparagraph 8.a.
- c. The Secretary shall notify each applicant of the acceptance or rejection of the candidate's application prior to submitting the list of eligible candidates to the Elections Committee ~~public release of candidate's names~~ not later than June 1. The reason for a rejection shall be included with the notification.
- d. When the list of eligible candidates has been submitted to the Elections Committee the following shall be released to the public by the Association:
 - i. The list of eligible candidates.
 - ii. The Registration Form (Attachment B) of each applicant. If an applicant is ineligible the reason for disqualification will be noted.

Effective Date: _____

Approved by the Board of Directors on: _____

President: _____ Attest: _____ Secretary

Review History
General Manager: _____ Date: _____

Legal _____ Date: _____

By-Laws & Resolutions Adv. Committee: _____ Date: _____