



OPEN MEETING

REGULAR MEETING OF THE UNITED LAGUNA WOODS MUTUAL
GOVERNING DOCUMENTS REVIEW COMMITTEE

Thursday, April 16, 2020 – 1:30 P.M.
VIRTUAL MEETING
Laguna Woods Village Community Center

NOTICE & AGENDA

1. Call to Order
2. Acknowledgment of Media
3. Approval of the Agenda
4. Approval of the Report from February 20, 2020
5. Chair's Remarks
6. Member Comments (Items Not on the Agenda)
7. Response to Member Comments

Reports:

- | | |
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| 8. Governing Document Study Report | Juanita Skillman |
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Items for Discussion and Consideration:

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| 9. California Civil Code Web Link | Andre Torng |
| 10. Review and Discuss Membership Election & Voting Policy | Andre Torng |
| 11. Review Guide for Operating Rules | Andre Torng |
| 12. Appeal Policy | Francis Gomez |
| 13. Review 3 rd Sales Financial Qualifications Policy | Pamela Bashline |
| 14. Establish Legal Support Requirement Resolution | Andre Torng |

Concluding Business:

15. Committee Member Comments
16. Future Agenda Items
 - a. Review GRF Donation Policy (Andre Torng)
 - b. Discuss standardizing Village-wide working groups which aren't specific to certain Mutual a uniformed structure and scope of work
 - c. Requirements for heirs to become members
 - d. Roles, responsibilities and protocols
 - e. Mission, vision, and strategic directives
 - f. Review and Discuss Committee Advisor Qualification Procedure and Policy
17. Date of next meeting: May 21, 2020
18. Adjournment

Andre Torng, Chair
Francis Gomez, Staff Officer



OPEN MEETING

**REGULAR MEETING OF THE UNITED LAGUNA WOODS MUTUAL
GOVERNING DOCUMENTS REVIEW COMMITTEE**

Thursday, February 20, 2020 – 1:30 p.m.
Laguna Woods Village Community Center, Sycamore Room
24351 El Toro Road, Laguna Woods, CA 92637

MEMBERS PRESENT: Andre Torng - Chair, Juanita Skillman, Sue Margolis, and Neda Ardani

MEMBERS ABSENT: Manuel Armendariz

ADVISORS PRESENT: Mary Stone and Bevan Strom

ADVISORS ABSENT: None

OTHERS PRESENT: Dick Rader, Elsie Addington, Reza Bastani, Pat English, and Jeff Beaumont, Esq. of Beaumont Tashjian

STAFF PRESENT: Francis Gomez, Pamela Bashline, Blessilda Wright, Tim Moy, and Debbie Ballesteros

CALL TO ORDER

Andre Torng, Chair, called the meeting to order at 1:32 p.m.

ACKNOWLEDGEMENT OF PRESS

The Media was not present.

APPROVAL OF THE AGENDA

President Margolis made a motion to approve the agenda as presented. Director Ardani seconded the motion.

By unanimous vote the motion carried.

Without objection, the Committee agreed to take items out of order.

APPROVAL OF MEETING REPORTS

President Margolis made a motion to approve the January 16, 2020 meeting report as presented. Director Ardani seconded the motion.

By unanimous vote the motion carried.

CHAIR'S REMARKS

Chair Tornø stated he recently attended a Home Owner Association (HOA) event and received a book named "An Introduction to Community Association Living". He asked if anyone wanted a copy of the book to let him know. Chair Tornø explained that tradition is important, however, he stated that things change, sometimes they are good and then other times, things might need to change.

MEMBER COMMENTS ON NON-AGENDA ITEMS

None

RESPONSE TO MEMBER COMMENTS ON NON-AGENDA ITEMS

None

REPORTS

None

ITEMS FOR DISCUSSION AND CONSIDERATION

Review and Discuss Election Rules

The Committee reviewed the Election Rules Policy with Jeff Beaumont, Legal Counsel. The Committee members commented and asked questions.

The following changes were made to the policy:

1. Change name from 'Membership Elections Policy' to 'Membership Election & Voting Policy'
2. Section 2, a, iv. – change 'may' to 'shall' to read 'Candidates and Directors shall not...'
3. Section 2, c. - remove exception paragraph
4. Section 2, g. – reject deletion and keep section
5. Section 2, h. – remove options of 'as agreed by the candidates...' and only keep 'as adopted by the Board'
6. Section 3, d. – add '(unless an exception applies per Civil Code §4600) after statement regarding exclusive use of common area
7. Change 'VMS' to 'managing agent' throughout the document
8. Section 6, c. – remove section
9. Section 6, d. – add reference to civil code
10. Section 8, g, vi. – remove section
11. Section 9, d. – change 'the same as' to 'not more than'
12. Section 9, d. – change 'automatically' to 'considered' and remove comma after elected
13. Section 9, d. – add individual notice statement that is required for vote by acclamation to be valid
14. Section 10, a, i. – remove 'The petition must state the reason(s) justifying the director's removal;'

The Committee directed staff to make the changes discussed, distribute to the Committee Members within a week and bring a clean copy to the next meeting.

Review Group for Operating Rules

The Committee discussed the Review Group for Operating Rules. The Committee members commented and asked questions.

Chair Torng demonstrated how the Guide will work and help as a reference guide. He also described the need to add additional comments on resolutions that should be considered obsolete, amended, need to consolidate, add attachments, or more details, etc. for future discussion with support received from committee members and others present. He explained that both study groups will proceed accordingly.

Review and Discuss Recognition Agreement

The Committee reviewed the Recognition Agreement. The Committee members commented and asked questions.

Director Skillman made a motion to approve the Recognition Agreement. President Margolis seconded the motion.

By unanimous vote, the motion passed.

Mr. Beaumont left the meeting at 3:09 p.m.

Pamela Bashline, Community Services Manager, left the meeting at 3:18 p.m.

Committee Member Comments

None

Future Agenda Items

- Discuss standardizing Village-wide working groups which aren't specific to certain Mutual a uniformed structure and scope of work
- Requirements for heirs to become members
- Appeals Policy
- Roles, responsibilities and protocols
- Mission, vision, and strategic directives
- Review and Discuss Committee Advisor Qualification Procedure and Policy

The Committee directed staff to add 'Define Exclusive Use Common Area' under Future Agenda Items.

Date of next Meeting

The next meeting is scheduled for Thursday, March 20, 2020 at 1:30 p.m. in the Sycamore Room.

Adjournment

With no further business before the Committee, the Chair adjourned the meeting at 3:25 p.m.



Andre Torng, Chair
United Laguna Woods Mutual



STAFF REPORT

DATE: April 16, 2020
FOR: Governing Documents Review Committee
SUBJECT: Membership Elections Policy

RECOMMENDATION

Approve revised Membership Elections Policy to align with Senate Bill 323.

BACKGROUND

On June 13, 2006, the Board established Membership Elections Standard Operating Procedures to align with changes in California Civil Code. The new Civil Code required procedures for appointment of inspectors of elections; voting by secret ballot and proxy; ballot instructions; publication of election results; retention of ballots; and deadline for mailing of ballots (Resolution 01-06-49).

Since the adoption, the Membership Elections Standard Procedures has been revised and approved by the Board two other occasions to comport with the current Civil Code requirements at the time (Resolutions 01-13-90 and 01-15-33).

On January 16, 2020, the Governing Documents Review Committee sent the policy back to Legal Counsel for re-review with the current Bylaws.

DISCUSSION

In October 2019, new California State Legislation changes to election requirements for common interest developments passed. The legislation bill known as Senate Bill 323 will become effective on January 1, 2020 and require changes to the current election procedures.

These updates include, but not limited to: allowing all members the opportunity to vote even if they have a delinquent account, allowing a general power of attorney to vote; and inspector of election must send follow notice requirements and include specific language to the notices sent to the membership.

FINANCIAL ANALYSIS

None.

Prepared By: Blessilda Wright, Compliance Supervisor

Reviewed By: Francis Gomez, Operations Manager

ATTACHMENT(S)

Attachment 1: Membership Elections Policy

Attachment 2: Resolution



MEMBERSHIP ELECTION & VOTING POLICY

Adopted May 14, 2013 RESOLUTION 01-13-90
Revised March 10, 2015 RESOLUTION 01-15-33
Revised September 13, 2016 RESOLUTION 01-16-97
Revised XXXX, 2020 RESOLUTION 01-XX-XX

1. Definitions

- a. “Corporation” shall refer to the United Laguna Woods Mutual Corporation.
- b. “Election Records” shall include returned ballots, signed voter envelopes, the Candidate Registration List and the Voter List. The Candidate Registration List means the list of qualified candidates existing as of the close of nominations. The Voter List may include: the name, voting power and either the physical address of the Member’s separate interest or the parcel number, or both; and the mailing address of the Member (if different from the physical address or if the parcel number is used).
- c. “Secretary” shall mean an elected member of the Board of Directors who has been elected as a Corporate officer as Secretary.
- d. “Authorized Agent” shall refer to a staff member appointed by the Board of Directors.
- e. “Inspector(s) of Elections” shall refer to an independent third party appointed by the Board of Directors to perform duties and acts to facilitate voting and elections as set forth herein.
- f. “SOP” shall mean and refer to this policy, known as the Membership Elections Policy.
- g. “Submit” shall refer to delivery of a document to the Authorized Agent at the Corporate address: 24351 El Toro Road, Laguna Woods, California.
- h. “Qualified Member” shall mean a member qualified to nominate himself or herself as a candidate for the Board of Directors as set forth herein.

2. Nomination Process

- a. Qualifications. Only “Qualified Members” are eligible for candidacy to the Board. All candidates seeking to run in any Election of Directors shall meet the following criteria in order to be considered a Qualified Member for purposes of this SOP:
 - i. Shall be Members of record as defined under Bylaws, Article II, Section 4(h).
 - ii. Shall **not** be shown on the books of account of the Corporation to be more than thirty (30) days delinquent in payment of any sums due to

the Corporation under his or her Occupancy Agreement or otherwise, and who has been given notice thereof and the opportunity for a hearing concerning the delinquency (Bylaws, Article VI Section 2(b)). Note, this does not include non-payment of collection charges, late charges, fines, fines renamed as assessments, costs levied by a third party, or if the Member has (1) paid under protest per California Civil Code § 5658; (2) has entered into and is current in a payment plan (defined as a signed written agreement between the Board and the Owner) per § 5665, and is current and in compliance with all terms thereof; or (3) if the Member has not been provided the opportunity to engage in Internal Dispute Resolution (“IDR”).

- iii. While a candidate for the Board and during their term as a Director, if elected, the Candidate must have been a member of United for at least one (1) year.
 - iv. Candidates and Directors shall not have been convicted of a crime that would either prevent the Corporation from purchasing fidelity bond coverage or terminate the Corporation’s existing coverage.
 - v. Members may not serve at the same time as another person who holds joint ownership in the same separate interest who is either already nominated or an incumbent director.
- b. In addition to the foregoing qualifications, the Board strongly discourages Members from running for the Board where the candidate or the candidate’s spouse has a conflict of interest with the Corporation, financial or otherwise, or engages in business transactions with the Corporation. Further, such conflicts must be immediately disclosed to the Board of Directors upon its occurrence pursuant to United’s Bylaws.
 - c. Any Member may nominate any Qualified Member as a candidate, including himself or herself, by submitting a written application and candidate statement to the Secretary or Authorized Agent of the Corporation that states his or her intention to run for the Board of Directors which must be returned to the Secretary by the closing date stated, which deadline must be at least ninety (90) days before the date the ballots for the election of directors are scheduled to be tabulated. No nominations for the Board can be made after the closing date.
 - d. Any committee established by the Board to assist the Board shall submit a final report of all candidates to the Board upon the close of nominations.
 - e. Each candidate shall submit to the Secretary or Authorized Agent a statement of background and qualifications not to exceed two hundred fifty (250) words in length by the closing deadline.
 - i. The following are guidelines for the preparation of the statement of candidate’s background and qualifications:
 - 1. The statement may include: education, business background, civic, social, and community activities;

2. "Activities" may include organized events, clubs, hobbies or any unique activity;
 3. Date and place of birth shall be considered optional information
Length of residency in United; and
 4. Statement of personal philosophy (optional).
- f. Each candidate for a Director position is responsible to directly forward their candidate statement, electronically, to the Inspector of Election and Corporate Secretary and is solely responsible to ensure the accuracy of the information and transmission of the candidate's statement. Once the candidate's statement is submitted, as set forth herein, it is irrevocable and cannot be changed or modified. ***United is not responsible for the content of any candidacy statement.***
 - g. Any candidate or spouse of a candidate who has a direct or indirect financial interest in any business organization or who is a director, officer or employee of any business, or agency of any county, state or federal government (other than a charitable organization), incorporated or otherwise, which engages in business transactions with the Corporation, shall disclose such relationship to the Board of Directors at the time of their self-nomination (Bylaws, Art. VI Sec. 2(c)).
 - h. Candidates must disclose the fact that they have significant outside, time-consuming commitments such as: (a) full time or significant employment responsibilities; (b) full time or significant time commitments to care for others; or (c) extensive travel plans which could impact the time available to conduct Board Business.
 - i. The candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected as directors and shall take office immediately following their election. Any tie vote shall be broken by lot, which may include any method of randomly deciding the issue as adopted by the Board.

3. Eligibility to Vote

- a. Only persons approved for Membership by the Board of Directors and to whom a membership certificate has been issued (or the Member's successor trustee and/or power of attorney (California Civil Code § 5105(g)(2).)) shall be entitled to vote (see Bylaws, Article II Section 4(h)- (i)). This provision shall not be construed to prohibit any Member from receiving a ballot, pursuant to California Civil Code § 5105(g)(1).
- b. Single Memberships in which two or more Members have a joint or undivided interest shall have only one (1) vote (Bylaws, Article V, Section 8(a)(ii)) and only one such Member may run for, and serve on, the Board at any one time.
- c. Record Date:
 - i. The record date for determining those Members entitled to receive

Notice of a meeting of the Members shall be fifteen (15) days prior to the day that the notice of the meeting is mailed (the "Record Date for Notice");

- ii. The record date for determining those Members entitled to vote by secret ballot shall be sixty (60) days prior to the day that the secret ballots are mailed (the "Record Date for Secret Ballots");
- d. The inspector(s) of elections shall tabulate the ballots for the election of directors at the Annual Meeting of the Members. The ballots for the vote to approve assessments, elections of directors to fill a vacancy not filled by the Board, amendments to governing documents and/or granting the exclusive use of common area to a Member (unless an exception applies per Civil Code § 4600) shall be tabulated by the inspector(s) of election at a duly noticed (regular or special) meeting of the Members or Board. The Board of Directors shall determine the date, time and place of said Board meeting.

4. **Notice Requirements (Senate Bill 323)**

- a. General notice of the procedure and deadline for submitting a nomination shall be issued at least 30 days before the nomination deadline (unless individual notice has been requested by the Member).
- b. General notice of the following shall be made at least 30 days before ballots are distributed (unless individual notice has been requested by the Member):
 - i. The date and time by which, and address where, ballots are to be returned;
 - ii. The date, time and location of the meeting to tabulate the ballots; and
 - iii. The list of all candidates' names that will appear on the ballot.
- c. United shall permit Members to verify the accuracy of their individual information contained in the Election Records at least thirty (30) days before the ballots are distributed. United or any Member shall report any errors or omissions for either list to the inspectors of election who shall make the corrections within two (2) business days.
- d. At least thirty (30) days before the election, the inspectors of election will deliver to each Member: (1) the ballot and voting instructions; and (2) a copy of the election rules. Note, the election rules may be provided by individual delivery or by posting same on an internet site and providing the corresponding internet site web address on the ballot with the phrase, in at least 12-point font: "The rules governing this election may be found here: <https://www.lagunawoodsvillage.com/residents/united-laguna-woods-mutual/documents>".

5. **Candidate Equal Access to Corporation Media**

- a. All candidates for a Director position shall have equal access to Corporation media for the purpose of campaigning for an election. For purposes of this

paragraph, "Corporation media" means the Corporation's cable channel. No candidate may utilize Corporation media for the thirty (30) day period following the date the first election ballot material is sent to the membership for the election of the Board of Directors through the election date, even if for a period longer than thirty (30) days.

- b. In each election for the Board of Directors, the Corporation shall hold a forum ("Meet the Candidates") for the nominees within a Golden Rain Foundation (GRF) facility prior to the date that the ballot materials are sent to the Membership. Meet the Candidates will be for the purpose of allowing the Membership to meet and ask questions of all nominees. All nominees standing for election shall be invited to attend the forum and should appear in person.
- c. Golden Rain Foundation (GRF) meeting rooms shall be available to candidates free of charge for campaign purposes (California Civil Code § 5105(a)(2)).
- d. Any time a ballot measure is required to be sent to the Membership for approval which is unrelated to the election of directors, such as amending the Bylaws or the Occupancy Agreement, the Corporation may hold a town hall meeting – rather than a formal membership meeting – which is an informal gathering of members in which members can express their points of view. Further, if Corporation media is used in connection with such ballot measures, any Member advocating a point of view shall be permitted use of Corporation media, provided the Member's purposes reasonably relate to the ballot measure. The Corporation shall not edit any such communications made by Members, but may include a statement specifying that the Member, and not United, is responsible for that content.

6. **Appointment of Inspectors of Election**

- a. The Board of Directors shall appoint one (1) or three (3) independent third party(ies) as Inspector(s) of Election. An independent third party includes, but is not limited to:
 - i. A volunteer poll worker with the county registrar of voters;
 - ii. A licensee of the California Board of Accountancy;
 - iii. A notary public; and
 - iv. A Member of the Corporation provided such Member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors.
- b. Inspectors of Election shall not be employees of management; however, prior to the secret ballots being mailed to all of the Members, the inspectors of election may meet to determine to whom the secret ballots shall be returned (the "Ballot Collector"), which may be an Authorized Agent.

- c. An Inspector or Inspectors may appoint and oversee additional persons to assist as the Inspector or Inspectors deem appropriate. (California Civil Code § 5105 (a)(6))

7. Duties of Inspectors of Election

- a. Determine the number of memberships entitled to vote and the voting power of each membership. (California Civil Code § 5110(c)(1))
 - i. Eligible Voter List:

Pursuant to Section 4 of this SOP, the Inspectors will create or cause to be created an Eligible Voter List that identifies all Members who are eligible to vote. This list will be used to mail ballots only to those Members entitled to vote by ballot on corporate action without a meeting as of the Record Date specified herein.
- b. Determine when the polls shall close. (California Civil Code § 5110(c)(6).)
 - i. The Inspectors of Election shall determine the date that ballots must be received in accordance with California Civil Code § 5115(c)), which states "Ballots...shall be mailed not less than 30 days prior to the deadline for voting." The deadline shall be incorporated into the voter instructions and adopted by the Board of Directors in the form of a resolution.
- c. Oversee the Mailing of the Ballot Package
 - i. Obtain certification from the preparer of the ballot packages that all necessary items were enclosed in each Ballot Package Mailing Envelope and that the envelopes were properly addressed to all members on the Eligible Voter list.
 - ii. Ensure that Ballot Package Mailing Envelopes are sent by first class mail to help ensure that all members receive ballots in a timely manner.
 - iii. Obtain a statement from the post office indicating the number of ballot packages mailed.
 - iv. the inspector of election must deliver, or cause to be individually delivered to each member, at least 30 days before an election, both the ballots and either a copy of the election rules or a statement in 12-point font that reads, "the rules governing this election may be found here {insert web address}."
- d. Receive ballots. (California Civil Code § 5110(c)(3).)

8. Secret Ballot Return Instructions

If authorized by the California Legislature, the Corporation may utilize electronic "Secret Ballots." Such procedure will be consistent with what is required in the California Civil Code. For paper Secret Ballots, the following shall apply:

- a. The Secret Ballot itself is not signed by the voter, but is inserted into the Secret Ballot Envelope, which is sealed. The Secret Ballot Envelope shall not have any identifiable markings and is then inserted into the Pre-Addressed Return Envelope, which is also sealed.
- b. In the upper left hand corner of the Pre-Addressed Return Envelope, the voter shall both print and sign his or her name, address, and the unit number that entitles him or her to vote (California Civil Code § 5115(a)(1).).
- c. The Pre-Addressed Return Envelope is addressed to the Inspector or Inspectors of Election, who will tally the votes. The envelope may be mailed or delivered by hand to a location specified by the Inspector or Inspectors of Election. The member may request a receipt for delivery (California Civil Code § 5115(c)(2).).

- i. Return by Mail

1. The Pre-Addressed Return Envelope shall be returned on or before the deadline date by mail to the address of the Inspector of Election c/o Ballot Collector as set forth in the voting or ballot return instructions or on the secret ballot.
2. A second post office box may be used for Secret Ballot packages returned as undeliverable.
3. Members who desire a receipt for delivery of a mailed Secret Ballot shall mail the Secret Ballot by Certified Delivery – Return Receipt Requested at the Member's expense.

- ii. Return by Hand Delivery

1. Secret Ballots returned by hand shall be deposited by the Member into a locked and secure ballot box located in the lobby of the **Community Center, 24351 El Toro Road, Laguna Woods.**
2. At the request of the voting Member, the Authorized Agent, which may be management, shall provide a receipt for the hand delivered Secret Ballot.
3. Inspectors shall retrieve Pre-Addressed Envelopes from the locked ballot box daily and date stamp them.
4. Secret Ballots may also be hand delivered to the Inspector of Elections at the meeting to tabulate the ballots prior to the close of polls.
5. All Pre-addressed Return Envelopes received shall remain sealed until they are opened and tabulated in public. The Corporation shall reserve a secure room at the **Community Center (24351 El Toro Road, Laguna Woods)** for use by the Inspector(s) of Election. Notwithstanding, the Inspector(s) of Election may establish a physical boundary or buffer around

them during the tabulation of ballots.

- iii. Ballot Return Instructions – The Ballot Return Instructions will be the same as the Secret Ballot Instructions, detailed herein above, with the exception that the Ballot will be inserted into the Pre- Addressed Return Envelope only inasmuch as non-Secret Ballots do not require the use of a double envelope system so the Secret Ballot Envelope will not be utilized.
- d. Determine the authenticity, validity, and effect of proxies, if any.
- e. Verify voter eligibility.
 - i. Count and record the number of Pre-addressed Return Envelopes received from the post office.
 - ii. Count and record the number of Pre-addressed Return Envelopes received by hand delivery.
 - iii. Place the Pre-addressed Return Envelopes in order by address, which corresponds with the Eligible Voter List. This process may be automated (i.e., barcodes).
 - iv. Void (but do not open) any Pre-addressed Return Envelopes, which does not contain information that identifies the member as an eligible voter (see Section 8.c.i.1 above).
 - v. Void (but do not open) any Pre-addressed Return Envelope that is a duplicate vote.
 - 1. Revocation. No written ballot may be revoked after deposit in the mails or delivery to the Corporation. (Bylaws, Article V, Section 9(e))
 - 2. If a voter returns two Pre-addressed Return Envelopes, the Inspectors of Election shall determine which ballot to count. If it can be determined which is the first Pre-addressed Return Envelope sent or received, then it shall be deemed the original ballot, which shall be counted and the other Pre- addressed Return Envelope should be voided.
 - vi. Resolve any challenged ballots. If possible, this should be done before any Pre-Addressed Return Envelope is opened and counting begins.
 - vii. Explain the reason for each voter eligibility decision made.
 - viii. The sealed ballots at all times shall be in the custody of the Inspector or Inspectors of Election or at a location designated by the Inspector or Inspectors of Election until after the tabulation of the vote, at which time the Inspector of Election can maintain custody of the Election Record pursuant to statute, or transfer custody shall be transferred to the Corporation (California Civil Code § 5125(a).).
- f. Count and tabulate the votes.

- i. All votes shall be counted and tabulated by the Inspector or Inspectors of Election in public at a properly noticed open meeting of the Board of Directors (California Civil Code § 5120(a).).
 - ii. At a properly noticed open meeting of the Board of Directors, the seals of the Secret Ballot Envelopes shall be broken, and the Inspector(s) of Election shall prepare the ballots for tabulation, which may include electronic tabulation scanning. A third-party election services contractor who is not an inspector of election may be deputized by the Inspectors of Election to assist with the preparation and scanning of the ballots.
 - iii. A ballot shall be voided if it contains information identifying the voter (California Civil Code § 5115(a).).
- g. Determine the result of the election
 - i. Once the ballots are scanned and tabulated, the Inspector(s) of Election shall certify the election by signing an official form. The tabulated results of the election shall be promptly reported to the Board and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by members of the Corporation.
 - ii. Within fifteen days of the election, the Board of Directors shall publicize the results of the election.
 - iii. Tabulated ballots shall be packed and sealed, and the Inspectors of Election shall initial the seal to ensure that there is no tampering with the tabulated ballots.
 - iv. The custody of the tabulated ballots and other Election Records as listed in Section 1.b of this SOP shall remain in the custody of the Inspector(s) of Election for not less than one (1) year after the tabulation of ballots, or until the time allowed by Civil Code Section 5145 for challenging the election has otherwise expired. Upon written request, Election Records shall be made available for inspection and review by Members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
 - v. After the tabulation of ballots, the Board of Directors or its Authorized Agent (i.e., management) shall return to the post office to pick up any ballots received after the deadline. These ballots shall not be opened and shall be marked "Void – received after deadline".

9. Election Mailing Materials

- a. The Corporation shall conduct its election consistent with its Bylaws and state statutes (Bylaws, Article V, Section 8(b)). The official election materials are to be prepared by the Inspector(s) of Election.
- b. As prescribed by law, secret ballot procedures shall be used when voting on

the following issues: assessment increases; election and removal of directors; amendments to the Governing Documents (i.e., Articles of Incorporation, Bylaws and Occupancy Agreement); and the grant of exclusive use of Common Area property.

- i. A “secret ballot” is a ballot which does not identify the voter by name, address, lot, unit or parcel number. The term “secret ballot” does not include a ballot for purposes of voting on any matter other than assessments, election or removal of directors, amendments to the Governing Documents or the grant of exclusive use of Common Area property. All secret ballots, including for election of directors, must conform to the requirements of applicable law. Any Bylaws provision inconsistent with the law shall be void.
- ii. All secret ballots shall provide a reasonable time within which to return the ballot to the Corporation, which may be set at the discretion of the Board unless otherwise required by law. The time for the return of secret ballots may be extended for reasonable intervals at the discretion of the Board.
- iii. Any action requiring Member approval, other than those requiring a secret ballot, may be submitted for vote by written ballot without calling a meeting of the Members. The written ballot shall describe the proposed action(s), provide an opportunity to specify approval or disapproval of each proposal, and provide a reasonable time within which to return the ballot to the Corporation as set forth in Article V, Section 9 of the Bylaws.
 1. The determination to conduct a vote by written ballot shall be made by the Board or by members having 20% of the eligible voting power signing a written request and delivering same to any Corporation officer (Bylaws, Article V, Section 9(c)).
 2. The officer shall thereupon distribute a written ballot to every Member eligible to vote on the matter. A written ballot may not be revoked.
 3. All solicitations shall indicate the number of responses needed to meet the quorum requirement and the percentage of approvals needed to approve each proposal. The solicitation must specify the time by which the ballot must be received in order to be counted.
 4. Written ballots and solicitations shall be distributed in the same manner as notice of Member meetings. Approval by written ballot shall be valid only when the number of eligible ballots received meets the quorum required at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the

number of votes cast by ballot. Upon tabulation of the ballots, the Board shall promptly notify the Members of the outcome of the vote or failure to meet quorum.

- c. Should state statute allow for electronic voting for those votes which previously required paper Secret Ballots, as referenced herein and in the state statute, then the Corporation may utilize such electronic system consistent with those Rules and Regulations, so long as the electronic voting is consistent with the terms of the applicable and statutory requirements.
- d. To the extent permitted by law, in the event the number of candidates at the close of nominations is not more than the number of open positions on the Board, those candidates shall be considered elected by acclamation, without further action, and the results shall be announced as required by these Rules and law, provided the following are true:
 - i. The Corporation has provided individual notice of the election and the procedure for nominating candidates at least thirty (30) days before the close of nominations; and
 - ii. The Corporation has permitted all candidates to run if nominated, except if the candidate is disqualified, pursuant to this Policy.

10. Secret Ballots: Removal of Directors by the Membership

- a. The Members may remove directors by at least a majority of the votes represented at a meeting at which a quorum is present, in accordance with California Corporations Code Section 7222 and the following procedures:
 - i. A petition must be presented, in person, to the President or Secretary of the Corporation, bearing the signatures of Members in good standing who represent at least five percent (5%) of the eligible voting power of the Corporation. The signature and address or Unit number of each petitioner in his or her own handwriting; the name(s) of the sponsor(s) of the petition; and fulfill all other legal requirements.
 - ii. Within twenty (20) days after receipt of such petition, the President, Secretary, or Board shall either call a special meeting or distribute secret ballots to the Members to vote upon the requested recall. Such meeting or vote by secret ballot shall be conducted not less than thirty-five (35) nor more than ninety (90) days after the petition is presented.
 - iii. The director(s) whose removal is being sought shall have the right to rebut the allegations contained in the petition orally, in writing or both. Any written rebuttal shall be mailed by the Corporation or otherwise provided to all Members, together with the recall ballot.
 - iv. If the quorum requirement for a valid membership action is not satisfied or if the recall vote results in a tie, the removal action will have failed.
 - v. In the event the recall vote is successful, any vacancy must be filled by

a vote of the Members following the nomination and election procedures set forth in this SOP, except that nominations to fill a vacancy shall close thirty (30) days before the date of special meeting to elect a director(s) to fill a vacancy(ies). Notice of the special meeting and secret ballots to elect directors to fill any vacancy created by the removal of one or more directors must be sent to Members not less than thirty (30) days before the deadline for voting. The successor director shall serve for the unexpired term of his or her predecessor.

11. Secret Ballots: Amendments to Governing Documents.

- a. Votes to amend the Articles of Incorporation, Bylaws, Occupancy Agreement or any other governing documents of the Corporation (“Governing Documents”) requiring a vote of the Members, shall be done by secret ballot pursuant to the SOP. Secret ballots enclosing the text of the proposed amendment must be delivered to every Member not less than thirty (30) days prior to the deadline for voting.

12. Secret Ballots: Grant of Exclusive Use of Common Area.

- a. The affirmative vote of at least sixty-seven present (67%) of Members secret ballot pursuant to the procedures set forth herein is required before the Board may grant exclusive use of any portion of the Common Area to a Member, unless the grant of exclusive use of Common Area meets an exception provided by California Civil Code § 4600(b), or any superseding statute, which includes, but is not limited to any grant of exclusive use that is for any of the following reasons:
 - i. To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company;
 - ii. To eliminate or correct encroachments due to errors in construction of any improvements;
 - iii. To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions;
 - iv. To fulfill the requirement of a public agency;
 - v. To transfer the burden of management and maintenance of any Common Area that is generally inaccessible and not of general use to the membership at large;
 - vi. To accommodate a disability;
 - vii. To install and use an electric vehicle charging station in a garage or a designated parking space that meets the requirements of California Civil Code § 4745, where the installation or use of the charging station requires reasonable access through, or across, the common area for utility lines or meters;

- viii. To install and use an electric vehicle charging station through a license granted by an association under California Civil Code § 4745; or
- ix. To comply with governing law.

Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Common Area shall specify whether the Corporation will receive any monetary consideration for the grant and whether the Corporation or the transferee will be responsible for providing any insurance coverage for exclusive use of the Common Area.



RESOLUTION 01-20-XXX

Election Rules

WHEREAS, Senate Bill 323 also known as the new election laws has amended sections of California Civil Code § 5100, 5110, 515, 5125, 5145 and 5200 and added section 5910.1 relating to common interest developments; and

WHEREAS, the Board recognized that need to amend the Election Rules to align with the current California Civil Code;

NOW THEREFORE BE IT RESOLVED; April XX, 2020, that the Board of Directors of this Corporation hereby approves the amended Election Rules, as attached to the official minutes of this meeting; and

RESOLVED FURTHER, that Resolution 01-15-33 adopted March 10, 2015 is hereby superseded in its entirety and cancelled;

RESOLVED FURTHER, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out the purpose of this resolution.



DATE: April 16, 2020
FOR: Governing Documents Review Committee
SUBJECT: Appeal Policy

RECOMMENDATIONS

Staff recommends amending the Appeal Policy.

BACKGROUND

United Laguna Woods Mutual's ("United") Governing Documents require a Member to seek approval from the Board of Directors ("Board") on various matters of Corporate business by way of the Committee structure for review of a question that may/will ultimately be determined by the Board.

On October 28, 2013, United approved an Appeal Policy for alteration requests, common area improvement requests, and other Corporate business matters. The Appeal Policy allows a Member to appeal a Board decision in an Open Meeting within 30 days and a final appeal within one year. In addition, part of the process requires the appropriate Committee review the information again and submit their recommendation to the Board for final decision.

Civil Code Section §4765 provides that decisions made by the Board or of a committee having the same composition as the Board relating to a Member's architectural and/or landscape request that occur in an Open Session Board meeting in compliance with the requirements of Civil Code §4900 et seq. (the Open Meeting Act) may be final, without the right of an Member to appeal said decision.

Civil Code Section §4355(B) allows for the issuances of a document that repeats existing law or the governing documents without 28 day posting to the Membership.

DISCUSSION

The current appeal policy does not align with Civil Code §4765; allowing for Board decisions to be final. The proposed amendment would streamline the process and provide guidelines for a Member if they meet the criteria for an appeal. In addition, the proposed amendment has been expanded to include landscape requests, Lease Authorization Permits, and Care Provider Permits.

Committee and Management decisions will continue to be appealable until the Board makes a final decision in either Open or Closed Session meetings.

FINANCIAL ANALYSIS

None

Prepared By: Blessilda Wright, Compliance Supervisor

Agenda Item 12

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Reviewed By: Francis Gomez, Operations Manager

ATTACHMENT(S)

Attachment 1: Appeal Policy

Attachment 2: Resolution for Appeal Policy



Appeal Policy

Resolution 01-20-XX; Adopted

I. Purpose

United Laguna Woods Mutual (“United”) requires a Member to seek approval from the Board of Directors (“Board”) on matters of Corporate business by way of the committee structure for review of a question that will ultimately be determined by the Board. Such committees, forward recommendations regarding Members’ requests to the Board for consideration, and if the proposed request is disapproved, then such decision may be subject to appeal to the Board by the Member.

The purpose of this document is to set forth the Appeal Policy. This includes, but not limited to, decisions made regarding architectural, landscape, disciplinary, occupancy and membership.

II. Definitions

For the purposes of this policy:

- a. Committee is a group of individuals appointed by the Board for a specific function. For example, the Architectural Control and Standards Committee and Landscape Committee reviews Member’s requests for nonstandard changes and make recommendations to the Board for approval or denial.
- b. Community Rules - the Articles of Incorporation and Bylaws of United, the recorded Occupancy Agreement; and any rules and regulations adopted by United. Any reference to the “Governing Documents” shall, for purposes of this Policy, be deemed a reference to the Community Rules set forth in this definition.
- c. Executive Session is defined as a closed meeting of the Board to address disciplinary/confidential matters.
- d. Member is defined as any person entitled to membership in United.
- e. Open Meeting Act is defined as a meeting open to the Members of United. Per Civil Code §4765, decisions made by the Board relating to a Member’s architectural and/or landscape request that occur in an Open Session meeting may be final.
- f. Subject Matter Expert (“SME”) is defined as the Staff Member with the highest level of expertise in the specialized job, task, or skill.

III. Conditions

Decisions made by the Board in Open Session are not subject to appeals. The Architectural Control and Standards Committee and Landscape Committee review Members request and forward recommendations to the Board per the Open Meeting Act.

Decisions made by the Board in Open Session:

- a. In accordance with the Civil Code §4765, no Member shall be entitled to a right of appeal to a decision by the Board pertaining to an architectural, and/or landscape related matter in a meeting that satisfies the Common Interest Development Open Meeting Act.
- b. All decisions including other matters of corporate business by the Board made in meetings that satisfy the Common Interest Development Open Meeting Act shall be final.
- c. Notwithstanding the foregoing, if new information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right. The SME will review any extraordinary circumstances for consideration if submitted within 30 days in writing from the Board's determination.

Decisions made by the Board in Executive Session are subject to appeals. The Members Hearing Committee makes decisions on disciplinary/confidential matters including occupancy and membership decisions in Executive Session.

IV. Procedure

- a. Within 30 days of receipt of a written decision by either the Board or Members Hearing Committee relating to Member discipline or a reimbursement by the Member to United, made at an Executive Session meeting, the Member may appeal the decision by providing new information, in writing, as to why the Member believes the committee made a wrong decision.
- b. Upon receipt of such appeal request, the information will be reviewed by the SME for consideration. If approved, a new hearing will be scheduled before the Board, at which the Board will consider the written appeal as well as any evidence or documentation previously provided, after which the Board will make a final decision and provide notice of same in accordance with the governing documents and statute.
- c. No further appeals will be granted upon reconsideration by the Board of the matter that was the subject of the initial hearing and a final determination by the Board.



**Appeal Policy
RESOLUTION 01-20-XXX**

WHEREAS, United Laguna Woods Mutual's ("United") Governing Documents require a Member to seek approval from the Board of Directors ("Board") on various matters of Corporate business by way of the Committee structure for review of a question that may/will ultimately be determined by the Board;

WHEREAS, while decisions made by various Committees or Management may be subject to appeal by an Member to a Committee or to the Board of Directors as may be permitted by the Governing Documents, certain decisions on United matters, including without limitation, architectural requests, landscape requests, variance requests and disciplinary matters, may be heard directly by the Board for its decision;

WHEREAS, Civil Code Section §4765 provides that decisions made by the Board or of a committee having the same composition as the Board relating to a Member's architectural and/or landscape request that occur in an Open Session Board meeting in compliance with the requirements of Civil Code §4900 et seq. (the Open Meeting Act) may be final, without the right of an Member to appeal said decision;

WHEREAS, committee decisions regarding disciplinary/confidential matters that are made in Executive Session meetings are subject to appeal to the United Board by the Member in accordance with United's Governing Documents;

NOW THEREFORE BE IT RESOLVED; XXX, that the Board of Directors of this Corporation hereby establishes and adopts the attached Appeal Policy pertaining to the rights of Members to appeal decisions of Committees of the Board and, as applicable, by the Board regarding certain Corporate business, for this Corporation;

RESOLVED FURTHER, that Resolution 01-13-182 adopted October 28, 2013 is hereby superseded in its entirety and cancelled;

RESOLVED FURTHER, that this Appeal Policy and the mechanisms for appeals of decisions described herein shall supersede any prior or contrary appeal procedure or right of Members on the decisions subject to this Appeal Policy as may be found in United's Governing Documents, as may be applicable;

RESOLVED FURTHER, that the foregoing Appeal Policy shall apply to decisions on matters heard and decided by the Board as described therein, but shall not otherwise affect the ability of Members to appeal committee and/or management decisions on matters not heard by the Board as may otherwise be provided for in United's Governing Documents; and

RESOLVED FURTHER, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out the purpose of this resolution.