

WILDWOOD WEST ROAD ASSOCIATION CORPORATION

SPECIAL MEETING MINUTES

September 14, 2022

Meeting held at the Gebhart's residence, quorum established and called to order at 5:35 PM.

Board members Present: Al Gebhart, Bob Spier, Jessie Ettlin, Lauren Rossoovich & Karen Gifford.

Other attendees: Bob Bell, Steve Boone, Shizumi Crimi, Danny Estin, Chuck Frank, Bill & LaRae Ganch, Ian Garfinkel, Donna Gephart, Paula Hansen, Nino Herrera, Richard Kaiser, Rob Martello, Patti Parsons, Steve Smith and Shane Wallace.

Agenda: Provide an open forum to discuss the Bylaws (Committee and Redline proposals) and plan the next steps for a final draft and/or vote.

Some of the comments, questions, possible changes or actions discussed:

No one should run for a board position if their house is for sale. If you are already on the board then you should resign.

Board needs more transparency sending out e-mails.

The voting percentages need more discussion.

Everyone who participated preparing the bylaws the committee, association members and board all efforts appreciated.

As a goal get an enforceable document we can live with as a community.

Make sure all the attachments are included and properly labeled in the final draft for a vote.

Robert's Rule change from shall use to may use.

Over 700 plus pages if enforced might need a parliamentarian.

Use the smaller version for small boards.

Those on the board decide application of the Robert's Rules.

What is Prudent Man Rule discuss and define?

Offers some protection to the board using due diligence and getting legal assistance or other resources when needed.

Why are there issues that need a unanimous approval?

Concerns with admission to the association if outside the current boundaries and lacking deeded ingress/egress easement. (Referring to Article VI. Boundaries 6-2).

Would legal action be warranted?

Do parcel owners still have the right to refuse access?

Owners still have the rights.

Would the county be part of the process?

What if laws changed.

Would it be better to allow and collect money?

Proposed increase to annual dues.

Could get complicated based on usage.

Flat rate might be unfair.

Should not be a part of the current bylaws package sent out for a vote, could have a negative impact to getting the proposed bylaws passed.

Should be more warning to consider an increase.

Increases should be a separate ballot item.

Need more than 51% to approve an increase.

Might be an issue for the next board to tackle.

Define majority and super majority for voting.

Majority vote is 50% of parcel owners (24 or 46) vote & passes with 51% in favor.

Super Majority 50% of parcel owners (24 or 46) vote & passes with 66% in favor.

This is getting too complicated.

Consider all the items that need a minimum or maximum number of votes to pass, such as assessments, purchases, or insurance, speed, recall thresholds, etc.

Abstaining doesn't count as anything. Only Yes or No votes counted.

What can be done about voting apathy?

When ballots go out call every association member.

Go back to 51% for voting.

The two proposed Bylaws seem to be close in comparison but the voting issue need to be defined better.

The term burdened and how to incorporate an older attachment with all parcel numbers.

Quarterly meeting minutes go out as Draft when posted to web site prior to a board motion to approve in to record.

Treasurer obtaining an outside accountant.

Would need board approval.

Special meetings would require the signature of 20% of the members before scheduling and a quorum of 33%.

Need to get gravel and culverts fixed.

Timing on when they can be done needs consideration.

Costs become a part of any road repair.

Consider projects for every other year.

Some areas in need of repair but none require immediate attention.

Anyone should be able to request mail notifications for meetings, minutes and other association business that would go out to the membership in an e-mail format.

Committees should state create not appoint to make sure anyone can serve on one, not hand-picked.

Speed limits subject to change.

Wildwood West and tributaries will be posted at 25MPH.

Maintenance for Wildwood West Drive in good passable condition, not any of the tributaries.

An observation that spending money guidelines are too low.

How could the current bylaws be totally worthless?

Did the Bylaws Committee feel their work was not recognized or valued?

Much time was spent by the committee and suggestions were not considered.

There was an effort on everyone's part, members, Bylaws Committee and the Board to help produce a final bylaws draft.

Bob Bell (Secretary of the Bylaws Committee) indicated he had not heard anything back concerning the draft that was done by the committee and he took the document, on his own time and expense, to Alan Haley to be vetted or reviewed, there were five bullet points noted for change. The response from Mr. Haley was provided at the meeting and a copy for reference was received by the Chairman, Al Gebhart. In addition, all board members, committee chairman and anyone asking for a copy would be supplied one by e-mail, along with the corrected committee bylaws draft. (The committee's draft and attachments received review as specified in Mr. Haley's memo dated September 13, 2022, it has been added to minutes for all members to review).

Bob Spier acting as liaison for the board to observe the Bylaws Committee meetings presented the 3.2 Redline version of the Bylaws for discussion. This version to into consideration 80 to 90% of what the committee did. Also added in feedback form the association members from the survey that was sent out. Some of the changes of note: special meetings need 20 of the members on a petition, minutes posted with "draft" on the web site prior to getting approval into record by the board, Prudent Man Rule (acting in good faith) voting new terms Majority and Super Majority, abstentions do not count and 24 votes minimum needed. Opened the floor for further discussion.

Al Gebhart had been informed by Alan Haley that the association cannot operate as usual because there are not viable bylaws in place. This would mean a hold on spending, fixing the road and collecting dues. He indicated that he had some other correspondence from Mr. Haley that presented some additional findings concerning the bylaws. (Correspondence attached to minutes).

How to proceed?

Options presented:

Send out a new Redline Bylaws (combining committees work, former redline draft and items discussed at the meeting) in an e-mail to all members to review and offer comments, then allow 10 days for responses.

Send out the Bylaws Committee draft with the noted changes by Haley.

Send out the Redline and give 30 days to respond and see what happens.

Send out a new Redline copy as discussed at the meeting with a ballot for the membership to vote on within 30 days of mailing.

Voting could be between 30 and 45 days.

Al Gebhart:

Motion: Send out the new Redline copy with a ballot to all the members. All ballots to be returned within 30 days after postage date.

Second: Bob Spier

All in favor...

Note: Secretary had been given prior to the meeting seven proxies with Patti Parsons acting in their behalf for any and all matters concerning the road association.

There was a discussion before they were validated.

All in favor 11

Oppose 4 plus 7 proxies

Motion was noted as carried.

Note: The next day the vote was called into question. Al Gebhart contacted Alan Haley's office for proper procedure the issue is still pending and no announcement given to the membership.

Note: Added to the minutes is a memorandum from the Chair with the vote count and commentary concerning the results. In addition, the Chair has provided responses for procedure on this matter, which he has shared with all the board members. On September 21st Anne Mcfarlane, a registered parliamentarian, working for Jurrasic Parliament, sent a memo and on September 26th attorney Allen Haley sent a memo. Both of those memorandums for procedure have been added to the minutes and into record for the association members to review.

Prior to the conclusion of the meeting the Secretary, Karen Gifford, was handed a document, which was read to all attending and states the following:

This petition for the recall of Alvin Gebhart is submitted to Karen Gifford, WWRA Board Secretary, on 14 September, 2022 17:20 PST. It contains the signatures from 14 member parcels representing over 30% of the total membership.

Al Gebhart asked for charges or cause as stated in the Bylaws.

Bob Bell noted that this was done under Corporate Code 7222, members under 50 no charges required and currently there are no enforceable bylaws as previously stated.

This petition is currently under advisement and Alan Haley's office has been contacted for legal advice.

There was no motion to adjourn.

Approximate Time 7:30 PM

Prepared By Secretary, Karen Gifford

Safety is a major concern on our road to protect people, pets and property. Please control you speed and remind your visitors to do the same.

From: Al Gebhart <al_gebhart@pacbell.net>

To: bob@mortcare.net <bob@mortcare.net>; jettlin17@yahoo.com <jettlin17@yahoo.com>;
usmcrosso@hotmail.com <usmcrosso@hotmail.com>; kerryvca@aol.com
<kerryvca@aol.com>

Sent: Friday, September 30, 2022 at 09:25:27 AM PDT

Subject: Re: WWRA Draft Meeting Minutes 9/14/22

Good morning, in reviewing the minutes I will address some corrections. The first in the actual minutes themselves and the other as a memorandum to statements made by members and attached to the minutes as such for the record. I have verified this approach with the consultant on Robert's Rules that I have been using.

The minutes: The voting numbers should be adjusted as to the verification of the proxies submitted as to whether the persons granting were eligible to do so or vote. The one proxy by Patrick Allen, Oliphant's son, their annual fee has not been paid per the Treasurer and therefore their vote doesn't count. The no's decline by one. The changing of votes the next day is not allowed by Robert's Rules. So the count that night stands for the motion to pass. Please adjust accordingly.

Also there was no feedback included by the Treasurer in response to his work on the bylaws presented that night and the comparisons to the committee's bylaws. Bob Spier added that a lot of the committee recommendations were included in his redline copy as presented.

There was no mention of Mr. Boone's comments in regard to the petition submitted for the recall of the chair.

Memorandum to attach to the minutes as part of the record.

The minutes as recorded stated by Mr. Bell that the "Committees' draft and attachments have received a full legal review as specified in Mr. Haley's memo dated September 13, 2022." Please see below the comments from Mr. Haley. I had also asked Mr. Haley how he had made contact with Mr. Bell. Mr. Bell continued to represent himself as the committee's secretary after the committee was dissolved on August 29, 2022 Please see below his response.

1. How he made contact:

Hi, Al — Robert Bell emailed me on September 12 to ask about the procedure for adopting the bylaws. I told him the same as I had told you earlier; I think I quoted from what I had written you.

Mr. Bell had contacted me last fall, when he was serving with the previous officers. So I already knew him. He told me this time he was on the bylaws committee.

Did you get the 14 votes to adopt the new version?

Allan

2.

Here is the email I sent to Mr. Bell after reviewing both sets of bylaws. Note that there is no language about my "approving" anything.

Allan

Sent from my iPhone

Begin forwarded message:

From: Allan Haley <ashaley@lawhb.com>
Date: September 13, 2022 at 10:25:40 AM PDT
To: Robert Bell <rrbell_99@yahoo.com>
Subject: Re: Bylaws package I reviewed

I have reviewed both documents. They are mostly similar. The following points stood out for me in reviewing the drafts:

1. Section 3-2 (as added) seems out of place — it has nothing to do with “Members”, which is the topic of Art. III. I think the language of Sec. 3-2 would fit better at the beginning of Sec. 2-2.
2. Making the use of Robert’s Rules mandatory (Sec. 5.2 in the Board’s draft), or discretionary, with each chair is a matter of personal taste. Somebody who doesn’t like Roberts, or who has not mastered its details, might not take well to being ordered to use it.
3. Providing for 20% of members (*i.e.*, 10) to petition for a Special Meeting (Sec. 5.3 in the Board’s version) seems preferable to allowing just 5%, or 3 members, to force a meeting. With only three people excited about something, it probably would be difficult for them to drum up the 33% quorum necessary for the meeting to take place.
4. Section 5-9 of the Committee’s draft seems wrong: it turns things around. Instead of the Secretary being *given* notice of each Board or Committee meeting, now the Secretary has to *give* the notice of each such meeting. (Committee meetings are usually noticed by the Chair of the Committee.)
5. Section 6-2 of the Committee’s draft states a principle of law which does not belong in the Bylaws. As a matter of law, no matter what the Bylaws say, no person outside the Association may use an easement over your property without your consent.
6. Subparagraphs (f) and (g) of Section 13.4 as added by the Board are inconsistent — they say a “supermajority” is now 50%, and now 66%. Which is it?
7. The word “Covenants” should not be added to Article XXV. Covenants once recorded are binding, and run with the land.

Allan Haley

3. Chairman Gebhart had stated that we cannot operate the organization without the bylaws per Mr. Haley.

<ashaley@lawhb.com>
To: Al Gebhart
Cc: Melissa Hochwald
Tue, Aug 30 at 10:25 AM
Al — you wrote:

What to have Mr. Haley review?

1. Can they want to limit the future access to the road by out side road additions. Have another road punch through to ours. I believe under Ca. Civil code 845 a,b,c we can not limit public access to the road. It is in the original by 1976 road maintenance agreement. Private road with public access.

Can I use this? It becomes a voting question where they want 100% approval for it to be allowed. It cut off a fire exit route for the road through another property. I believe the state would step in, like the ADU concept and allow it and therefore a non-item.

They have a right to limit access "from the outside" by new roads, because those new roads would have to come across someones' properties, and that could not happen (absent eminent domain) without those persons' consent. To enlarge the area of the Association would also require a super-majority vote, as stated in your bylaws.

2. They want a 2/3 vote of the parcel owners to approval the new bylaws, versus 2/3 of the vote cast. Is there away around it or do I just argue the it is necessary to make the new bylaws pass. If enough of them vote (at a later meeting) to amend the clause requiring approval by 2/3 of the vote cast, then any future vote would require 2/3 of the parcels to approve. But they can't vote to "amend" a bylaw that has not yet been adopted by the membership (by 2/3 of the vote cast). Then they would have to follow the procedure of the new bylaws and call and notice a special meeting for that purpose.

3. How long can we operate without a current bylaw in place since our older one is not enforceable? Your decision is a simple up-or-down vote on the bylaws as proposed. If 2/3 of those present and voting say "Yes", then the new bylaws are adopted for the time being, until they are changed at a later meeting specifically noticed and called for that purpose. I would not go without bylaws for any length of time, because then you have no means of repairing the road, making assessments, etc.

Thank you
AI

Re: Bylaws package I reviewed

From: Allan Haley (ashaley@lawhb.com)

To: rrbell_99@yahoo.com

Date: Tuesday, September 13, 2022 at 10:25 AM PDT

I have reviewed both documents. They are mostly similar. The following points stood out for me in reviewing the drafts:

1. Section 3-2 (as added) seems out of place — it has nothing to do with “Members”, which is the topic of Art. III. I think the language of Sec. 3-2 would fit better at the beginning of Sec. 2-2.
2. Making the use of Robert’s Rules mandatory (Sec. 5.2 in the Board’s draft), or discretionary, with each chair is a matter of personal taste. Somebody who doesn’t like Roberts, or who has not mastered its details, might not take well to being ordered to use it.
3. Providing for 20% of members (*i.e.*, 10) to petition for a Special Meeting (Sec. 5.3 in the Board’s version) seems preferable to allowing just 5%, or 3 members, to force a meeting. With only three people excited about something, it probably would be difficult for them to drum up the 33% quorum necessary for the meeting to take place.
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5. Section 6-2 of the Committee’s draft states a principle of law which does not belong in the Bylaws. As a matter of law, no matter what the Bylaws say, no person outside the Association may use an easement over your property without your consent.
6. Subparagraphs (f) and (g) of Section 13.4 as added by the Board are inconsistent — they say a “supermajority” is now 50%, and now 66%. Which is it?
7. The word “Covenants” should not be added to Article XXV. Covenants once recorded are binding, and run with the land.

Allan Haley

On Sep 13, 2022, at 8:27 AM, Robert Bell <rrbell_99@yahoo.com> wrote:

<2022 Proposal WWRA Bylaws with attachments.pdf>

ATTACH THIS AS A MEMORANDUM TO 9-14-22 **Meeting Minutes**

Voting issue:

There were 27 parcels represented, (Herrera's 2)

Yes votes	No Votes
Boone	Parsons
Kaiser	Hansen
Martello	Wallace
Crimi	Bell
Garfinkle	Proxies
Gebhart	Fausto
Rossovich	Blofeld-Nelson
Smith	Mc Connell
Herrera (2)	Zoch
Estin	Wells
Ettlin	Stevens
Spier	

13

10

Proxy vote for Patrick Allen Voided because of non-payment of road fee
Karen Gifford did not vote.

Smith and Rossovich wanted to change their votes Thursday and Friday after Wednesday vote was carried. (Emails can be provided)
Chair received opinions from Mr. Haley and Anne Mcfarlane of Jurrassic Parliament (Robert's Rules Consultant) Please see emails attached:

----- Forwarded Message -----

From: Ann Macfarlane (Jurassic Parliament) <ann@jurassicparliament.com>
To: Alvin Gebhart <al_gebhart@pacbell.net>
Sent: Wednesday, September 21, 2022 at 10:45:10 AM PDT
Subject: Following up on our conversation

Dear Al,

Pursuant to our conversation today, here are the points we discussed. I also include some blog entries for your reference.

1. Under Robert's Rules of Order, once a vote has been taken by a body, the result announced by the chair, and the body has moved on to the next item of business, the matter is closed and the result stands as announced. People who believe that the vote was not counted correctly, or that there were errors made, must bring this up by raising a Point of Order at the time. It is too late to bring it up later. See *Robert's Rules of Order Newly Revised*, 12th edition, Section 54:9: Time limits on efforts to challenge, retake, or change a vote.

2. It is possible for a body to address such issues later during the same meeting, using the Motion to Reconsider, or to rescind the motion at a future meeting, using the motion Rescind, provided that no action has been taken that cannot be undone.
3. Officers of a corporation have a duty to carry out the direction of the board. They may not send out messages on their own accord, or decline to send out messages, because they disagree with a position or action of the board of directors. This is a legal requirement. See below, *A Quick Guide to Fiduciary Duties*, a blog entry from another expert, Sarah Merkle.
4. The board should establish a policy for how outside professionals, such as attorneys, should be consulted. This is particularly important when these persons receive payment. The usual process is to have such contacts go through the president. Other board members or members of the body may not consult such persons on their own initiative. They are incurring expense for the body in service of their individual interest, which is not allowed.
5. As a matter of course, the board and members must follow the law in understanding who is responsible for what. With regard to the board of directors, it is the board as a whole, acting at a duly noticed meeting by majority vote, which determines the course of affairs. If a member disagrees with a decision or ruling of the chair, the member may raise a Point of Order. If the chair rules against the Point of Order, the member may make the motion to Appeal, asking the entire board to decide the matter. The board is the final authority.

I hope this information is helpful to you. Please note that nothing in this message constitutes legal advice.

Sincerely,

Ann G. Macfarlane, PRP

Jurassic Parliament

PO Box 77553

Seattle WA 98177

ann@jurassicparliament.com

206-542-8422

- On Sep 26, 2022, at 10:26 AM, Allan Haley <ashaley@lawhb.com> wrote:

Re: adoption of the bylaws:

The Board receives the recommendations of its Bylaws committee. The Board, if it chooses by majority vote, may propose changes to what the Bylaws Committee proposed — but it should exercise caution in the case of substantive changes which might require further legal review.

The Board then adopts by majority vote a final version of the Bylaws to propose to its membership. This occurred at your last meeting: once the vote was tallied and the Board passed on to other matters, votes cannot retroactively be “changed.” The meeting was duly noticed and called to order, and the vote as taken stands.

The Board circulates the proposed bylaws to everyone for voting by mail-in ballot, along with a notice that states the date by which ballots must be received or postmarked to be tallied. (Note: this voting

procedure is not beholden to procedures followed in earlier meetings or earlier versions of the Bylaws.) Because this is a *new organizational* meeting, under your revised Articles, to adopt a set of Bylaws as required by State law, the California Corporations Code sets the rules. The Code says that the Bylaws of a non-profit mutual benefit corporation are to be “adopted by a vote of the members”, and Section 5034 defines that term as follows:

“Approval by (or approval of) the members” means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum). . . .”

A membership meeting could be called in lieu of a mail-in vote to approve the bylaws, but it is not necessary. The operative word in the statute is “adopted”, and bylaws approved by a majority of qualifying ballots are “adopted” just the same as if there has been a meeting. So there has to be a quorum of members (24) casting ballots for the vote to count. A simple majority of that quorum is all that is required to adopt the initial bylaws. Thus if 24 votes are cast, it will take 13 affirmative ballots to adopt the bylaws. If 30 ballots are cast, it will take 16 affirmative votes; if 43 ballots are cast, it will take 23 affirmative votes, and so on.

CA Corp Code Sec. 7222 requires a majority vote by all the membership to remove a director, since you have less than 50 members. So it would take a vote of at least 24 members to recall you.

Let me know if you have other questions.

Allan