

FINAL REPORT

CONDUCT OF BUSINESS BETWEEN MEETINGS AD HOC COMMITTEE 1 MAY 2013

CHAIR. Stetts Stettler

MEMBERS: Matt Burton (resigned in April), Linda Colville, Lynda Gredin, Linda Henwood

TASKING: Part of the tasking is to “study” the issues, but later in the motion the Committee is tasked with completing its work and preparing recommendations for the June meeting. The President confirmed that recommendations should include proposals to the Board which could replace the January in-person meeting with other meeting methods.

Of particular importance is to incorporate provisions of Washington State Statutes, particularly RCW 24.03 into our various meeting provisions.

ISSUES: Those issues specifically tasked are;

- A. Motions by Mail (Rules and Regulations, Para 2.
- B. Business Transactions (Bylaws Para 3.2)
- C. Business by Mail (Bylaws Para 4.17)
- D. Director meetings via conference call or similar electronic means.

ADDITIONAL ISSUES UNCOVERED:

- E. Our research revealed a new version of Robert’s Rules which heavily impacts our meetings. Robert’s Rules of Order Newly Revised, (11th Ed), September, 2011, is incorporated and all agenda items are in full compliance with the new Rules. The citations are to RONR.
- F. Bylaws, Para 4.16. Board of Director Meetings
- G. Bylaws, Para 4.7. Vacancies and Motion by Mail
- H. Technology issues. Availability of various methods were important to provide an overall control panel for central control of the meeting as well as least-cost call-in services. Equipment recommendations are tailored to match each individual director’s needs. Fortunately, 15 of 16 current directors have no-cost calling access on evenings and weekends. One director and the Business Manager may require additional technical services. Web-based service recommendations to support teleconferencing were developed from a large, individually-evaluated selection of options.

- A. MOTIONS BY MAIL, NPGA Rules and Regulations, Para 2.

RECOMMENDATION 1.

This committee recommends NPGA Rules and Regulations, Para 2, Motions by Mail be deleted in its entirety. See Agenda Item NAIS BBM 01.
Discussion:

Any vote by directors taken on any motion that is handled as currently written in Para 2 is ineffective. (RONR Sect 1, Para. 1)

The RONR website official Question/Answer session explains:

“It should be noted in this connection that the personal approval of a proposed action obtained from a majority of, or even all, board members separately is not valid board approval, since no meeting was held during which the proposed action could be properly debated. If action is taken by the board on the basis of individual approval, such action must be ratified by the board at a regular or properly called meeting of the board in order to become an official act. [[RONR](#) (11th ed.), p. 486, l. 33 to p. 487, l. 1”

This means that after you’ve gone through our current extensive and expensive procedures, the vote and action still have to be approved again at the next regular meeting. If ratification does not take place, the original action remains ineffective because there were no deliberations where the voters could all hear each other simultaneously.

RECOMMENDATION 2.

This committee recommends an entirely new Para 2 be accepted by the Board. See Agenda Item NAIS BBM 02.

Discussion:

a. This is a limited-use provision where electronic means may be used to explain and vote on single, specific measure which is considered certain to pass unanimously. This procedure is expressly allowed in WA Statutes Sect 24.03.465, Action by Members or Directors without a Meeting.

Sect 24.03.465: “Any action required by this chapter to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in the form of a record, setting forth the action so taken, shall be executed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or record filed with the secretary of state under this chapter.”

b. This Committee can find no corresponding authority for this procedure in RONR. The Committee surmises that this is because RONR rules contemplate deliberative bodies only but has not attempted to prove this idea because it is of no consequence. The sole RONR update that augments face-to-face meetings is the exception for teleconferences or videoconferences.

Since the order of authority places state statutes above RONR, adoption of this streamlined procedure is allowable for Board consideration.

RECOMMENDATION 3.

This committee most strongly recommends no attempt be made to continue with our current Motion by Mail procedures, coupled with a ratification process, as a regular, usual and ordinary procedure to conduct business.

As such, we have prepared no agenda item to facilitate the continuance.

Discussion: The current motion by mail is a time consuming, cumbersome and expensive process seemingly designed to be seldom used. Further, any action taken by the current Para 2, Motion by Mail, is ineffective until ratified by the Board in a deliberative setting. Updated Statutes and RONR provide streamlined, efficient alternatives and we recommend their use in this report.

In the event the Board wishes to retain the current motion by mail method, this Committee can envision no procedure that would bring it into compliance with RONR and WA Statutes. We have, to the extent possible for unanimous votes, incorporated US Mail procedures into the provisions of Para 2. That’s all that the statutes authorize at this time.

RECOMMENDATION 4.

This Committee recommends the Board ratify the two Motions by Mail executed in 2007 and 2011 in order to cure their inadvertent deficiency. Ratification is the appropriate action where the Board inadvertently and innocently took action later proved to be procedurally deficient. See Agenda Item NAIS BBM 03.

Discussion:

a. Only two motions by mail have been completed in the last decade. Neither has been ratified and neither is effective. The best (and probably the only) action the Board can take now is to ratify prior actions. In both cases, the actions are of the type that the Board had the authority to act upon so ratification is appropriate.

Research revealed that two Motions by Mail have been completed by various Boards in the past decade. Both are simply void. They are void because neither WA Statute nor RONR authorizes a Board vote except after the Board has the opportunity to deliberate the issue.

Even if the votes had met newer provisions of RONR and WA statutes, neither motion was completed with unanimous consent and therefore both remain ineffective.

That said, both WA Statutes and RONR recognize there are times when a well-meaning Board errs and so a cure is provided. To cure both these motions, the Board can move to ratify all actions taken during or as a result of the erroneous votes.

B. BUSINESS TRANSACTIONS. Current wording: Bylaws, SECTION 3.2 ELECTIONS AND BUSINESS TRANSACTIONS. In the absence of an annual meeting, elections and business transactions of the Association may be carried out through mail ballots.

RECOMMENDATION 5.

This Committee recommends full support for previously submitted NPGA AISF Jan 13 G.

Discussion:

a. This item, submitted by Ray Hoyt, recommends a minor change to Para 3.1 and complete deletion of Para 3.2. It received favorable consideration by the Board in Jan 2013 and is currently placed on hold pending mandatory 30 day notice to members for any bylaw change.

b. This committee takes notice of the Para 3.1 change and agrees that adding the sentence simply acknowledges and repeats for emphasis the existing WA Statute 24.03.076 requirement for an annual meeting.

c. This committee supports deletion of Para 3.2 because there can never be an absence of the annual membership meeting. At least one is required by WA Statute. In any conflict between a state statute and our Bylaws, the statute clearly takes precedent.

Further, Para 3.2 also allows for the business of the association to be carried out through mail ballots. That is clearly impermissible in all cases under RONR rules (no deliberation possible) and all but the most permissive WA statutes (cases of unanimous consent.)

C. BUSINESS BY MAIL (Bylaws Para 4.17). Current wording: “The Board of Directors may conduct its business by mail through the Secretary.”

RECOMMENDATION 6.

This Committee recommends no change to Bylaws, Para 4.17, with caveats.

Discussion:

a. The Committee’s recommendation is conditioned upon the expectation that the Agenda Items BBM 01 and BBM 02 will be accepted by the Board. IF that is the case, then the actual operation of Bylaws 4.17 will have changed substantially. The changes will bring NPGA into compliance with WA Statutes for conducting certain business by mail and so no change is needed.

It should be understood that no matter what the Bylaws allow, no actions are effective unless done in accordance with WA statutes. Therefore, an attempt to conduct regular business merely with an exchange of emails and with email voting will be void. It is also void under RONR since no deliberative process would have taken place.

b. In the event the Board does not accept Agenda Items BBM 01 and 02, then this Committee recommends deleting Bylaws, Para 4.17 since the current Motions by Mail, as written, is not a viable alternative. The Committee has not prepared an Agenda Item to cover this eventuality.

D. DIRECTOR MEETINGS VIA CONFERENCE CALL OR SIMILAR MEANS.

RECOMMENDATION 7.

This Committee recommends the Board adopt Agenda Item NAIS BBM 04 in its entirety.

Discussion:

a. The Committee investigated numerous alternative methods of electronically-aided meetings that comply with State of Washington Statutes, Sect 24.03 for non-profit corporations as well as NPGA Articles of Incorporation, Bylaws and Robert's Rules of Order, Newly Revised. Our clear choice is to recommend teleconferencing as the most practicable method.

b. The Committee briefly investigated videoconferencing as an alternative. Regardless of how desirable this may be, we have concluded the bandwidth required to enable this is simply not available to our directors.

Videoconferencing means each Director and the Business Manager would need individual access to sufficiently high speed internet service to support high quality video and audio transmissions. Currently, some Directors have very limited capability at home. Sometimes this is by choice, other times it is because high speed internet is simply not available. To mention on specific service, satellite-based internet service is inherently inadequate because of the lag time to bounce the signal from earth to satellite and return.

If the Directors have gathered in one place for a meeting, that meeting could probably be recorded and the video shared real time to a wide audience. However, this Committee was not tasked with exploring that option.

We have written the proposed rules such that they will generally apply to videoconferencing if such capability becomes readily available in the future.

E. ROBERT'S RULES OF ORDER, NEWLY REVISED, (11th Ed)

RECOMMENDATION 8.

No recommendation.

Discussion:

During our research, we discovered a new, substantially revised version of Robert's Rules had been released in September, 2011.

Our Bylaws, Para 9.3 currently reads, "Robert's Rules of Order" shall apply to all meetings and business transactions not otherwise specified in the Bylaws."

This Committee merely notes that this language automatically includes the requirement to follow RONR (11th Ed). This is so stated on Page vii.

F. BOARD OF DIRECTORS MEETINGS.

RECOMMENDATION 8.

This Committee recommends two changes to Bylaws, Para 4.16.

a. Add second sentence that reads, "Business and elections may be transacted by electronic teleconference or other electronically-aided means as described in Rules and Regulations of the organization."

b. The word "mailed" be replaced by "delivered" in Bylaws Sect 4.16.

This Committee recommends approval of Agenda Item NAIS BBM 05.

Discussion:

a. There is no current prohibition on NPGA conducting business in accordance with WA statutes and RONR. Therefore, failure to add this sentence will not void such transactions. However, the addition does make it completely clear that NPGA contemplates conducting business via electronic means when the Board determines it is appropriate.

b. NPGA Bylaws, Sect 4.16 BOARD OF DIRECTORS MEETING, second sentence, currently reads, "Written notice of such [Director's] meeting shall be mailed by the Secretary to each member of the Board at least 14 days prior to the date of the meeting.

The word mailed means notices must be sent via US Mail. Since this Committee is recommending approval of alternative forms of Director meetings, we recommend that notice of these meetings be made via electronic means as well. The word delivered is defined in WA Statutes Sect 24.03.005 and includes getting the notice to the recipient by mailing, faxing or emailing.

WA Statutes 24.03.009 provide specific safeguards to individual Directors if electronic notice is desired. This includes a requirement for prior written consent to notification by electronic means.

c. This electronic notification applies only to Director meetings. Other formal meetings are still governed by Bylaw provisions that remain unchanged.

d. While this committee was not tasked with commenting on this provision, any meeting conducted via teleconference will be impacted by the requirement for a prior mailed notice to each Director. It would be easy to inadvertently miss this postal mailing requirement when all thoughts are on electronic means. While this requirement could be met by each director signing a waiver of notice as provided in WA statutes, (See WA 24.03.460) this committee does not recommend such a piecemeal approach except possibly as an interim action prior to Bylaw change. The bylaw should be updated to reflect our electronically

supported business transaction methods as provided for in WA 24.03.009.

e. Since this is a change to the Bylaws, notice to members is required

G. Bylaws, Para 4.7. VACANCIES AND MOTION BY MAIL.

RECOMMENDATION 9.

This Committee recommends removal of the phrase “or motion by mail” from NPGA Bylaws, Sect 4.7, VACANCIES, by approval of Agenda Item NAIS BBM 06, Vacancies, with caveat.

Discussion:

a. The current wording of NPGA Bylaws Sect 4.7 is, “Vacancies in the Board of Directors shall be filled by the vacancy replacement director, or, if none exists, shall be filled by an appointment of the President ratified by a majority of the remaining Directors at any regular or special meeting or **motion by mail**, and each Director so elected shall hold office for the unexpired term of his predecessor, and until his successor is elected at an annual election.”

Under current wording, filling a vacancy by executing the current Motion by Mail means the attempt is ineffective by both WA Statutes and RONR until the action is ratified at the next regular or special meeting. The whole purpose of attempting to allow the action via motion by mail is to get it done between meetings. However, that is not possible.

b. While this Committee was not tasked with this item, it is intrinsically embedded within our subject matter.

c. The caveat is, of course, that IF the Board accepts our Agenda Item NAIS BBM 02, then the motion should be defeated since it would entirely change the procedures associated with the execution of a Motion by Mail.

d. This Agenda Item will require notice to the members since it is a change to the Bylaws.

H. Technology issues.

RECOMMENDATION 10.

This Committee recommends the use of services from FreeConferenceCalling (www.freeconferencecalling.com) to provide the central, web-based Control Panel for call in services. We further recommend use of Obihai (www.obihai.com) services in the event individuals require enhanced telephone connectivity not readily available by other means.

Discussion:

a. The Committee conducted substantial research into investigating a wide variety of potential sources available for low cost or (better yet) free services to conduct Board meetings. Eventually, we settled on the system that appears most user friendly and reliable while providing all the services needed to meet state and RONR requirements. We ensured the same services could be used by any of our other committees if they chose.

b. The ability to record the meetings is critical. This service does that and makes the recordings available to a wide, selectable audience for a substantial period of time. The Secretary, of course, may use these recordings to generate meeting minutes as usual.

c. This Committee *suggests* a separate person, called the Host, be appointed to operate the Control Panel. We believe the Presiding Officer's attention should not be diverted from full attention to proper conduct of the meeting. Specifics such as ensuring a quorum for discussion and voting and muting or allowing a participant to speak when recognized can be done by the Host either routinely or at the Presiding Officer's direction.

d. This committee makes *no recommendation* as to whether or not the Board wishes to make meetings open to the general membership. The systems chosen do allow up to 1000 members to listen in on meetings so the capability is there. In addition, up to 25 members can be allowed speaking privileges, as recognized by the Presiding Officer.

e. This Committee makes *no recommendation* as to whether or not NPGA should make our research and details of our recommended electronic systems available to the general membership. We can only say that we will provide any information to anyone if the Board so directs.

Respectfully submitted,

Ad Hoc Committee on
Business Between Meetings
Stetts Stettler, Chair