

**ROCKRIDGE COMMUNITY PLANNING COUNCIL**

**RCPC BYLAW AMENDMENTS TO BE  
VOTED ON BY THE GENERAL MEMBERSHIP  
AT THE RCPC ANNUAL MEETING,  
APRIL 17, 2014**

**Permanent residents within RCPC boundaries (see map and description on this website), who are 18 years of age or older, may vote on two proposed amendments to the RCPC Bylaws at the RCPC Annual Meeting to be held on Thursday, April 17, 2014, at 7:30p.m., in the Rockridge Branch Library, 5366 College Avenue, Oakland. Balloting will end at 9:00 p.m.**

**The proposed amendments are shown below. Each is followed by a brief explanation.**

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The Board of Directors has submitted the following proposals for approval by the RCPC general membership. Members' approval is sought for the amendment to Bylaws Section 7.1 because it would increase the terms of elected directors (Corporations Code sec. 5220(a)); and, for the amendment to Section 8.6, because it would affect the existing voting rights of members in elections to fill Board vacancies (Bylaws sec. 5.4).

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**PROPOSAL NO. 1:**

**AMENDMENT TO SECTION 7.1 OF THE RCPC BYLAWS:**

This proposal would amend **Section 7.1 (“Election and Term of Office of Directors”)** of the RCPC Bylaws. The proposed changes are shown in color below:

**“7.1 Election and Term of Office of Directors.** At each annual meeting of the members, six (6) of the twelve (12) director seats provided for in subparagraph (a) of Section 8.2 shall be open for election by the members, and the directors who are elected shall serve until the election results have been certified for the election held at the annual meeting in the second calendar year following the year of their election.”

Deleted: directors

Deleted: subsection

Deleted: elected to serve

Deleted: end of

Deleted: after

Explanation of amendment: Section 7.1 (former Sec. 8.3(a)) of the RCPC Bylaws provides for staggered terms for the 12 elected seats on the Board of Directors. Currently, the terms of one-half of the elected directors expire at the annual meeting, at which time new directors are chosen in an election by the general membership. So long as a quorum exists after the convening of the annual meeting, the meeting and voting “shall be continued to the Saturday following, as an alternate polling date” (Section 7.5 (former Sec. 7.3)). After the end of voting on the alternate polling date, the election officer shall “tally all of the votes which are cast” and “certify the results to the chair in writing as quickly as possible, but in any case no later than 24 hours after the balloting has ended” (Section 7.3 (former Sec. 8.3(b))).

Together, the current provisions require that nearly two days, or more, will elapse between the end of the expiring terms and the certification of new election results. During that period, it is not possible for a full complement of directors to meet or take action.

In so providing, the current Section 7.1 makes an exception to the default rule that would ordinarily apply under the California Nonprofit Corporation Law. The statute provides that, “Unless the articles or bylaws otherwise provide, each director ... shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified, unless the director has been removed from office.” (Corporations Code sec. 5520(b)).

The RCPC Board of Directors has determined that there is not sufficient reason to depart from the ordinary legal standard, and that it is undesirable to have a hiatus in which a full board cannot convene. Accordingly, the Board

has recommended the above amendment for approval by the members. If the amendment is passed, elected directors whose terms are expiring will serve until the new election results are certified, at which time their seats will be filled by the newly elected directors.

The wording changes in the first four lines, before the phrase “election results,” are editorial and for clarification only.

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**PROPOSAL NO. 2:**

**AMENDMENT TO SECTION 8.6 OF THE RCPC BYLAWS:**

This proposal would amend **Section 8.6 (“Vacancies Filled”)** of the RCPC Bylaws. The proposed changes are shown in color below:

**“8.6 Vacancies Filled.**

- (a) Except for a vacancy created by the removal of a director, vacancies on the Board of Directors may be filled by a majority vote of the directors then in office; provided, however, that if the number of directors then in office is less than a quorum, the Board of Directors may fill the vacancy by:
  - (i) The unanimous consent of the directors then in office,
  - (ii) The affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 6.7 of Article VI, or
  - (iii) A sole remaining director; and provided further, that any appointment by the Board of Directors to fill a vacancy which exists because a director’s term has expired and because the annual election has been delayed or the election results have not been certified, shall be limited to sixty (60) days.

(b) Subject to ~~(\*)~~ the provisions of Article VI, the members may elect a director at any time to fill any vacancy not filled by the Board of Directors. ~~Any such election shall be by affirmative vote of a majority of the members voting at a duly held meeting at which a quorum is present (with the affirmative votes constituting a majority of the required quorum); or of a majority of the members voting by written ballot without a meeting, pursuant to Section 6.10.~~

**Deleted:** Section 6.8  
**Deleted:** directors  
**Deleted:** Except as provided in (a) above, the vacancies may be filled only by approval of the members.

(\* Section 6.8 - advance notice requirements)

Explanation of amendment. The current wording of subsection (b) requires that the filling of Board vacancies by the members may be carried out “only by approval of the members.” The wording fails to make clear that the phrase “approval of the members” is not a redundancy, but rather refers to an existing legal standard under the California Nonprofit Corporation Law (Corporations Code sec. 5034).

The proposed amendment would incorporate the substance of that legal standard and would specify the threshold needed for such action by the general membership of the organization. The amendment would make expressly clear that, in the filling of a Board vacancy, by vote of the membership at a duly held meeting of the members, the affirmative votes must represent a majority of a quorum – rather than merely a majority of the members voting, which could be less than a quorum.

The wording changes in the first sentence of subsection (b), and the deletion of the second sentence, are editorial and for clarification only.

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