



La Jolla Community Planning Association

Regular Meetings: 1st Thursdays | La Jolla Recreation Center, 615 Prospect Street

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President: Joe LaCava

Vice President: Bob Steck

2nd Vice President: Patrick Ahern

Secretary: Helen Boyden

Treasurer: Nancy Manno

FINAL MINUTES

Special Member Meeting – Wednesday 29 October 2014

1. **Welcome and Call To Order: By Joe LaCava, President at 6:04 PM.**

He announced that the meeting was being recorded, both audio and video. He introduced special guests: CPPT Sherri Lightner and her staff, Erin Demorest and Justin Garver; Mayor's Representative Francis Barraza and Community Planner Karen Bucey.

2. **Verify Quorum (Need 20% of Membership)** It was established that in excess of the minimum requirement of 32 Members were present. A later count established that 80 Members had been given numbered red voting cards.

3. **Officers' Reports - President LaCava** noted that the LJCPA depended on contributions to pay its expenses and asked those present to contribute.

He stated that we were here for one item only and outlined the timeline leading up to this meeting: The March election was challenged in a timely fashion; the Officers found the challenge without merit and the election was certified in April; a complaint was made to the Mayor in May; the Mayor's investigation dismissed all complaints except for one and asked for a remedy which was rejected by the trustees in August; the officers pleaded the LJCPA's case in a meeting with City staff, but were turned down; the trustees again rejected the City recommendation in September; the Officers presented their case to the Mayor on October 13 who rejected it but offered the below resolution to resolve the dispute.

4. **Resolution of Dispute with City of San Diego – Action Item moved by Bob Steck, seconded by Nancy Manno**

a. In order to resolve a dispute with the City of San Diego pursuant to IX.4.D. of the bylaws and in response to the Office of the Mayor's compromise solution, amend the LJCPA bylaws to create a 19th seat on the Board of Trustees.

b. Amend Art III as follows:

"Section 2. LJCPA Board of Trustees

The LJCPA Board of Trustees shall consist of a total of eighteen Trustees, except that for the period November 1, 2014 through April 1, 2015 there shall be nineteen Trustees. The additional trustee shall be known as the '19th Trustee.'"

Discussion on the Motion:

Rob Whittemore (trustee) in Opposition, stated the LJCPA purpose is to review projects according to existing regulations. It is an extension of and adviser to the legislative branch, the City Council. The LJCPA operates under its approved bylaws in conformance with City Council Policy 600-24. It is not part of the executive branch; the Mayor's office and its various departments do not have a right to dictate who our trustees are. Under the LJCPA bylaws, the trustees cannot appoint or elect a trustee; if a vacancy is created by establishing a 19th seat, it would need to be filled by an election within 120 days (which could have been accomplished at the March meeting if this meeting had been held one week later). This is an improper use of bylaws: to solve a short term temporary problem. We already have an Ad Hoc Bylaws Committee which is addressing lack of specificity on this issue in the bylaws; they will be recommending to the trustees a compromise that write-in candidates will need to get 33% of the vote in order to trump a termed out candidate. Everyone is afraid of decertification by the City Council, but that will not happen.

If a Sign Language Interpreter, aids for the visually impaired, or Assisted Listening Devices (ALDs) are required, please contact the City's Disability Services Coordinator at 619-321-3208 at least (5) five work days prior to the meeting date to insure availability.

Mike Costello (trustee) in Opposition reiterated that the City Council will not decertify the LJCPA and that a vacant seat needs to be filled by a properly noticed election, not by Trustee election or appointment.

CPPT Sherri Lightner in Support thanked those present and acknowledged the many volunteer hours in the LJCPA role as the officially recognized planning group in La Jolla and we all want it to be able to continue to function. Since the LJCPA has been unable to resolve the election and has received conflicting and confusing information from the City, representatives of the Mayor's office, the Planning and City Attorney offices, met with her and her staff and met later with the Executive Board of the LJCPA to brainstorm a possible solution to allow the LJCPA to continue to function as the recognized land use advisory board to the City. The Mayor's office, the Department and CPPT Lightner all strongly support the solution that is before the LJCPA today. It is four steps: 1) amend the bylaws to provide for a temporary 19th seat; 2) place Michael Morton, who the City believes was properly elected according to the LJCPA bylaws in March, in that 19th seat; 3) amend the bylaws in the future to clarify the election provisions, including provisions for write-in candidates; 4) ask the City to monitor the March 2015 election, including the preparation of ballots. This is the simplest solution that will avoid unseating anyone, protect the LJCPA against lawsuits and allow it to get back to its core mission of advising the City on land use.

She urged the general membership to accept this proposal and avoid loss of indemnification and recognition by the City. If the proposal is not passed and the LJCPA is sued, the trustees would have to pay for their own defense. She noted that she personally asked the Chair to call this meeting and thanked him and the Executive Board for all the time they have spent in working to resolve this issue. Having spent more than ten years working on Land Use issues in La Jolla, it would be a personal disappointment to her to have the LJCPA lose its recognition.

This proposal is to right an election error in violation of Policy 600-24 and the City Council is very likely to support decertification if the matter comes before them.

Others commenting;

President LaCava stated that seating Mr. Morton would not be an election or an appointment, but seating someone who had been properly elected. City staff is heavily involved with community planning groups and was instrumental in helping revise the LJCPA bylaws so that the City could assist in settling disputes of this nature and help avoid issues that occurred in 2004-2005

Helen Boyden (trustee) stated that we need to come to an accommodation with the City with respect to the dispute over the election and that she would support the bylaws change. She also criticized the recent commentary in the La Jolla Light as a not factual personal attack on President LaCava, citing CPPT Lightner's remarks and stating that the LJCPA bylaws gave the President the power to call a special meeting.

Janie Emerson (trustee) stated that as Chair of the Election committee she knew that a senior City employee was at the polls 25 minutes ahead and knowing that a mistake was being made on the ballot had had the opportunity to prevent the errors we are dealing with tonight. As a process and precedent person, she did not think changing the bylaws to correct this error and setting precedent for the future was appropriate. She had no objection to serving with Michael Morton.

Bernie Segal questioned whether the City Council has actually voted to decertify the LJCPA and what the authority to threaten decertification was. **CPPT Lightner** cited Policy 600-24 and said that if the recommendation of the Mayor, the Planning Department and her office was not followed the Mayor was prepared to recommend decertification to the City Council.

John Berol stated that he supported CPPT Lightner and it was arrogant for the opposition to say the City Council would oppose decertification unless they have counted the votes. Usually the City Council will support the Councilmember for that district.

Dolores Donovan wished to know how the trustees felt as they were the ones at risk. **President LaCava** said that if the bylaws amendment passed and the trustees then disagreed they would have an opportunity to effectively vote it down in the second meeting.

Alex Outwater (trustee) stated that the risk of a lawsuit, decertification and loss of indemnification was very real and the LJCPA needed to get on with its core mission. He was willing to serve with a 19th trustee for several months. He was not willing to take the risk of turning it down.

Ray Weiss (trustee) had come prepared to vote against, but may change his mind. He feels the LJCPA, in the face of a lawsuit, is being asked to remedy only one of the errors in the election, by seating a duly-elected Michael Morton, the others being that Mr. Ovanessoff inappropriately ceded his seat to Mr. LaCava, that Mr. LaCava and Mr. Fitzgerald were not duly elected and that a second election was inappropriately held. He felt that we needed a signed agreement from the complainant not to sue in order to accept this proposal.

Tim Lucas, a former trustee, feels the bylaws were ambiguous on this issue and we ought to follow CPPT Lightner's recommendation.

David Little is going to abstain, because voting no would put the organization in peril and voting yes would condone the error made in not reaching out to all those eligible to run. If this motion fails he would make a motion to seat Mr. Morton and remove Mr. LaCava.

Darcy Ashley supports CPPT Lightner, stating that this was a situation of exceptional circumstances. She believes that Mr. Morton had been elected and that this is a functional solution to move forward.

Fran Zimmerman (trustee) thanked CPPT Lightner for her efforts and will be supporting the resolution. There were many errors made at the April meeting. We need to reach out to new members to get turnover in the group. We need to get back to our mission of evaluating projects.

Bob Steck (trustee) thanked CPPT Lightner. She and City feel we have violated our bylaws. Other communities have had similar situations where write in candidates with few votes have been elected. This is a beautiful solution.

Nancy Manno (trustee) feels that this is an equitable solution to correct errors made by the LJCPA and the City. We need to return to civil discourse and put aside personal feelings.

Patrick Ahern (trustee) Mr. LaCava defended our position very well at the meetings with the City. We need to retain our power. We need to accept this solution and move on to revise our bylaws.

Jim Fitzgerald urged support of the City recommendations. He was one of the termed out trustees who ran and feels that he was not elected.

Susan Boe questioned whether the bylaws would actually be amended in the future.

Seeing no one else wanting to speak, **President LaCava** closed the discussion noting that this was a business decision, not whether we were wrong. Mistakes were made in good faith. He added that the City has found no fault with other allegations and no fault with how the elections were conducted. Furthermore, the LJCPA would not be setting a precedent in the relationship between the City and CPGs; there are precedents with the City intervening in elections such as these.

President LaCava called for the vote. The vote count was first attempted by hand count. The Members then called for those voting Yes to turn in their red cards. That tally totaled 46 votes. **President LaCava** sought concurrence that the 46 votes indeed was the majority of the 80 present; by acclamation the room agreed the motion had passed and there was no reason to recount the Noes or the Abstentions.

Resolution Adopted 46-20-6

5. Adjourned to the Special Trustee meeting at 7:18 PM