

FINAL DRAFT

NRP Policy Board **2004 Nominations Committee Report**

The Nominations Committee members appointed by Policy Board Chair Diane Hofstede met at the CPED Conference Room at Crown Roller Mill at 6:30 pm on Tuesday, February 17, 2004. All Committee members were present, as follows: Ken Kelash, Byron Laher, David Fey, Commissioner Peter McLaughlin, and Jeffrey Strand. Committee Chair Ken Kelash convened the meeting.

Ken Kelash announced that there were contested races for Policy Board Chair and Vice Chair, with more than one candidate interested in each position.

Jeffrey Strand suggested that Carsten Slostad be recommended for election as the Assistant Secretary. David Fey started the discussion about the election process. Jeffrey Strand reviewed some provisions from Article IV of the Bylaws concerning Policy Board Officers.

Ken Kelash mentioned the Policy Board Members listed below have indicated an interest in serving as Policy Board Officers in the Policy Board Officer positions listed below. The candidates are listed alphabetically:

Chair:

- Joe Mullery, State Representative
- Paul Ostrow, Council President

Vice Chair:

- Debbie Evans, At Large Neighborhood Representative
- Nicholas Kakos, Protection Neighborhood Representative

Secretary:

- Ken Kelash, Community Interest/Minneapolis Central Labor Union

Assistant Secretary:

- Carsten Slostad

The Committee forwards the names of all candidates to the Policy Board without recommendation. The Committee wishes to note that never before in the history of the Policy Board has there been a contested election for Chair, so the Committee is establishing precedent.

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Ken Kelash outlined Roberts Rules process. There was discussion about the merits different voting methods, the secret ballot versus roll call or by motion, second and vote. Peter McLaughlin and Jeffrey Strand spoke in favor of public balloting. Ken Kelash and Byron Laher spoke in favor of the secret ballot method.

The Nominations Committee agreed on the following points:

A) Policy Board Method of Balloting

- The Policy Board should determine by majority vote the desired Method of Balloting by Roll Call or by Written Ballot prior to conducting the election.
- Policy Board Bylaws Article VIII, Section 5 states, "All meetings of the Policy Board and its committees shall be conducted pursuant to Roberts Rules of Order." A written ballot therefore is permitted as allowed for under Roberts Rules of Order.
- The Committee recommends that if adopted, written ballots shall be signed by the Policy Board representatives eligible to cast a ballot.
- The Committee recommends that written ballots be tabulated by two (2) tellers appointed by the Chair and recorded by the Assistant Secretary.

B) Policy Board Election Process

- The Committee recommends that a majority vote of those present and voting shall be required to elect (not a plurality).
- Prior to the vote, the Assistant Secretary shall announce the Representatives and Seated Alternates eligible to vote
- Candidates may each make a 3-minute statement, with order to be determined by coin toss
- If there are three (3) or more candidates for an Officer Position, then the lowest vote getter drops off from each successive ballot
- The Order of Election shall be Chair, Vice Chair, Secretary, and Assistant Secretary.

The Committee agreed that the Nominations Committee report should be mailed out to Policy Board Members in advance of the February 23, 2004 meeting.

February 18, 2004

Mr. Robert D. Miller, Executive Director
425 Crown Roller Mill
105 Fifth Avenue South
Minneapolis, MN 55401-2582

Re: Voting Procedure for Election of Policy Board Officers
Our File No.: MN395-25

Dear Mr. Miller:

You have requested our opinion on the voting procedure to be used for election of NRP policy board (the "Policy Board") officers. In particular, you have asked whether a written ballot can be used and, if so, what are the requirements for using a written ballot.

SUMMARY OPINION

The NRP Policy Board is subject to Robert's Rules of Order and the Minnesota Open Meeting Law. Robert's Rules of Order permits an election by ballot ordered by a majority vote of the Board or by a roll call of a majority vote of the Board. The Minnesota Open Meeting Law permits written or oral voting, as long as written balloting (i) is open to the public, and (ii) is recorded in a journal kept for that purpose.

ANALYSIS

While Article III of the By-Laws of the Policy Board (the "By-Laws") addresses Policy Board membership and Article IV of the By-Laws addresses the officers and the requirement for an election to be held for such positions, the By-Laws do not set out any required process for the selection of officers.

Robert's Rules of Order

Article VIII of the By-Laws requires that meetings of the Policy Board be conducted pursuant to Robert's Rules of Order. Robert's Rules of Order (10th Ed.) (Robert's). Robert's permits election

by a ballot ordered by a majority vote of a board or by a roll call also by a majority vote of a board. See, Robert's §§ 45 and 46. If the board chooses to conduct a vote by ballot, then the chair should consider a process by which the votes shall be distributed and recorded. Without limiting the authority of the chair and the board, the chair could appoint a "teller" or "tellers" to distribute the ballots to the members of the board who are present at the meeting. The chair would permit the members to consider their choices and make their selection on the ballots which would then be collected by the teller(s). The board could determine that once the teller(s) collect all the ballots, that a motion to close the polls would be in order. Such a motion would require a two-thirds vote. The teller(s) would then record the votes and then report to the chair who would announce the results. If the body directs, the tellers could provide a more elaborate report which would include the votes cast, the votes per candidate and account for any illegal, unintelligible or ballots showing no vote. This procedure is not required and is left to the judgment of the chair and the board.

If on the other hand the body determines to vote for the officers pursuant to a roll call, such a procedure would be in order if adopted by a majority vote. The chair would call for a roll call pursuant to its normal practices. The votes would be announced and the chair would confirm the results of the roll call election.

Minnesota Open Meeting Law.

As a quasi-public joint powers authority, the NRP Policy Board is subject to Minn. Stat., §§ 13D.01 to 13D.07, inclusive, as amended (the "Open Meeting Law"). Article VIII of the By-Laws also requires that meetings of the Policy Board are subject to the Open Meeting Law. Section 13D.01, subd. 4 of the Open Meeting Law requires

(a) The votes of the members of the . . . governing body. . . on an action taken in a meeting required by this section to be open to the public must be recorded in a journal kept for that purpose.

(b) The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

An argument could be made from the construction of the subdivision that written ballots for actions of the Policy Board, other than appropriation of money, could be done by written ballot without identifying the board member submitting the ballot, as long as the subject matter of the written ballot was not appropriation of money. In a February 28, 1975 Attorney General's Opinion, the Attorney General provided as follows:

In our opinion, the provision on the recording of appropriations votes . . . was not intended to relax the recording requirement for votes on other matters by simply permitting the affirmative or negative nature of the results to be recorded.

Dicta in certain of the case law decisions on the Open Meeting Law indicate a similar interpretation of this provision. It appears that on written ballots, Policy Board members will be required to identify themselves.

RECOMMENDATION

1. The determination as to whether a written ballot or verbal vote is to be taken is made according to Robert's, as provided above.
2. If a written ballot be chosen, the written ballot is to be distributed to the Policy Board members, on which the members will indicate their choice, and then will sign the ballot.
3. The written ballots will be collected, counted, announced, and recorded pursuant to the procedure given above.
4. If a Policy Board member requests, a roll call vote can be taken and recorded.

If you have any further questions regarding this matter, please feel free to contact me at my above listed direct dial number or call Michael Norton at (612) 337-9242.

Very truly yours,

Arlin B. Waelti