



La Jolla Community Planning Association

March 25, 2014

Bob Whitney
Founding Committee Member
The La Jolla Association
PO Box 424
La Jolla CA 92037
Email: thejollaassociation@gmail.com

Re: Election Challenge

Dear Mr. Whitney,

I am in receipt of your letter dated March 11, 2014 challenging the election results of March 6, 2014 on behalf of The La Jolla Association. Your interest in the La Jolla community and your taking the time to bring forward and document your concerns regarding to adherence the provisions of the LJCPA's Bylaws is truly appreciated.

ARTICLE IX Section 3. Council Policy Violations and Remedies of the Bylaws states:

- A. In cases of alleged violations of the LJCPA Bylaws or Council Policy 600-24 by a Trustee, the Board of Trustees shall conduct an investigation consistent with the Administrative Guidelines and these Bylaws.
- B. A complaint that a that a Trustee violated one or more provisions of the LJCPA's Bylaws or Council policy 600-24 may be submitted to the LJCPA President by any individual, including another Trustee. The complaint should be filed within 90 days of knowledge of the alleged violation.
- C. If, after a thorough investigation by the President and at least two other Officers, the Board of Trustees determines that a Trustee has violated a provision of these Bylaws or Council Policy 600-24, the Board of Trustees shall, where feasible, seek a remedy that corrects the violation and allows the Trustee to remain on the Board of Trustees.
- D. If corrective action or measures are not feasible, the Board of Trustees may remove a Trustee by a two-thirds vote of the Board; except for specific cases outlined in Article III, Section 4 where a majority vote is sufficient for removal.

In accordance with these provisions the LJCPA officers have conducted a thorough investigation regarding your challenge. The results of this investigation will be reported to the Board of Trustees and at the meeting scheduled for April 3, 2014.

Please be advised that the Officers do not think that The La Jolla Association has standing to raise these issues since the Association is not a member of the LJCPA. The members of the LJCPA are "individuals" meeting the eligibility requirements of ARTICLE I Section 4. The La Jolla Association is not an "individual at least 18 years of age." We believe that only actual members have legal standing to raise the issues regarding Bylaw violations. Nevertheless, as the LJCPA seeks to serve the entire community of La Jolla in as fair a manner as possible the Officers have decided to address each of your concerns and advise corrective action where possible.

You have raised four issues and they will be addressed each in the order that you presented them.

1. First Allegation: An official Election Committee was never publicly selected or ratified by the Board of Trustees at a publicly noticed meeting.

Response to First Allegation: The LJCPA Bylaws, at ARTICLE VI SECTION 2.C. Rules Regarding All Committees and Boards, state in pertinent part, "All committee appointees appointed by the LJCPA shall be appointed by the President and ratified by the Trustees." There is no requirement that the President publicly select committee members, rather the requirement is that the Board of Trustees ratify the appointees. In fact I did fail to request the Board of Trustees to ratify the members of the Election Committee. I was unable to complete my selection prior to the January meeting and, therefore, failed to put the matter on the January agenda. Subsequently, an Election Committee was appointed by me on January 28, 2014 and followed correct procedures regarding the election. The other LJCPA officers have advised me to take corrective action regarding my failure to have the Board of Trustees ratify my appointments. They have advised, and I have agreed, to put the matter of Board of Trustee ratification of the Election Committee members on the April 3, 2014 Agenda immediately following the adoption of the agenda. This will enable the Board of Trustees to ratify the Election Committee retroactively if that is the action the Board decides to take. In a perfect world this would not be necessary, but this is the best corrective action that is feasible. Further, because of my lack of timeliness, the committee was appointed after the first of January. Nevertheless, the committee was in fact appointed and carried out its duties. As a result, the LJCPA officers feel that there has been substantial conformance with the requirement that the Election Committee be established "no later than the first week of January" and The Board of Trustees will be advised that no corrective action is necessary or possible. Hopefully, your raising this issue will ensure that future committees will be appointed on or before the stated time.

2. Second Allegation: An official good faith effort to seek new candidates never happened.

Response to Second Allegation: The Elections Committee did in fact "solicit Members to become candidates" and the LJCPA did in fact "make a good faith effort to utilize means appropriate to publicize the LJCPA's eligibility requirements for candidacy and the upcoming election" as required by ARTICLE V Elections, Section 2 of the Bylaws. Several members of the Elections Committee personally contacted individuals who were eligible to serve or could have been eligible by attending the February meeting. All of the persons contacted by one of the members of the committee were interested in land planning issues; but none of them was able to serve for various reasons. You assert that the fact that three write-in candidates filed their

intentions to seek office the night of the election is further evidence that an official good faith effort did not occur. To the contrary, the fact that three write-in candidates filed their intentions to seek office is a direct result of the Election Committees' efforts and shows that those efforts were effective. Further, as you know, the three meeting requirement for being a candidate to serve as a trustee is stated by the Secretary at each regularly scheduled meeting of the LJCPA. In addition, a press release announcing the elections was prepared, sent to the appropriate media and was, in fact, published. The LJCPA website gave notice of the upcoming election and the minutes of the LJCPA January and February meetings contain statements referring to the March 2014 election. Thus the Officers will report to the Board of Trustees that your second allegation is without merit and that no corrective action need be taken.

3. Third Allegation: The LJCPA Bylaws, Council Policy 600-24 and the Administrative Guidelines to Council Policy 600-24 require Mr. La Cava and Mr. Fitzgerald be termed out and not be granted another three-year term. You assert that election policy requires two new qualified candidates that ran for office be seated as LJCPA Trustees.

Response to Third Allegation: Article III Section 3 of the LJCPA Bylaws states:

Trustee Terms

Trustees of the LJCPA shall be elected to serve for the fixed terms of 3 years with expiration dates during successive years to provide continuity. Except as noted in this Section, no person may serve on the LJCPA for more than six consecutive years. After a one-year break in service as an LJCPA Trustee, an individual who has served for six consecutive years shall again be eligible for the election to the LJCPA Board of Trustees.

The LJCPA will actively seek new members to the extent feasible. If not enough new members are found to fill all vacant seats on the LJCPA Board of Trustees, the LJCPA may retain some Trustees who have already served for a six consecutive years to continue on the Board of Trustees without a break in service. Such Trustees must receive a 2/3 majority of the votes cast in order to serve more than six consecutive years.

Council Policy 600-24 ARTICLE III, Section 4 states:

"Members of a recognized community planning group shall be elected to serve for fixed terms of two to four years with expiration dates during alternate years to provide continuity. This can vary for the purpose of the selection of initial group members for new groups. No person may serve on a planning group for more than eight consecutive years if members are elected to two or four-year terms, or nine consecutive years if members are elected to three-year terms. The eight or nine year limit refers to total service time, not to individual seats held. After a one-year break in service as a planning group member, an individual who had served for eight or nine consecutive years shall again be eligible for election to the committee.

This Policy provides an exception for a planning group to retain some members who have already served for eight or nine consecutive years to continue on the planning group without a break in service if not enough new members are found to fill all vacant seats' as follows:

A planning group member who has served eight or nine consecutive years may appear on the ballot with new candidates. After open seats are filled with qualified new members, and if open

seats still remain, the following provisions may be utilized: A member may serve in excess of eight or nine consecutive years (as specified above) if that person is reelected to a remaining open seat by at least a two-thirds majority of the votes cast by eligible community members participating in the regular election. The number of individuals on a planning group serving more than eight or nine consecutive years shall in no case exceed twenty-five percent of the voting committee membership. The term of a member elected by a two-thirds vote serving beyond eight or nine years shall count as time served beyond the required break in service as required by this section. Future consecutive election of the member who has served beyond eight or nine years is subject to the requirements of this section." (Emphasis added)

Furthermore, according to Article III Section 2 when it became a fact that there were not enough eligible candidates to fill the vacant seats trustees La Cava and Fitzgerald became eligible to run. Consequently after their candidacy was announced per Article V Section 2, trustees LaCava and Fitzgerald met the requirements of a qualified candidate having rights equal to all other candidates plus the requirements to earn 2/3 of cast votes in order to gain a seat.

The logical application of these provisions in the instant case is that when there are insufficient candidates to fill the seats by the end of the February 2014 meeting then a member may serve in excess of six years (per the LJCPA Bylaws) and that member may appear on the ballot with new candidates. Once on the ballot the only remaining requirement is that these candidates receive enough votes to be elected and at least a two-thirds majority of the votes cast. The fact that one or more write-in candidates were elected is irrelevant. Your interpretation leads to the absurd result that Mr. LaCava and Mr. Fitzgerald could be eliminated by a single write-in vote. Such an outcome clearly contradicts the intentions of the LJCPA membership and the City Council.

For the foregoing reasons the Officers will report to the Board of Trustees that your third allegation is without merit do find that Mr. LaCava and Mr. Fitzgerald were duly elected for additional three year terms.

4. Fourth Allegation: Mr. Rob Whittemore did not meet the three meeting requirement of **Article V** Section 3 and is therefore disqualified.

Response to Fourth Allegation: **Article V** Section 3 states, "In order to be a candidate in an election to become a Trustee, a Member of the LJCPA must have documented attendance at three of the LJCPA's meetings in the preceding 12-month period." It is not required that a member sign the attendance sheet in order to document his attendance, although that is the most convenient way to do so. Attendance may be documented in other ways. Mr. Whittemore did sign in for the March and June 2013 meetings. He also attended the February 2014 meeting. His attendance at the February meeting is documented by an email from him stating he attended the meeting and that a number of attendees and Trustees saw him there, and requested recognition that he did so attend. I am also in receipt of an email from the LJCPA Secretary, Helen Boyden, vouching for the fact that Joe LaCava and she spoke with Mr. Whittemore at the end of the February 2014 meeting. Ms. Boyden later corrected the attendance sheets showing that Mr. Whittemore did, in fact, document attendance at three meetings as required, although that may not yet be reflected on the LJCPA website. The Chair of the Elections Committee, Janie Emerson, verified Mr. Whittemore's attendance at the February meeting before accepting him as

an eligible write-in candidate. Thus the Officers will report to the Board of Trustees that your fourth allegation is without merit and do find that Mr. Whittemore be seated at the April 2014 meeting.

I hope that this response to your allegations will suffice to satisfy your challenge of the March election. Of course, the Board of Trustees will make the final determination. As you know, I have termed out and will no longer be serving as a Trustee or as President. Please forgive any perceived shortcomings on my part. This is a volunteer organization and I believe that, as a whole, this board contributes a valuable service to La Jolla and to the City of San Diego.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tony Crisafi', with a small dot at the end.

Tony Crisafi, President
La Jolla Community Planning Association

cc: LJCPA Trustees
Lesley Henegar, Planning Department
Council President Pro Tem Sherri Lightner
Council Rep Erin Demorest
Council Rep Justin Garver
Candidates for Election