

Kerr and Kendall Counties Falling Water POA

Rules for Voting by Secret Ballot

May 9, 2016

This document describes the rules for voting by secret ballot in accordance with Property Code 209.0058(d). The purpose of the rules is to provide continuity of voting procedures over time for the Association's elections.

1. Definitions

- 1.1. Association. Association shall mean and refer to Kerr and Kendall Counties Falling Water Property Owners' Association, Inc. (a Texas non-profit corporation), its successors and assigns.
- 1.2. Lot. Lot shall mean and refer to any plot of land shown upon a recorded Subdivision map of the Properties with the exception of the Common Area.
- 1.3. Member: Member shall mean and refer to all those Owners who are members of the Association as provided for below.
- 1.4. Owner. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 1.5. Inspectors of Election. An Inspector of Elections can be an owner who is not on the board, or someone who is not an owner provided that person is not a manager or in any other business relationship with the Association.
- 1.6. Mailing Envelope. The largest envelope which is used to mail the election material to the owner.
- 1.7. Return Envelope. The middle sized envelope used to return the ballot envelope to the Ballot Collector. This envelope will contain the marked ballot.
- 1.8. Ballot Envelope. The smallest envelope has ballot instructions with no identifying marks of lot owner information. It is used to conceal the marked ballot until opened by the Inspectors of Election.
- 1.9. Record Date. The record date for purpose of voting shall be the date the ballots are mailed to all the owners.
- 1.10. Casting a Vote. Once the Return Envelope is received by the Inspectors of Election, the ballot is cast. Once a Ballot Envelope is dropped into the ballot box, the vote is cast.

1.11. Meeting. Refers to the Annual Meeting or a Special Meeting of the Membership.

1.12. Secret Ballot. Refers to a ballot that does not require a property owner's signature.

2. Inspectors of Election

2.1. The Board shall appoint up to three independent Inspectors of Election before the secret ballots are mailed to all of the owners. Inspectors of Election includes, but is not limited to:

2.1.1. A member of the Association provided such member is not:

2.1.1.1. a member of the Board of Directors or,

2.1.1.2. a candidate for the Board of Directors or,

2.1.1.3. related to a member of the Board of Directors or,

2.1.1.4. related to a candidate for the Board of Directors or,

2.1.1.5. a person who is currently employed or under contract to the Association for any compensable services;

2.1.2. A volunteer poll worker with the county registrar of voters;

2.1.3. A notary public.

2.2. Duties of the Inspectors of Election:

2.2.1. Prior to the secret ballots being mailed to all the owners, the Inspectors of Election shall meet to determine the location and to whom the secret ballots shall be returned.

2.2.2. Obtain the current mailing list for Falling Water Association from the Secretary. Review the list for changes 5 days before mailing.

2.2.3. Determine the number of Lot Owners entitled to vote and the voting power of each;

2.2.4. Determine the authenticity, validity, and effect of proxies, if any;

2.2.5. Send and receive the ballots;

2.2.6. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

2.2.7. Determine when the polls will close, after the President closes the nominations from the floor;

2.2.8. Count and tabulate all votes;

2.2.9. Determine the results of the vote;

2.2.10. Perform any other acts necessary to conduct a fair and impartial election.

- 2.3. The Inspectors of Election may appoint and oversee additional persons in accordance with the subparagraphs under 2.1 above to count and tabulate the votes.
- 2.4. An Inspector of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. The decision or act of majority shall be effective in all respects as the decision or act of all.
- 2.5. Any report made by the Inspectors of Election is evidence of the fact.
- 2.6. The Board may remove and replace any Inspector of Election prior to the tabulation of ballots if an Inspector of Election resigns or if the Board reasonably determines that an Inspector of Election will not be able to perform his or her duties impartially and in good faith.

3. Distribution of Ballots

- 3.1. Election materials will include at least the ballot, a return envelope, a ballot envelope, and instructions on how to cast the vote and then return the ballot. The election materials will be sent by regular US Mail to the property owners at the address on file with the Association not less than 10 days nor more than 60 days before the election.

- 3.1.1. A member may submit a written request to the Association that materials have been sent.

- 3.1.2. Receipt of purchasing stamps will be proof of mailing.

- 3.2. Ballot preparation and distribution is as follows:

- 3.2.1. The total number of ballots to be sent equals the total number of lots in the subdivision plus 2 ballots for each lot owned by the developer, Dale Crenwelge. However, owners whose voting rights have been suspended in accordance with the Association's governing documents after notice and hearing shall not be entitled to vote and will not receive a ballot.

- 3.2.2. Each ballot will be embossed with the Falling Water Association official business seal.

- 3.2.3. Multiple lot owners and the developer's additional ballots will receive one mailing envelope, separate ballots, ballot envelopes for each ballot, and one return envelope.

- 3.2.4. If a property owner changes after the ballots are mailed out, but before the date of the election, it will be reviewed by Inspector of Election for reissue.

- 3.2.5. Issue of a duplicate ballot is permitted if a ballot for the lot has not been returned to the Inspector of Election.

- 3.2.6. Issue of proxy ballots will be determinate when needed.

- 3.3. Ballots must ensure the confidentiality of the votes.

- 3.3.1. A voter may not be identified by name, address, or lot on the ballot or the ballot envelope.

- 3.3.2. The ballot may not require the signature of the voter.

- 3.4. The return envelope will have first class postage applied and be addressed to the place designated by the Inspectors of Election in 2.2 above. The property owner's address will be shown on this envelope as the return address.
- 3.5. The ballot envelope will only have instructions on the outside for completing the ballot.
- 3.6. After the voter has marked the ballot, the ballot itself is inserted into the ballot envelope that is then sealed by the voter. The ballot envelope is then inserted into the return envelope that is sealed by the voter.
- 3.7. Owners may return their secret ballot by mail, hand deliver it to the meeting, or complete the ballot at the meeting. Only those ballots which are delivered to the Inspectors of Election prior to polls closing shall be counted.
- 3.8. Once cast, secret ballots cannot be revoked; they are irrevocable.

4. Receipt of Ballots

- 4.1. As secret ballots are returned to the Inspectors of Election, he or she will date stamp, initial the envelope, and check off on the sign-in sheet that a ballot has been received for such an owner. The first valid secret ballot received for any owner shall be the ballot which is counted. Any subsequent ballots for the same owner which are received shall be deemed invalid.
 - 4.1.1. The return envelope is separated from the ballot and retained by the Inspectors of Election for 15+ days after election results, at which time will be shredded.
 - 4.1.2. A ballot that is received inside the return envelope, instead of the ballot envelope, will be inserted into a ballot envelope by Inspectors of Election and dropped in the ballot box.
 - 4.1.3. In any election for the board, each candidate may name one person to observe opening of the return envelope, and any disruptive observer may be removed per Property Code 209.0058(d)(3).
- 4.2. The sealed ballot envelope at all times shall be unopened and in the custody of the Inspectors of Election or at a location designated by the Inspectors of Election until delivered at the meeting for the opening of the ballot envelopes and tabulation of the vote.
- 4.3. Owners who have not previously submitted a ballot may complete one at the meeting and return it to the Inspectors of Election prior to the polls closing.

5. Tabulation of Ballots

- 5.1. No person, including a member of the Association, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- 5.2. All votes shall be counted and tabulated by the Inspectors of Election in public at a properly noticed open meeting of the Association.
- 5.3. The Inspector of Election appoints two teams of two to tally the ballots.

- 5.3.1. Team One opens the ballot envelope and will initial the corner of the ballot, and then post to the tally sheet. Team Two is given the ballot to initial and post to the second tally sheet.
- 5.3.2. Ballot is VOID if voting instructions are not followed. (voting for too many directors)
- 5.4. The Inspectors of Election shall confirm that the count on the two tally sheets match.
- 5.5. In any election for the board, each candidate may name one person to observe the counting of the ballots, and any disruptive observer may be removed per Property Code 209.0058(d)(3).
- 5.6. After the counting of the ballots and the certification of the vote results by the Inspectors of Election, the ballots shall be transferred to the Association.
- 5.7. The ballots shall be stored by the Association in a secure place for no less than 15 days after the date of the election. The ballots will be destroyed after the required 15-day retention period if no challenge to the election has been presented in that timeframe. In the event of a recount or other challenge to the voting process, the Association shall follow the provisions of Property Code 209.0057.
- 6. Announcement of Results
 - 6.1. The results of the vote shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the meeting.