

From: 15Dune <dave@dawbeach.com>  
Sent: Tuesday, February 28, 2023 4:30 PM  
To: Gregory Pichler  
Subject: RE: Request for interview for the article, Ballot Harvesting

Catching up on emails from the past week. I pretty much ignored MBA governing things from September 2016 until becoming a member of the CFC in September 2021. I attended only one in-person Board meeting in that time, and have no knowledge of how proxies/ballots were handled or voted.

In my time, if anyone named me as proxy holder, I would distribute the votes evenly so that it wouldn't have an actual effect on the winner. I don't recall more than 10 such ballots ever being returned that way, and usually fewer than that. There was one year where I couldn't distribute the votes equally among the 5 candidates, and believe I voted for the incumbents on all ballots, and split the remaining votes so that each non-incumbent received the same number of votes. If someone specifically filled out a proxy holder other than myself, I have no knowledge of how that was voted.

I recall my first year as President (Wilgus still property manager), receiving a phone call from a property owner who objected that the proxy language didn't allow him to vote against the assessment. I admitted I had concerns about the exact language, and saw to it that it was changed the next year.

I've just poked around some of the old proxies that were mailed out during my 15 years, and find that they contain some variation for the language "the undersigned authorizes and instructs said vote to be cast for the following candidates", which seems pretty ironclad to me. I don't seem to have any proxies covering 2017-date, because I would have filled out the only copy in my possession and sent it in.

I've always found it odd that the proxy language frequently included language similar to "the proxies, at their discretion, are authorized to vote upon such other business as may properly come before this portion of the meeting". As you are no doubt aware, the membership gets to vote on the assessment in May, and the Board members in September (or August). The only business that may properly come before the End of Summer meeting is to approve the Minutes and to adjourn at the end.

I suppose in theory in May the first community vote could be to NOT approve the assessment. I'm not sure how the language would cover a subsequent vote should the Board choose to recommend a different assessment.

Also as you are no doubt aware, I ran as a write-in candidate last September. I understand I was not one of the top 4 vote getters. I'm trying to remember if I was ever told the vote totals.

In my time, we generally did not reveal the totals. I remember one year I as President was told I didn't need to know. MBA Bylaws are

silent on these specifics, just as they are silent on the procedures to be followed if there is a 1 year term to be filled. I recall Sharon Adams specifically running for an open 1 year term (in 2011); other years it was announced ahead of time that the lowest winning vote getter would fill the 1 year term.

When I ran last year, I most definitely asked some community members to vote for me, but I was not affiliated with the Board at that time.

Specific answers to your below questions:

- 1) PropMgr would have the actual signed ballot/proxy at the meeting, or the version that had been faxed to them. I do not believe extra copies were ever made by Wilgus, L&N or CPR/RPM. Recently I believe PDF copies have been allowed, but not in my time. As a Board Member or officer, I never had the actual ballots prior to the meeting. The only information I ever received was total ballots/proxies returned to date.
- 2) Absolutely not.
- 3) Language varied through the years, but I do not believe this would ever be allowed.
- 4) Absolutely not.
- 5) Between 2001-2016, I can't think of that ever happening.
- 6) As stated above, I asked for Members' votes when I ran as a write-in candidate last fall, but I was not a Board Member at the time. Most conversations were along the lines of "have you voted yet", with the other person saying "I heard you were running and yes I voted for you". Technically, when I stood in front of the meeting last fall, I suppose you could say I verbally told members in an unsolicited manner who to vote for in a Board election-namely me.
- 7) I do not, but I had very little contact with the membership at large between 2016-2022.

As you know, during my time on the Board we redrafted the Certificate of Incorporation and Restrictive Covenants. I'm not saying I believe there has ever been wrongdoing in the voting process, but I do regret not getting around to redrafting the Bylaws. The description of officer's jobs are antiquated, the voting procedures are not spelled out in much detail (publicizing vote totals or not; 1 year vs. 2 year term specifics (a situation that doesn't come up often), what happens in case of a tie) and, for all I know, some of it may be overruled by DUCIOA specifics. (Then again, one does not need to be a Board member to redraft the Bylaws, DUCIOA says only that they need to be approved by 50% of the community, not specifically the Board.)

Let me know when you're around next. I'm probably at the beach for the next week or so.

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