

River Hill Election Procedures Review Committee

Briefing for Board of Directors

14 December 2021



Presentation Topics

- How we got to where we are
- Process followed by the committee
- RHCA Election Practices
- Remaining Work

Past Issues

- Annual Meeting of Members and Village Elections
 - Ability of members to make nominations from the floor
 - Ability of members to speak out on issues of concern
- Electronic Voting?
- Should nomination petitions continue to be accepted by email?
- Should we ensure that potential nominees submit petitions for correct position?
- Can an individual run for both RHBOD and Columbia Council Rep?
- Should we allow petitions to be withdrawn and resubmitted?

Past Issues (continued)

- Should write-in candidates be permitted?
- Should the voter lists be available for review?
- Should electronic signature on Nomination Petitions be permitted?
- Does Howard Hughes Corp have the ability to vote?
- Should candidates be permitted to accept corporate or third-party campaign contributions?
- How should the association announce the candidates and election results?
- Consider utilizing Ranked Choice Voting for Instant Runoff Voting.

Committee Charter Goals

- Evaluate compliance of election procedures with State laws and RHCA governing documents
- Advise the RHBOD on
 - Alternative balloting procedures (incl. electronic)
 - Nomination Procedures
 - Rules regarding running for multiple positions
 - How to establish a complete and accurate list of eligible voters
 - Rules regarding campaign contributions
 - Best practices for publicizing election results
 - Alternative voting methods (e.g., Approval Voting, Ranked Choice, etc.)

Committee's Progress

- Completed Examination of Governing Documents
 - Maryland Code, Title 2, Corporations and Associations
 - Maryland Homeowner's Association Act (Title 11b)
 - River Hill Village Covenants
 - RHCA Articles of Incorporation (Charter)
 - RHCA By-Laws [rev 2017]
 - RHCA 2021 Election Procedures
- Findings:
 - RHCA Elections are fully compliant. 2021 Election Procedures document had obsolete absentee voting rule, but proper By-Law procedures were followed.
 - *See Initial Review of 2021 RHCA Election Guidelines and Regulations*

Committee's Progress (continued)

- Examined Previous Issues (*FY2021 Election Committee Report*)
- Identified aspects needing legal consultation
 - Authorized by RHBOD December 6, 2021
- Identified recommendations for change
 - RHEPRC Report submitted November 22, 2021
- Obtain initial feedback from RHBOD
 - Briefing: December 6, 2021
 - Continuation of Briefing: December 14, 2021

Next Steps

- Obtain feedback from legal on Committee's questions (TBD)
- Submit updated Election Procedures Document for RHBOD Approval (by Jan 31, 2022)
- Submit By-Law Changes for RHBOD/Legal review (TBD)
- Board Approval – Election Procedures Document (by Feb 7, 2022)
- Board Approval – Election Committee (Feb 7, 2022)
- Legal Review / Board Approvals – 2022 Ballot Questions regarding any By-Law or Charter changes (by March RHBOD meeting)

Resident Owners vs Non-Resident Owners Issue

- River Hill Charter (Sixth Article) states every resident, aged 18 or older; shall be a member of the RHCA.
- Legal clarification as to the status of property owners who are not residents has been requested.
- Pending the results of the Legal review, the current interpretation of only recognizing residents as members will be assumed correct in this briefing.

River Hill Election Practices

Current and Recommended Changes



Elected Positions and Eligibility Requirements

- Directors
 - River Hill Board consists of 5 to 15 members (as determined by Board)
 - ½ Director positions filled for two-year terms on alternating years
 - Vacant positions filled at any meeting of the Board (by remaining Directors)
 - At least 2 Directors must be RHCA members
- Columbia Council Representative
 - Two-year term
 - Must be RHCA member

Election Committee

- Appointed by RHBOD before second week in February each year
- Membership: RHCA members; not candidates; no campaigning
- Empowered to:
 - Establish administrative rules and regulations as necessary to orderly conduct election
 - Administer absentee voting processes in accordance with Bylaws
 - Issue, receive and count all ballots cast; post and certify results
 - Appoint additional interim associates as needed to conduct election

Nominations

- By petition only
- Petition is valid when ten or more members have signed it
- Members may sign more than one petition
- Each candidate shall be nominated for one office only [FY21 ECR 5]
- Petitions submitted to Election Committee for validation
 - Accepted March 1-21st
 - RHEPC Recommendation: Require in-person delivery to Claret Hall [see FY21 ECR 3 in RRHEPC Report]
- Nominations close March 21st

Nomination Petition

**RIVER HILL COMMUNITY ASSOCIATION
NOMINATION PETITION 2021**

Please indicate the position for which you are seeking nomination (one only):

River Hill Community Association's Board of Directors

OR

River Hill Columbia Council Representative

Name of Nominee: _____

Address of Nominee: _____

Daytime Phone#: _____ Evening Phone#: _____

Email Address: _____

Signature of Nominee: _____

The undersigned residents (age 18 years and older) of the Village of River Hill, Columbia, Maryland, hereby nominate the person named above for the office stated above.

Note – At least ten (10) signatures from River Hill residents are required. Proof of residency and age required if not listed on the property assessment lists provided by the Columbia Association.

	Print Name	Signature	Address
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____
12.	_____	_____	_____

RETURN TO: River Hill Community Association, 6020 Daybreak Circle, Clarksville, MD 21029 or as a pdf via email to manager@villageofriverhill.org.

DATE DUE: March 21, 2021 by Noon

INCLUDE: 150 Word (max.) Candidate Statement and a high resolution (300+ dpi) digital photograph for publication purposes. Electronic files preferred and should be emailed to manager@villageofriverhill.org.

- RHEPRC Recommendations:

- Modify the description of the two positions to read:
 - River Hill Community Association's Board of Directors
 - Columbia Council Representative from River Hill
- Include supplemental text further clarifying the two roles when displayed in the newsletter, mailing list, or election information packets.
- [see FY21 ECR 4 in RHEPC Report]

Nomination Petition Validation

- Election Committee or Village Staff under their direction validate signatures as members.
 - 2021 Procedure “collect evidence of person, age, and residence as required”
 - RHEPC Recommendation: [see FY21 ECR 3 in RRHEPC Report]
 - Continue use of Columbia Association Assessment Rolls as primary basis
 - Signers not on these rolls would be recommended to produce valid proof at Claret Hall
 - Use of email or allowing candidates to record images of signer’s personal documents raises security concerns with potential loss of identity for resident. Such actions should not be encouraged but allowed.
- The RHEPC does not recommend allowing electronic signatures with petitions unless it is part of a more comprehensive electronic voting system. [see FY21 ECR 9 in RHEPC Report]

Nomination: Certification of Candidacy

- Upon validation of a nomination petition, the Election Committee shall issue a certification of candidacy to the nominee.
 - Past practice has been to validate petitions after the close of the nomination period, leading to issues in correcting issues.
- **RHEPC Recommendation: Modify Election Procedures:**
 - Validate petitions and issue a certification of candidacy (or provide reasons why a petition is invalid) within 1 week of the petition's submission.
 - Correction of petition issues will only be accepted up to the submission deadline, after which invalid petitions will be rejected.
 - Candidates to be strongly advised to submit nominating petitions two weeks before the submission deadline to allow sufficient time for petition acceptance and correction of any issues that might be preventing acceptance.
 - [see FY21 ECR 6 in RHEPC Report]

Nomination Petition Corrections

- RHEPC Recommendation: [see FY21 ECR 6 in RHEPC Report]
 - The candidate's identity or the position for which the candidate is being nominated cannot be modified on nomination petitions. If such changes are desired, a new nominating petition must be generated with new nomination signatures. Previous petitions must be withdrawn before the new petition can be submitted.
 - Correction of nomination signer's addresses and/or replacement of nomination signer's who were declared invalid by the Election Committee is acceptable if a supplemental petition is received prior to the close of nominations.
 - Withdrawals are accepted in writing, signed by the candidate, if received before the distribution of absentee ballots begins. The Election Committee will have the name of candidates who withdrew obscured on all ballots.

Candidate Statements & Announcements

- Candidates may submit a statement (150 words or less)
 - Will not be edited, except to delete all words in excess of 150.
 - Due no later than March 21st (2021 procedures) / March 25th (per By-Laws)
- **RHEPC Recommendation:**
 - Change By-Laws to eliminate the specific March 25th deadline and replace with the deadline for submitting nominations. [March 21st]
- Village Manager shall publish names of candidates, positions they seek, and their prepared statements no later than 5 days before the election (traditionally, April issue of The Villager)

Announcement of Candidates

- RHCA past practice announced candidates after certification, but this was after nominations closed.
- RHEPC Recommendation: [see FY21 ECR 12 in RHEPC Report]
 - Certified candidates should be announced (name and position) as soon as possible following certification (email list, website). (If nominations are still being accepted, include invitation for other members to seek a position.)

Voting Eligibility

- Voting at meetings [see FY21 ECR 10 in RHEPC Report]
 - RHCA members who are residents of River Hill, aged 18 or older
 - In good standing
 - Outstanding issue: Unsold lots on rolls? (pending further review)
- Voting on Covenant changes or annexations
 - RHCA members who are owners
- Existing Election Procedures require voters to present identification showing current address to be in the Village of River Hill.
- Requests for Absentee Ballots also require proof of residency.

Voting Process

- Election held as Annual Meeting each April
 - Not on a Sunday, or legal holiday
 - Date specified each year by RHBOD
- Quorum: 50% of the average (arithmetical mean) of votes cast in each of the last three annual meetings of members.
- Annual Meeting is not subject to adjournment during the polling hours (for failure to maintain quorum).
- During polling hours, no other business can be conducted.
- Absentee ballots can be requested.

Absentee Voting

- Any eligible member of the Association unable to cast a ballot at the polling place may cast an absentee ballot.
- Absentee ballot requests
 - Received In-Person 20th to one day prior to election.
 - Received in writing 20th to 10th day prior to election.
- Absentee ballots returned by Midnight of day prior to election
- Election Committee prepares, controls, distributes, counts and account for absentee ballots.

Conduct of Election

- Columbia Association Assessment rolls for RH properties serve as the voter lists, annotated during the election process to record who voted.
 - One in alphabetical order including addresses
 - A second list by order of their addresses.
- No electioneering within 100 feet of polling location
 - Candidates are warned of violations
 - If a serious problem results, the Election Committee should document the violations in writing and may recommend that the Village Board invalidate the election.

Write-In Candidates

- Both the 2021 Election Committee and the RHEPC believed the By-Laws to be clear that write-in candidates are not allowed.
- Nominations are by petition only.
- RHEPC Recommendation: [FY21 ECR 7 in RHEPC Report]
 - Modify the Election Procedures to clarify that approved nomination petitions are required in order for a candidate's name to be included on the ballot and no write-ins are permitted.

Failure to Meet Quorum

- If a quorum is not met for the annual meeting (election), the MD Homeowners Act now provides the requirements for an additional meeting for the same purpose:
 - If initial meeting notice stated an additional meeting might be needed and the date, time and place of the additional meeting
 - A majority of the lot owners present at the initial meeting vote to call for the additional meeting. (Approval statement has been previously included in RHCA ballots.)
 - The additional meeting shall occur not less than 15 days after the initial meeting
 - Not less than 10 days prior to the additional meeting, a separate and distinct notice of the additional meeting is required by mail, email, newspaper, or posting on association's homepage of the website.
- **RHEPC Recommendation:**
 - Add update to Election Procedures implementing the above requirements.
 - Some interpretation details subject to ongoing legal review
- In the event of a second election, statements on the initial ballot provide the ballot be cast again unless specifically revoked by the voter. (i.e., voter need not vote again)

Revoking of Ballots in Second Elections

- RHCA election practices include provision for voters to revoke their previous ballot in second elections.
 - Ballots are numbered, with slips containing the number to be retained by the voter.
- Use of the slips and the importance of retaining them is probably not well understood by members.
 - RHEPC Recommendation: Provide additional written explanation of the use of these ballot numbers on the slips members retain.

Ballot Counting

- Two individuals, members of the Election Committee and assigned helpers, shall count the ballots independently under leadership of Chair.
- Candidates or their representative are permitted to be present in the counting room but they may not verbally question the counting or any other election procedures. Issues must be submitted via written challenge.
- Absentee ballots are validated by the Chair and added to the others if it can be determined no other vote was cast by that person. (Priority to the live ballot.)

Balloting (continued)

- Number of Candidates corresponding to number of open positions with highest vote counts are the declared the winners.
- RHEPC Recommendation:
 - Require voter affirmation of candidates when number of candidates is less than or equal to number of open positions. (51% or more affirmative votes out total votes cast.) This likely requires a By-Law change.
- If positions are not filled after an election, the RHBOD has the authority to fill positions by appointment whenever vacant.

Runoff Election Procedure

- In case of a tie, Election Committee shall conduct a recount of the ballots within two days.
- Ballots in locked container, retained by chairman of the Election Committee until recount occurs.
- If tie persists, Village Manager notifies members of runoff election.
- Runoff shall be conducted within two weeks after the posting of certified election results by Election Committee.
- **RHEPC Recommendation:** If possible (legal interpretations pending), incorporate announcement of this possibility into the second election announcement.

Runoff Election

- Only the names of the candidates involved in the tie will appear on the runoff election ballot.
- A tie vote for Council Representative, or for last Director position shall not delay seating of other elected positions not affected by the tie.
- Where a tie occurs and the election results have been challenged, the runoff election shall take place within two weeks of the disposition of the challenge.

Election Challenges

- Candidates and/or members of the Election Committee may submit challenges to the Election Committee Chair with 5 calendar days after the posting of the election results.
- Challenges are submitted in writing and must be signed.
- After receiving a challenge the committee shall meet in a public session at least two days prior to the seating of the new Village Board and/or Council Representative.
- The Committee will accept and rule on any written challenge.
- In the event of a challenge, the Election Committee will prepare and submit a statement of the conduct of the election to the incumbent Board of Directors.
- The committee is not required to consider any challenges, unless they could affect the results of the election, until after the election is certified. The committee should then evaluate the election procedures and the complaint and make recommendations in the final report of the election.

Access to Voter Lists

- Columbia Association Assessment rolls for RH properties serve as the voter lists, annotated during the election process to record who voted.
- Currently available to owners. [see FY21 ECR 8 in RHEPC Report]
- Any lot owner, lot owner's mortgagee, or their respective agents or attorneys may request in writing to examine and/or copy any books or record kept by or on behalf of the Village of River Hill with the exception of architectural drawings (which may only be examined) and those which concern personnel records, an individual's medical records, records relating to business transactions that are currently in negotiation or on the written advice of legal counsel.
- Required by MD Homeowners Association Act
- Current RHCA policy does not cover residents who are not the owner.
- RHCA retains lists of voters for approximately 8 years, per RH policy.

Campaign Contributions

- RHEPC Recommendation: [see FY21 ECR 11 in RHEPC Report]
 - RH elections should be conducted and funded solely by the primary stakeholders of the RH election – River Hill Village residents.
 - Modify Election Guidelines:
 - Corporate or third-party contributions are not permitted.
 - Candidates are required to keep an accounting of the contributions (date, amount of contribution, name and address of contributor).
 - If an issue is raised, candidates shall furnish the accounting to the Election Committee for review.
 - Non-compliance to these procedures will be cause for disqualification from the election.

Alternative Voting Methods (Instant Runoff)

- RHEPC does not consider this feasible in the near-term
 - Complexities
 - Typically, low number of candidates
- **Recommendation: Evaluate in conjunction with development of an online voting process.**

Summary of Election Procedure Changes

- Of Significance:
 - Certify nominations within 1 week of the petition's submission
 - Announce candidates prior to nomination closure
 - Clarify process for dealing with petition issues (corrections)
 - Notification of date/time/location of second elections
 - Corporate or third-party contributions not permitted
- Less Significant Clarifications
 - Require in-person delivery to Claret Hall
 - Descriptions of positions on Nomination Petition
 - Instructions for validating nomination petition signers
 - No write-in candidates
 - Instructions for revoking ballots in second elections
- Additional minor updates in wording (not changing procedures) in *RHEPC List of Minor Changes* See *RHEPC List of Minor Changes*

Summary of By-Law Changes

- Higher Priority
 - Change wording for candidate statement submission deadline
 - 51% or more affirmative votes for uncontested candidates
- Less Critical
 - Clarify term of Columbia Council Representative
 - Clarify RH BOD authority to set agenda for Annual Meeting (whether there is an open session) (legal opinion pending)
 - Reword proof of residency document list. Currently includes Howard County Library card? (legal opinion pending)

Articles of Incorporation Change

- RHEPC Recommends that all RHCA board directors be members of the Association.
- Changes to the Articles of Incorporation require the affirmative vote of two-thirds (2/3) of the members voting at a meeting of members at which a quorum is present. (9th Article, section 6)
- The RHCA Board might consider inquiring whether such a change can be voted on as part of the Annual Meeting written ballot (as By-Law changes have been voted on).

Remaining Work

- Prepare updated Election Procedures and By-Law changes for board/legal review.
- Electronic Voting [see FY21 ECR 2 in RHEPC Report]
 - By-Laws only allow for Absentee Voting.
 - Not sufficient time to consider for 2022 election.
 - Begin RHEPC analysis and implementation plan in spring 2022.