

Questions and Answers Regarding MAFCA's Bylaws

What are bylaws?

Bylaws are documents that govern a corporation. The bylaws define and explain the main issues of management and authority of the corporation. Like a country has a constitution that establishes rights and responsibilities for governments and its citizens, so to the bylaws do much the same for corporations and members. Under the law, all members have the right to examine the corporations bylaws.

In general, bylaws establish who its members are and what purpose it serves. It establishes who runs the corporation, how they are selected and for how long they may serve. Bylaws define the rights and privileges of the membership and place limitations on the corporation, its directors and officers.

Is it better to change (amend) or rewrite (restate) the bylaws?

It depends on the original bylaws. Occasionally bylaws are so dated and not in compliance with state laws it becomes better to completely restate (replace) them. MAFCA's original bylaws were well thought out and only need corrections to bring us into compliance with current laws. The attorney made a number of minor corrections updating words and grammar; these corrections are the vast majority of changes.

What is wrong with our current bylaws?

MAFCA's bylaws were first written in 1958 and since then have done an outstanding job for our club. Much like governments have differing degrees of legal authorities so to do corporations. In law, constitutional rights have more authority than federal laws; federal laws have more authority than municipal laws. Likewise corporations are first controlled by state law and then bylaws and finally policy. The bylaws are always subject to the state law. California law provides for corporations to amend (change) the bylaws to meet current needs of its members, better practices and to conform to current laws.

Over the last 50 years many things have changed but the vast majority of items found in our bylaws remain strong and correct. If one were to examine each change you will find the overwhelming majority of recommended changes are simply changes to bring the language up to date and consistent. Having said that there are two significant changes.

The first significant change is in regards to our Annual Membership Meeting. California Law requires that 1/3 of our voting membership attend the Annual Membership Meeting. This breaks down to roughly 9,500 members having to attend. This is something everyone involved in the bylaw revision process has concluded is an impossibility. A simple solution is to amend the bylaws so as not to require an Annual Membership Meeting while still providing for member meetings should the members or directors feel it necessary. Instead of an Annual Membership Meeting, we are proposing MAFCA hold an annual National Awards Banquet. Pending approval by the membership, plans are to hold this banquet in the same format as our current Annual Membership Meeting. By doing this we remain consistent to our history and comply with state law.

The second major area involves our election process. Simply put, the time between the close of nominations and counting of the ballots has been extended to allow for more time to publish the necessary information, get the election information to our members, receive ballots back from the membership and count the ballots. Additionally the proposed changes clarify who counts and the ballots so as to conform to current law.

What if I don't like something in the bylaws?

Each of us have our own opinion and one person's opinion is no more correct than another's. That is why we went through so many steps and involved so many people throughout MAFCA in coming up with a final proposal. Not one person got everything he/she wanted but instead worked to achieve a workable set of bylaws that meet our needs and bring us into compliance with state law.

Can't we just ignore the sections we don't like or are out of date?

As stated previously, the bylaws are like the Constitution, only instead of defining how a country is to operate, bylaws tell how a corporation is to operate. Corporations are obligated to enforce and follow the bylaws just as they would any law established by the government. An example might be just like the president of the US can't decide to make his term 6 years instead of 4 years, a MAFCA board member can't decide to make his/her term three years instead of two. The reasons are to provide for consistency and fairness as well as ensure our members know how things are to operate. Additionally, the bylaws place limitations on the Board of Directors and Officers of the corporation so they can't run roughshod.

The proposed bylaws mention cumulative voting, what is cumulative voting?

*Cumulative voting is a process in which a member casts all of his/her votes for one candidate. An example would be if there are four vacancies providing a member with the right to cast four votes, cumulative voting would permit that a member could cast all four votes for one individual. MAFCA has never permitted cumulative voting and the new bylaws **do not** allow for it. The attorney felt it prudent to clarify that cumulative voting is not permitted.*

How were these changes decided on?

The process began early in 2009 with a committee of current directors appointed to review and recommend changes. The established goal was to review our bylaws to see how they stack up to current laws and should changes be necessary, maintain the integrity and intent of the original bylaws. For the next number of months the bylaws were reviewed, as was the California Corporations Code. Additionally, a number of MAFCA members recommended changes, suggestions and expressed their thoughts and ideas. Each comment was reviewed and discussed at length. The committee then turned to a number of former board members seeking their review and input. Finally a rough draft was written, reviewed by the Board of Directors and amended. This draft was then submitted to a sub-committee made up of past directors, selected by AFORD (a Special Interest Group made up of former board members from around the country) for their review and thoughts. Another draft was written and finalized by the board, after which it was submitted to an attorney, experienced in California none profit corporation law. The attorney was charged with three things, maintain the integrity and spirit of the original bylaws, make sure of MAFCA's compliance with current law and correct and update grammar and verbiage if needed. The bylaws were then resubmitted for final review and approval of the board of Directors. In January 2010 The Board approved the draft for submit ion to the membership seeking its approval.

What is the next step?

The bylaws will be posted at mafca.com on or around the first of April and any member wanting a hard copy may request one by contacting the home office. The members will have about six months to review and ask questions. Questions should be submitted to president@mafca.com. On the annual ballot (this fall) will be a measure to approve the bylaws. If approved, the bylaws will go into effect January 1, 2011.

The following are some of the bylaws changes being recommended by the Board of Directors. Example 1 shows an example of changes done through out the document that are recommended by the attorney. The majority of these are grammar, syntax and changes to be consistent throughout the document. Example 2 is a major change being recommended so MAFCA can comply with current law.

All members are encouraged to review the complete text at mafca.com or you may request a copy by contacting the office.

Example 1

Current: Article VI Section 5. President:

The President shall be the principal executive officer of the corporation and shall, in general, supervise and control all of the business and affairs of the corporation. He shall preside at all Meetings of the Members and of the Board of Directors. He may sign, with the Secretary or any other proper Officer of the corporation authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where signing and execution thereof shall be expressly delegated by the Board of Directors or these By-laws or by statute to some other Officer or Agent of the corporation; and in general shall perform all duties as may be prescribed by the Board of Directors.

Proposed: Article Section 5. President:

The President shall be the principal executive officer of the Club and shall, in general, supervise and control all of the business and affairs of the Club. He or she shall preside at all meetings of the members and of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the Club as authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where signing and execution thereof shall be expressly delegated by the Board of Directors or these Bylaws or by statute to some other officer or agent of the Club; and in general shall perform all duties as may be prescribed by the Board of Directors

Example 2

Current : Article V, Section 3(C) Election

(1) Close of Nominations

The nominations shall be closed on July 1 of the year of the election.

(2) Mailing of ballots

The mailing of ballots to the members during the period of August 1 to August 15 of the year of the election shall be accomplished by order of the Board of Directors.

(3) Return and counting of ballots

Members shall return the marked ballots to MAFCA postmarked no later than October 15 of the year of the election. Ballots shall be counted by a committee appointed for the purpose, and the results verified by the Committee Chairman. Ballots shall be kept on file until installation of those elected.

(4) Results

Immediately after the results have been verified, the Nominating Committee Chairman shall be responsible to notify in writing all candidates of the results. The results shall be read to the membership at the Annual Membership Meeting.

(5) Installation

The newly elected Directors shall be installed at the Annual Membership Meeting of the Club, which is held in accordance with Article IV Section 1 of these bylaws.

(6) Waiver of Election

If, after the close of nominations, the number of people nominated for the Board is not more than the number of the directors to be elected, the Board of Directors may, without further action, declare that those nominated and qualified to be elected have been elected.

Proposed : Article V, Section 3(C) Election

(1) Close of Nominations

The nominations shall be closed on June 18th of the year of the election.

(2) No Cumulative Voting Allowed

Cumulative voting for the election Directors shall not be allowed.

(3) Election of Directors by Written Ballot

Pursuant to Section 7513(e) of the California Corporations Code, or any comparable successor statute, the election of Directors shall be conducted by written ballot conducted through the mail without a meeting of the members in accordance with the requirements of Section 7513 of the California Corporations Code. The mailing of ballots to all members eligible to vote during the third quarter of the year of the election shall be accomplished by order of the Board of Directors, provided, however, that the mailing of ballots shall occur no later than thirty (30) calendar days before the ballot return deadline specified in subparagraph (C)(4) below. All ballots shall be mailed to the members eligible to vote through the United States mail.

(4) Inspectors of Election - Return and Counting of Ballots

Members shall return the marked ballots to MAFCA in envelopes postmarked no later than October 15 of the year of the election. The Ballots shall be counted by a committee appointed for this purpose. The committee shall be comprised of 1) MAFCA members appointed by the Nominating Chairman who shall serve as ballot counters, and 2) one or three persons who shall constitute the inspector(s) of election as defined in Section 7614 of the California Corporations Code or any comparable successor statute. The inspector(s) of election shall have those duties, responsibilities and powers enumerated in Section 7614 of the California Corporations Code, e.g. authority to make decisions regarding validity of ballots, voting and election results. The results shall be verified by the Nominating Committee Chairman. All ballots shall be kept on file by the Club for at least one year following the ballot return deadline

(5) Results

Immediately after the results of the election have been verified, the Nominating Committee Chairman shall be responsible to notify all candidates of the results. The results shall be read next ensuing National Awards Banquet.

(6) Installation

The newly elected Directors shall be installed at the, National Awards Banquet which is held in accordance with Article V Section 6 of these bylaws.

(7) Waiver of Election

If, after the close of nominations, the number of people nominated for election to the Board of Directors is not more than the number of the Directors to be elected, the Board of Directors may, without further action, declare that those nominated and qualified to be elected have been elected.

Current Article IV Meeting of the Membership

SECTION 1. Annual Membership Meeting:

The Annual Membership Meeting of the Club shall be held between November 15 and January 15 of the following year, the exact date and time thereof to be determined by the Board of Directors.

SECTION 2. Special Meetings:

Special meetings of the members may be called either by the President, the Board of Directors, or not less than one-tenth of the members.

Proposed Article IV Meeting of the Membership

SECTION 1. Annual Meetings:

Regular annual meetings of the members shall not be required or held.

SECTION 2. Special Meetings:

Special meetings of the members may be called either by the President, the Board of Directors, or not less than five percent (5%) of the members eligible to vote.

#####