

On 27 Nov 2015, I received a lengthy email which included the following statement

“At this time, I am formally requesting hard copies of all of the documents, ballots, and any associated documents pertaining to the vote which took place at the 2014 annual meeting, wherein the vote to elect the 2015 board members took place.”

Not being an expert on CCIOA, but being pretty certain that a secret ballot is supposed to remain secret, I searched in the CCIOA and found the following paragraph.

CCIOA 38-33.3-310 Voting states *“The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of unit owners participating in such vote.”*

This confirmed my assumption, and in accordance with CCIOA, I started making copies of the ballots which had any and all identifying information removed. Those documents have been provided to the person making the request.

However I also came across the following paragraph

“Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be unit owners who are selected or appointed at an open meeting, in a fair manner, by the chair of the board or another person presiding during that portion of the meeting. The volunteers shall not be board members and, in the case of a contested election for a board position, shall not be candidates.”

At the meeting to elect officers, following precedent set in previous elections, Mr. Harper, the sitting board president, asked for a volunteer to count the votes. Mr. Roning volunteered.

The votes were tallied and the results were presented as follows.

Robert Thomas	23	Richard Wanger	0 (Withdrew from race)
Hank John	7	Terri Wanger	9
David Ziller	11	Bryan Willis	18

One ballot did not have a proxy attached. This vote should not have been counted. Discarding that ballot would result in the following

Robert Thomas	22	Richard Wanger	0 (Withdrew from race)
Hank John	6	Terri Wanger	9
David Ziller	10	Bryan Willis	18

While the results would not change, my concern was whether the board was legally constituted. My fear was that the board would be subject to legal challenge, and any action taken by the board would be thrown out. At that point I felt obligated to engage our attorney.

The attorney recommended the following actions

1. Make the issue known to all of the members
2. Ask for a committee of volunteers to re-count the ballots
3. Re-affirm the board positions

During the discussion with the attorney, it came out that the previous meeting had been video-taped. The attorney strongly recommended that the board modify the Bylaws to prohibit audio and video taping of meetings. Her reasons included that video-taping can prevent the free discussion of ideas presented at the meeting, and that if there is some challenge to any events at the meeting, the party with the video or audio tape has an advantage over the other. Her position is that the meeting minutes should be the only record of the events of the meeting.

The Bylaws can be altered by a majority vote of the members during a meeting called specifically for the purpose. My question to the members is should we have a meeting specifically for this purpose?