



ADMINISTRATIVE REPORT

Report Date: August 24, 2018
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Meeting Date: September 19, 2018

TO: Standing Committee on City Finance and Services

FROM: Director of Legal Services and City Solicitor

SUBJECT: Vancouver Heritage Foundation – Approval of Revised Constitution and Bylaws

RECOMMENDATION

THAT the Mayor and the City Councillors, in their capacity as the Honorary Members of The City of Vancouver Heritage Conservation Foundation, now known as the Vancouver Heritage Foundation ("VHF"), pass the written resolution that is attached as Appendix 1 to this Report.

REPORT SUMMARY

The British Columbia *Societies Act*, S.B.C. 2015 c. 18 (the "Act") came into effect on November 28, 2016, and requires the Vancouver Heritage Foundation ("VHF") to transition under the Act by November 28, 2018, by, among other things, revising its constitutions and bylaws to comply with the Act.

VHF's bylaws state that changes to VHF's constitution and bylaws must be approved by a "special resolution" of the "Ordinary Members" of VHF and a "special resolution" of the "Honorary Members" of the VHF. VHF's bylaws state that the Mayor and the City Councillors of the City of Vancouver as elected from time to time are the "Honorary Members" of VHF. A "special resolution" is defined in VHF's bylaws as "a resolution consented to in writing by 80% of the [Honorary] Members [of VHF] who would have been entitled to vote at a general meeting..." In order for VHF to revise its constitution and bylaws, the Mayor and the City Councillors must, in their capacity as the "Honorary Members" of VHF, pass a special resolution approving VHF's revised constitution and bylaws.

VHF's legal counsel drafted the revisions to VHF's constitution and bylaws, which are described below. The City's legal department has reviewed and approved the proposed revisions.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

There is no applicable Council Authority or previous decisions relevant to this report.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager and the City Solicitor recommend that Council, which represents one hundred percent of the Honorary Members of the VHF, passes the special resolution that is attached as Appendix 1 to this Report and thus approves VHF's revised constitution and bylaws.

REPORT

Background/Context

CONSTITUTION AND BYLAW REVISIONS

Constitution Revisions

The Act states that a British Columbia society's constitution must only state the name of the society and the society's purposes. Consequently, VHF's Constitution has been revised to only state VHF's name and purposes. VHF has also proposed to change its legal name from "The City of Vancouver Heritage Conservation Foundation" to the "Vancouver Heritage Foundation".

Bylaw Revisions

VHF's Bylaws have been revised to:

- reflect the new name of the Act and the new nomenclature used in the Act;
- include the provisions related to the operations and wind-up of VHF that were previously included in VHF's Constitution and that are necessary for VHF to maintain its charitable status;
- reduce the threshold for an "Ordinary Resolution" approved in writing from seventy five percent of the "Members" to two thirds;
- reduce the threshold for a "Special Resolution" approved in writing from eighty percent to seventy five percent;
- permit the "Ordinary Members" (the same group as the directors of VHF) to appoint a replacement director to fill a vacancy created in the case of the resignation of a director during his or her term, which reflects VHF's past practices;
- add a provision to permit directors to participate in meetings of the "Board" by telephone; and

- remove the reference to the issuance of a debenture (formerly Bylaw 10.2).

Strategic Analysis

There is no strategic analysis required.

Implications/Related Issues/Risk

Financial

There are no financial implications, related issues, or risks associated with adopting the Recommendation and passing the resolution that is attached as Appendix 1 to this Report.

CONCLUSION

VHF requires a special resolution of Vancouver City Council, which represents one hundred percent of the Honorary Members of VHF, approving VHF's revised Constitution and Bylaws in order to comply with the provisions of the Act.

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Appendix 1

WHEREAS the British Columbia *Societies Act*, S.B.C. 2015 c. 18 (the “Act”) came into effect on November 28, 2016 and requires all British Columbia societies that incorporated prior to November 28, 2016 to transition under the Act by, among other things, revising their constitutions and bylaws to comply with the Act;

AND WHEREAS The City of Vancouver Heritage Conservation Foundation (“VHF”) incorporated prior to November 28, 2016;

AND WHEREAS VHF’s bylaws state that the Mayor and the City Councillors of the City of Vancouver as elected from time to time are the “Honorary Members” of VHF and that changes to VHF’s constitution and bylaws must be approved by a “special resolution” of the Honorary Members of VHF;

AND WHEREAS a “special resolution” is defined in VHF’s bylaws as “a resolution consented to in writing by 80% of the [Honorary] Members who would have been entitled to vote at a general meeting...” of VHF.

NOW THEREFORE, Vancouver City Council, which represents one hundred percent of the Honorary Members of VHF, resolves by special resolution in writing to approve VHF’s revised constitution, which is attached to this resolution as Schedule A, and VHF’s revised bylaws, which are attached to this resolution as Schedule B.

Gregor Robertson

George Affleck

Elizabeth Ball

Hector Bremner

Adriane Carr

Melissa De Genova

Heather Deal

Kerry Jang

Raymond Louie

Andrea Reimer

Tim Stevenson

SCHEDULE A

SOCIETIES ACT

CONSTITUTION

1. The name of the society is Vancouver Heritage Foundation.
2. The purposes of the Foundation are:
 - (i) to promote the preservation, maintenance and restoration of buildings, structures and land located in the City of Vancouver which are of historical or architectural significance;
 - (ii) to promote and encourage public interest in heritage conservation in the City of Vancouver; and
 - (iii) to do all such other things as are incidental and ancillary to the attainment of the foregoing purposes and the exercise of the powers of the Foundation.

SCHEDULE B

VANCOUVER HERITAGE FOUNDATION
BYLAWS

PART I – INTERPRETATION

- 1.1. In these bylaws and the constitution of the Foundation, unless the context otherwise requires:
- (a) **“Address of the Foundation”** means the address of the Foundation as filed from time to time with the Registrar on the Notice of Address;
 - (b) **“Board”** means the Directors acting as authorized by the Constitution and these bylaws in managing or supervising the management of the affairs of the Foundation and exercising the powers of the Foundation;
 - (c) **“Board Resolution”** means:
 - i. a resolution passed at a meeting of the Board by a simple majority of the votes cast by those Directors entitled to vote at such meeting; or
 - ii. a resolution that has been submitted to all of the Directors and consented to in writing by 75% of the Directors who would have been entitled to vote on it in person at a meeting of the Board;
 - (d) **“Bylaws”** means the bylaws of the Foundation as filed in the Office of the Registrar;
 - (e) **“Constitution”** means the constitution of the Foundation as filed in the Office of the Registrar;
 - (f) **“Directors”** means those persons who have become directors in accordance with these Bylaws, and have not ceased to be directors, and a “Director” means any one of them;
 - (g) **“Foundation”** means the Vancouver Heritage Foundation;
 - (h) **“Income Tax Act”** means the *Income Tax Act* (Canada) as amended from time to time;
 - (i) **“Members”** means the applicants for incorporation of the Foundation and those persons who have subsequently become members of any class or category, including without limitation Ordinary Members, Honorary Members and Non-Voting Members, in accordance with these Bylaws and, in either case, have not ceased to be members, and a “Member” means any one of them;

- (j) **“Ordinary Resolution”** means:
 - i. a resolution passed at a general meeting of the Foundation by a simple majority of the votes cast by those Members present at and entitled to vote at such meeting; or
 - ii. a resolution that has been submitted to all of the Members and consented to in writing by 2/3 of the Members who would have been entitled to vote on it at a general meeting, of the Foundation;
- (k) **“President”** means a person elected to the office of President in accordance with these Bylaws but such office holder may, with the approval of a Board resolution, use the title Chair, Chairperson, Chairwoman or Chairman in substitution for, or in addition to, the title “President”;
- (l) **“Registered Address”** of a Member or Director means the address of that person as recorded in the register of members or the register of directors;
- (m) **“Registrar”** means the Registrar of Companies of the Province of British Columbia;
- (n) **“Societies Act”** means the *Societies Act* S.B.C. 2015, c 18 as amended from time to time;
- (o) **“Special Resolution”** means:
 - i. a resolution passed at a general meeting of the Foundation by a majority of not less than 75% of the votes cast by those Members present at and entitled to vote at such meeting; or
 - ii. a resolution consented to in writing by 80% of the Members who would have been entitled to vote at a general meeting of the Foundation.

- 1.2. Except where they conflict with the definitions contained in these Bylaws, the definitions in the *Societies Act* on the date these Bylaws become effective apply to these Bylaws and the Constitution.

PART II – MEMBERSHIP

- 2.1. The Members of the Foundation are the applicants for incorporation of the Foundation and those persons who subsequently become members, in accordance with these Bylaws and, in either case, have not ceased to be Members.
- 2.2. There shall be the following members and categories of members of the Foundation:
- (a) Ordinary Members;
 - (b) Non-voting Members; and
 - (c) Honorary Members.

- 2.3. A person may apply to the Honorary Members for membership in the Foundation as an Ordinary Member. Upon receiving the acceptance of and the appointment by the Honorary Members, as specifically provided for in this Bylaw 2.3, including the conducting of a public nomination process, if and when required as provided in these Bylaws, and upon giving consideration to the recommendations, if any, of a nominating committee of the Directors of the Foundation, a person shall be an Ordinary Member. The acceptance by the Honorary Members shall require a majority of not less than 75% of the votes cast at a meeting of the Honorary Members or as consented to in writing by not less than 75% of the Honorary Members in a resolution thereof. Membership in the Foundation as an Ordinary Member shall be restricted to those persons who meet one or more of the eligibility requirements and qualifications required to be a Director of the Foundation, as set out in Bylaw 5.5 herein, and only those persons appointed as Directors of the Foundation, pursuant to Part V of these Bylaws, shall be Ordinary Members. There shall be a maximum of fifteen (15) Ordinary Members of the Foundation. A person appointed as a Director by the Honorary Members pursuant to these Bylaws shall be deemed to be an Ordinary Member upon becoming a Director.
- 2.4. The Honorary Members of the Foundation shall be the Mayor and the City Councillors (collectively the Mayor and the City Councillors are hereinafter defined as the "City Councillors") of the City of Vancouver as elected from time to time. An Honorary Member shall continue to be an Honorary Member until he/she resigns, dies or ceases to be a City Councillor of the City of Vancouver. An Honorary Member shall not be entitled to vote at any meetings of the Members or Directors of the Foundation, except with respect to:
- (a) proposed changes or amendments to the Constitution or Bylaws of the Foundation;
 - (b) the acceptance, appointment and expulsion of Ordinary Members; and
 - (c) the appointment of Directors of the Foundation.
- 2.5. The Foundation shall have three (3) Non-Voting Members, who shall be entitled to attend all meetings of the Members and Directors of the Foundation, but shall have no voting rights at any such meetings. The Non-Voting Members shall be entitled to participate in all policy discussions of the Foundation, be involved in the organization and attend all Foundation events designed to promote the preservation, maintenance and restoration of buildings, participate in all activities designed to encourage public interest in heritage conservation and act as liaisons between the Foundation and the City Councillors of the City of Vancouver. The Non-Voting Members shall be made up of the following:
- (a) a City Councillor of the City of Vancouver who shall be appointed as a Non-Voting Member by City Council of the City of Vancouver and automatically accepted as a Non-Voting Member by the Directors of the Foundation by virtue of such appointment by the City Council of the City of Vancouver;
 - (b) a Senior Heritage Planner of the City of Vancouver who shall be appointed by the City of Vancouver's Planning Department as a Non-Voting Member and upon

such appointment shall automatically be accepted by the Directors of the Foundation as a Non-Voting Member of the Foundation; and

- (c) the Chairperson of the Vancouver Heritage Commission or an appointee of the Chairperson who shall automatically be accepted by the Directors of the Foundation as a Non-Voting Member of the Foundation.
- 2.6. There shall be no membership dues payable by the Ordinary Members, Honorary Members or Non-Voting Members.
- 2.7. A person shall immediately cease to be an Ordinary Member of the Foundation:
- (a) upon the date which is the later of the date of delivering his/her resignation in writing to the Secretary of the Foundation or to the Address of the Foundation and the effective date of the resignation stated therein; or
 - (b) upon his/her death; or
 - (c) upon ceasing to meet the qualifications under which he/she became a Director of the Foundation; or
 - (d) upon being expelled in accordance with these Bylaws.
- 2.8. A person shall immediately cease to be a Non-Voting Member of the Foundation:
- (a) upon the date which is the later of the date of delivering his/her resignation in writing to the Secretary of the Foundation or to the Address of the Foundation and the effective date of the resignation stated therein; or
 - (b) upon his/her death; or
 - (c) upon ceasing to be or holding the office of a City Councillor, a Senior Heritage Planner in the City of Vancouver's Planning Department or the Chairperson of the Vancouver Heritage Commission or his/her appointee, respectively, which position, office or qualification formed the basis of that persons appointment and acceptance as a Non-Voting Member of the Foundation;
- 2.9. A person shall immediately cease to be an Honorary Member of the Foundation:
- (a) upon the date which is the later of the date of delivering his/her resignation in writing to the Secretary of the Foundation or to the Address of the Foundation and the effective date of the resignation stated therein;
 - (b) upon his/her death; or
 - (c) upon ceasing to be or holding the office of a City Councillor of the City of Vancouver.
- 2.10. Every member shall uphold the Constitution of the Foundation and shall comply with and observe these Bylaws.

- 2.11. The Ordinary Members, in conjunction with obtaining the approval of the Honorary Members of the Foundation, shall have the power to suspend or expel another Ordinary Member who has, in their opinion, been guilty of conduct which is improper or unbecoming for an Ordinary Member of the Foundation or is detrimental to the interests or reputation of the Foundation, or who fails to uphold the Constitution or comply with the Bylaws of the Foundation.
- 2.12. An Ordinary Member may be suspended or expelled only by a Special Resolution of the Ordinary Members passed at a general meeting together with the approval of the Honorary Members which shall require a 75% majority vote at a meeting of the Honorary Members or as evidenced by a written resolution passed by seventy-five (75%) percent of the Honorary Members in favour of the suspension or expulsion of the Ordinary Member. The notice of Special Resolution for expulsion must be accompanied by a brief statement of the reasons for the proposed expulsion. An Ordinary Member who is the subject of the proposed resolution for expulsion must be given an opportunity to be heard at the general meeting before the resolution is put to a vote. The Honorary Members shall not be obligated to approve or follow the Ordinary Members' recommendations or resolutions for the expulsion of another Ordinary Member.
- 2.13. All members are deemed to be in good standing when he/she has fulfilled all the obligations as set out in these Bylaws.
- 2.14. The membership of a person in the Foundation is not transferable.

PART III - MEETINGS OF MEMBERS

- 3.1. The general meetings of the Foundation shall be held at such time and place, in accordance with the *Societies Act*, as the Board shall decide.
- 3.2. Every general meeting other than an annual general meeting is an extraordinary general meeting.
- 3.3. The Board may, whenever it thinks fit convene an extraordinary general meeting.
- 3.4. The Foundation shall give not less than 14 days written notice of a general meeting to all its Members entitled to receive notice which shall include the Ordinary Members, Non-Voting Members and Honorary Members; but those Members may waive or reduce the period of notice for a particular meeting by unanimous consent in writing.
- 3.5. Notice of a general meeting shall specify the place, the day and the hour of the meeting, and, in case of special business, the general nature of that business.
- 3.6. The accidental omission to give notice of a general meeting to, or the non-receipt of notice by, any of the Members entitled to receive notice does not invalidate proceedings at that meeting.
- 3.7. An annual general meeting of the Foundation shall be held at least once in every calendar year.

PART IV - PROCEEDINGS AT GENERAL MEETINGS

- 4.1. Special business is:
- (a) all business at an extraordinary general meeting except the adoption of rules of order; and
 - (b) all business that is transacted at an annual general meeting, except the following:
 - i. the adoption of rules of order;
 - ii. the consideration of the financial statements;
 - iii. the consideration of the report of the Directors;
 - iv. the consideration of the report of the auditor;
 - v. the election of Directors;
 - vi. the appointment of the auditor, if required; and
 - vii. such other business that, under these Bylaws or any governing statutes, should be transacted at an annual general meeting, or business which is brought under consideration by the report of the Directors, if the report was issued with the notice of the meeting.
- 4.2. No business, other than the election of a person to chair the meeting and the adjournment or termination of the meeting, shall be conducted at a general meeting at a time when a quorum is not present.
- 4.3. A quorum at a general meeting is a majority of the Ordinary Members or such greater number that the Ordinary Members may determine at a general meeting.
- 4.4. If at any time during a general meeting there ceases to be a quorum present, business then in progress shall be suspended until there is a quorum present or until the meeting is adjourned or terminated.
- 4.5. If within 30 minutes from the time appointed for a general meeting a quorum is not present, the meeting, if convened on the requisition of Members, shall be terminated; but in any other case, it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting, a quorum is not present within 30 minutes from the time appointed for the meeting, the Members present shall constitute a quorum.
- 4.6.
- (a) Subject to Bylaw 4.6(b), the President of the Foundation, the Vice-President or, in the absence of both, one of the other Directors present, must preside as chair of a general meeting;
 - (b) If at a general meeting:

- i. there is no President or Vice-President present within fifteen (15) minutes after the time appointed for holding the meeting; or
- ii. the President and the Vice-President are unwilling to act as the chair;

the Ordinary Members present may choose one of their number to be the chair.

- 4.7. If a person presiding as chair of a general meeting wants to step down as chair for all or part of that meeting, he or she may designate an alternate, to chair such meeting or portion thereof, and upon such designated alternate receiving the consent of a majority of the Ordinary Members present at such meeting, he or she may preside as chair.
- 4.8. A general meeting may be adjourned from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 4.9. It is not necessary to give notice of an adjournment or of the business to be transacted at an adjourned meeting except where a meeting is adjourned for more than 14 days, in which case notice of the adjourned meeting shall be given as in the case of the original meeting.
- 4.10. No resolutions proposed at a general meeting need be seconded and the chair of a meeting may move or propose a resolution.
- 4.11. Any issue at a general meeting which is not required by these Bylaws or the *Societies Act* to be decided by a Special Resolution shall be decided by an Ordinary Resolution.
- 4.12. An Ordinary Member in good standing is entitled to one vote.
- 4.13. Voting by proxy is not permitted.
- 4.14. The person chairing a general meeting may vote but, if he or she does so and the result of any vote is a tie, the chair shall not be permitted to vote again to break the tie and the resolution being voted on shall be deemed to have failed.
- 4.15. Voting shall be by show of hands or voice vote recorded by the Secretary of the meeting.
- 4.16. A resolution in writing which has been submitted to and signed by 2/3 of all the Members who would have been entitled to vote on it at a general meeting of the Foundation is as valid and effectual as an Ordinary Resolution as if it had been passed at a meeting of members duly called and constituted and shall be deemed to be an Ordinary Resolution. Such a resolution may be in two or more counterparts which together shall be deemed to constitute one Ordinary Resolution in writing. Such Ordinary Resolution shall be filed with minutes of the proceedings of the Members and shall be deemed to be passed on the date stated therein or, in the absence of such a date being stated, on the latest date stated on any counterpart.
- 4.17. A resolution in writing which has been submitted to and signed by 80% of the Members who would have been entitled to vote on it a general meeting or other meeting of the Foundation is as valid and effectual as a Special Resolution as if it had been passed at a meeting of the Members duly called and constituted and shall be deemed to be a

Special Resolution. Such a resolution may be in two or more counterparts which together shall be deemed to constitute one Special Resolution in writing. Such Special Resolution shall be filed with minutes of the proceedings of the Members and shall be deemed to be passed on the dates dated therein or, in the absence of such a date being stated, on the latest date stated on any counterpart.

- 4.18. A copy of any special resolution passed in accordance with the Bylaws shall be filed with the Registrar in the prescribed form and shall not take effect until such copy is accepted by the Registrar.

PART V – DIRECTORS

- 5.1. The Board may exercise all such powers and do all such acts and things as the Foundation may exercise and do, and which are not by these Bylaws or by statute or otherwise lawfully directed or required to be exercised or done by the Foundation in a general meeting, but subject, nevertheless, to the provisions of:
- (a) all laws affecting the Foundation;
 - (b) these Bylaws; and
 - (c) rules, not being inconsistent with these Bylaws, which are made from time to time by the Foundation a general meeting.
- 5.2. No rule made by the Foundation in a general meeting invalidates a prior act of the Board that would have been valid if that rule had not been made.
- 5.3. The property and the affairs of the Foundation shall be managed by the Board.
- 5.4. The Board shall be comprised of no more than fifteen (15) individuals, but there shall never be less than three (3) directors, being the number required by the *Societies Act*. No act or proceeding of the Board is invalid by reason only of there being less than the prescribed number of Directors in office.
- 5.5. The Board of Directors shall be appointed by the Honorary Members following a public nomination process, except as otherwise specifically provided herein. The Honorary Members in making all appointments shall consult with the nominating committee of the Directors, if any, but must only conduct public nominations for the appointment of the first Board independent from City Council of the City of Vancouver and all subsequent appointments of Directors that are replacements of or fill vacancies in the Board created at the end of a current Director's term of office. The Ordinary Members may appoint a replacement Director in the case where a Director resigns, dies or is expelled during his term, provided the newly appointed replacement Director is being appointed only for the balance of the term of the Director being replaced and the Honorary Members need not conduct a public nomination process to appoint a replacement Director in such case. The Honorary Members in making all appointments, and the Ordinary Members in appointing a replacement Director, shall appoint individuals from amongst the following qualifications wherever possible:
- (a) an Architect (AIBC member with heritage experience);

- (b) a Developer (UDI member with heritage experience);
 - (c) a Builder/Contractor/Renovator (GVHBA member with heritage experience);
 - (d) a Real Estate Agent (REA member with heritage experience);
 - (e) a Retailer or Manufacturer;
 - (f) a Lawyer;
 - (g) an Accountant/Investment Professional;
 - (h) a Fundraising practitioner;
 - (i) a Marketing/Communications practitioner;
 - (j) members of the community with specific interest in heritage conservation; and
 - (k) a tourism representative or professional.
- 5.6. Each person who is appointed a Director of the Foundation by the Honorary Members or the Ordinary Members as set out in Bylaw 5.5, shall, by virtue of being a Director, be an Ordinary Member of the Foundation for as long as that person remains a Director.
- 5.7. A person shall automatically cease to be a Director of the Foundation:
- (a) upon the date which is the later of the date of delivering his/her resignation in writing to the Secretary of the Foundation or to the Address of the Foundation and the effective date of the resignation stated therein;
 - (b) upon his/her death; or
 - (c) upon removal by expulsion pursuant to a Special Resolution of the Ordinary Members and approved by the Honorary Members as provided for in Bylaw 2.12 herein.
- 5.8. Upon the removal of a Director from office as provided in these Bylaws, another Director may be appointed by the Honorary Members or the Ordinary Members as provided for in Bylaw 5.5 to serve the balance of the term.
- 5.9. Each Director appointed by the Honorary Members shall be appointed for two (2) year terms. Each Director shall be eligible for re-election or reappointment at the end of his/her term, but no Director shall serve as a Director for more than ten (10) consecutive years. The Honorary Members need not conduct a public nomination process for purposes of re-electing or re-appointing a Director at the end of his/her term, but shall conduct a public nomination process for the appointment of any new or successor Directors to fill any vacancies in the Directors resulting from any Directors not being re-appointed at the end of their respective terms. The first year of the term of each appointment of a Director shall be deemed to terminate at the close of the next annual

general meeting of the Foundation. The word "year" where used in these Bylaws means the period between annual general meetings and not necessarily a calendar year.

- 5.10. Every director serving a term of office shall retire as a director at the close of the annual general meeting in the year in which his/her term expires; but if no successor is elected or appointed, the person previously elected or appointed continues to hold office until such time as a successor Director is appointed.
- 5.11. The term of office of each appointed Director shall be determined at the time of appointment of the Director by the Honorary Members making such appointment. In the absence of any determination establishing a specific term for a Director, an appointed Director shall be appointed for a term of two (2) years from the date of such appointment.
- 5.12. Every director shall unreservedly subscribe to and support the purposes of the Foundation.
- 5.13. Notwithstanding any of the foregoing Bylaws, if a Director ceases to hold office as a Director during his/her term for any reason other than the removal or expulsion of the Director, as provided for in these Bylaws, the Ordinary Members may appoint a person as a replacement director to take the place of such Director for the balance of that Director's term.
- 5.14. Without limiting the generality of the foregoing Bylaw 5.1, the Board shall have the power and may from time to time employ such persons and at such remuneration as they consider advisable for the purpose of carrying on the business and management of the Foundation, including without limitation an Executive Director.
- 5.15. The Board shall cause minutes to be kept of the names of the Directors present at each meeting of the Board, and of all resolutions and proceedings of each meeting of the Board.
- 5.16. Subject to Bylaw 5.17, the President, Vice-President, Secretary, Treasurer and any and all such other senior managers as the Board may from time to time deem necessary and proper, shall be elected by a simple majority vote of the Directors. The Directors may at any time and from time to time appoint any Director to fill a vacancy in the senior managers. An election may be by acclamation, otherwise it must be by ballot. Separate elections must be held for each office to be filled. Each Director elected as a senior manager must retire from office at each annual general meeting when their successors are elected. If a successor is not elected, the person previously elected as a senior manager shall continue to hold that office.
- 5.17. The qualifications for the office of President, Vice-President, Secretary, Treasurer and any other senior managers (other than the Executive Director) shall be the appointment of such person as a Director by the Honorary Members.
- 5.18. Unless the Board otherwise determines in a particular instance, any Director or senior manager who fails to attend three (3) consecutive meetings of the Board or meetings of Members of the Foundation shall be deemed to have resigned his/her position on the Board or as a senior manager or as an Ordinary Member, respectively, and the casual vacancy thereby created may be filled in accordance with Bylaws 5.8 and 5.16 herein.

- 5.19. No Director shall be remunerated for being or acting as a director or for services rendered in his or her capacity as a director. A Director may be reimbursed for all expenses necessarily and reasonably incurred by him or her while engaged in the affairs of the Foundation.
- 5.20. No Director may hold any paid office or place of profit in the Foundation.
- 5.21. The Board shall have the power to make expenditures and loans whether or not secured or interest bearing for the purpose of furthering the purposes of the Foundation. The Board shall also have the power to enter into trust arrangements or contracts on behalf of the Foundation for the purpose of discharging obligations or conditions either imposed by a person donating, bequeathing, advancing or lending funds or property to the Foundation, or assumed by the Foundation in expectation of such donations, bequests, advances or loans. Such arrangements or contracts shall be in accordance with the terms and conditions that the Board may prescribe.
- 5.22. The Board shall take such steps as it deems necessary to enable the Foundation to receive donations, bequests, funds, property, trusts, contracts, agreements and benefits for the purpose of furthering the purposes of the Foundation. The Board in its sole and absolute discretion may refuse to accept any donation, bequest, trust, loan, contract or property.
- 5.23. In investing the funds of the Foundation, the Board shall not be limited to securities and investments in which trustees are authorized by law to invest but may make any investments which in its opinion are prudent. Subject to the provisions of the *Societies Act*, a Director shall not be liable for any loss which may result from any such investment.

PART VI - PROCEEDINGS OF THE BOARD

- 6.1. The Directors may meet at the time and places they think fit to conduct business, adjourn and otherwise regulate their meetings and proceeding; provided that five (5) days' notice of such meeting shall be sent in writing to each Director. However, no formal notice shall be necessary if all Directors were present at the preceding meeting when the time and place of the meeting were determined or are present at the meeting or waive notice thereof in writing or give a prior verbal waiver to the Secretary of the Foundation.
- 6.2. The Board may from time to time fix the quorum necessary to transact business, and unless so fixed the quorum shall be a majority of the Directors in office at the time when the meeting convenes.
- 6.3. The President of the Foundation shall, subject to a Board resolution appointing another person, chair all meetings of the Board; but if at any Board meeting the President (or such alternate person appointed by a Board resolution) is not present with thirty (30) minutes after the time appointed for the meeting, or requests that he or she not chair that meeting, the Vice-President must act as the chair, but if neither is present, the Directors present may choose one of their number to chair that meeting.

- 6.4. If the person presiding as chair of a meeting of the Board wants to step down as chair for all or part of that meeting, he or she may designate an alternate to chair such meeting or portion thereof; and upon such designated alternate receiving the consent of a majority of the Directors present at such meeting, he or she may preside as chair.
- 6.5. A Director may participate in a meeting of the Directors or of any committee of the Directors in person or by telephone or other communications medium if all Directors participating in the meeting, whether in person or by telephone or other communications medium are able to communicate with each other. A Director who participates in a meeting in a manner contemplated by this Bylaw 6.5 is deemed for all purposes of the *Societies Act* and these Bylaws to be present at the meeting and to have agreed to participate in that manner.
- 6.6. Any two (2) Directors may at any time, and the Secretary, on the request of any two (2) Directors, must, convene a meeting of the Directors.
- 6.7. No resolutions proposed at a meeting of the Board need be seconded and a chair of a meeting may move or propose a resolution.
- 6.8. Questions arising at a meeting of the Directors or at a meeting of a committee of Directors must be decided by a majority of votes, unless otherwise specifically provided herein.
- 6.9. A Director chairing a meeting may vote but, if he or she does so and the result of the vote is a tie, he or she shall not be permitted to vote again to break the tie and the resolution being voted on shall be deemed to have failed.
- 6.10. Voting shall be by show of hands or voice vote recorded by the Secretary of the meeting.
- 6.11. A Board Resolution in writing signed by all the Directors deposited with the Secretary is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted. Such Board Resolution may be in two or more counterparts which together shall be deemed to constitute one resolution in writing. Such resolution shall be filed with minutes of the proceedings of the Board and shall be deemed to be passed on the date stated therein or, in the absence of such a date being stated, on the latest date stated on any counterpart.
- 6.12. A Director who contemplates being or is temporarily absent from British Columbia may, by letter, facsimile, telegram or telex, send or deliver to the Address of the Foundation a waiver of notice of any meeting of the Board for a period not longer than one year and may, at any time, withdraw the waiver in like manner. Until the waiver is withdrawn:
 - (a) no notice of meetings of the Board need be sent to that Director; and
 - (b) any and all meetings of the Board, notice of which has not been given to that Director shall, if a quorum is present, be valid and effective.
- 6.13. For a first meeting of Directors held immediately following the appointment of a Director or Directors at an annual or other general meeting of members, or for a meeting of the Directors at which a Director is appointed to fill a vacancy in the Directors, it is not

necessary to give notice of the meeting to the newly appointed Director or Directors for the meeting to be constituted, if a quorum of the Directors is present.

- 6.14. Every Director of the Board who is directly or indirectly interested in a proposed contract or transaction involving the Foundation shall, before a vote is taken, disclose fully and promptly the nature and effect of his/her interest to the Board. Such director shall not participate in any discussion relating to, or vote in respect of, any such contract or transaction involving the Foundation in which he/she is interested and if he/she shall do so, his/her vote shall not be counted, but he/she shall be counted in the quorum present at the meeting at which such vote is taken.
- 6.15. The Board shall establish conflict of interest guidelines and policies with respect to the actions of the Directors and Ordinary Members which shall in addition to the provisions of the *Societies Act* and all laws affecting Directors and senior managers be binding upon the Directors.

PART VII – COMMITTEES

- 7.1. The Board may delegate any, but not all of their powers to committees consisting of Directors and create such standing and special committees as may from time to time be required. Any such committee shall limit its activities to the purpose or purposes for which it is appointed, and shall have no powers except those specifically conferred by a Board resolution. Unless specifically designated as a standing committee, any special committee so created must be created for a specified time period only. Upon completion of the earlier of the specified time period or the task for which it was appointed, a special committee shall automatically be dissolved.
- 7.2. A committee so formed, in the exercise of the powers delegated to it, shall conform to any rules that may from time to time be imposed by the Board, and shall report every act or thing done in exercise of those powers at the next meeting of the Board held after it has been done, or at such other time or times as the Board directs.
- 7.3. The members of a committee may meet and adjourn as they think proper and meetings of committees shall be governed mutatis mutandis by the rules set out in these Bylaws governing proceedings of the Board.
- 7.4. A majority of the members of any committee shall constitute a quorum thereof. Questions arising in any such meeting shall be determined by a majority of votes of the members of the committee present, and in the case of an equality of votes, the chairman of the committee meeting shall not have a casting vote so that if there is a tie vote, the resolution shall fail.

PART VIII - DUTIES OF SENIOR MANAGERS

- 8.1. The Directors shall appoint from amongst the Directors a President, Vice-President, Secretary and Treasurer, who shall hold office until the next following annual general meeting, The Directors may in accordance with Bylaw 8.8 herein remove any senior manager of the Foundation as it deems necessary at any time and determine the duties

and responsibilities of the senior managers. Should the President, or any other senior manager for any reason, not be able to complete his/her term, the Directors shall appoint a replacement without delay.

- 8.2. The President shall preside at all meetings of the Foundation and of the Board. The President is the chief executive officer of the Foundation and shall supervise the other senior managers in the execution of their duties. The Vice-President shall carry out the duties of the President during his or her absence.
- 8.3. A person who is not qualified under the *Societies Act* to be a director of a society is not qualified to be a senior manager of the Foundation. A person may be removed as a senior manager by a Board Resolution.
- 8.4. The offices of Secretary and Treasurer may be held by one person who is to be known as the Secretary-Treasurer.
- 8.5. The Secretary shall be responsible for making the necessary arrangements for:
 - (a) the issuance of notices of meetings of the Foundation and Board;
 - (b) the keeping of minutes of all meetings of the Foundation and Board;
 - (c) the custody of all records and documents of the Foundation except those required to be kept by the Secretary-Treasurer;
 - (d) the custody of the common seal of the Foundation;
 - (e) the maintenance of the register of members; and
 - (f) the conduct of the correspondence of the Foundation.
- 8.6. The Treasurer shall be responsible for the following:
 - (a) the keeping of such financial records, reports and returns including books of account, as are necessary to comply with the *Societies Act* and the *Income Tax Act*; and
 - (b) the rendering of financial statements to the Directors, members and others when required.
- 8.7. If the Secretary is absent from any meeting of the Foundation or the Board, the Directors present shall appoint another person to act as Secretary at that meeting.
- 8.8. The President and the Secretary or other director appointed by the Board shall sign all Board Resolutions.
- 8.9. A director may be removed as a senior manager by a resolution passed at a meeting of the Board by a majority of not less than seventy-five (75%) percent of the Directors present.

- 8.10. The Directors shall cause the Secretary to keep a book in which the names of the Ordinary Members, Honorary Members and Non-Voting Members of the Foundation are registered and shall enter therein the names, together with the following particulars:
- (a) the full name and resident address of each Member;
 - (b) the date upon which such Member become a Member;
 - (c) the date upon which any Member ceases to be a Member;
 - (d) the class of Member, if provision is made for classes; and
 - (e) such other information as may be required by the *Societies Act*.

PART IX – SEAL

- 9.1. The Board may provide a common seal for the Foundation and it shall have the power from time to time to destroy a seal and substitute a new seal in its place.
- 9.2. The common seal shall be affixed only when authorized by a resolution of the Board, and then only in the presence of the persons prescribed in the resolution or, if no persons are prescribed, in the presence of any two Directors.

PART X – BORROWING

- 10.1. In order to carry out the purposes of the Foundation the Board may on behalf of and in the name of the Foundation, raise or secure the payment or repayment of money in any manner it decides, and in particular, but without limiting the foregoing, by the issue of debentures.
- 10.2. The Ordinary Members may by Special Resolution restrict the borrowing powers of the Board.

PART XI – AUDITOR

- 11.1. This Part applies only where the Foundation is required or has resolved to have an auditor.
- 11.2. The first auditor shall be appointed by the Board which shall also fill any vacancy occurring in the office of auditor.
- 11.3. At each annual general meeting, the Foundation shall appoint an auditor to hold office until he or she is reappointed or his or her successor is appointed at the next following annual general meeting in accordance with the procedures set out in the *Societies Act*.
- 11.4. An auditor may be removed by Ordinary Resolution in accordance with the procedures set out in the *Societies Act*.

- 11.5. An auditor shall be promptly informed in writing of his appointment or removal.
- 11.6. No director or employee of the Foundation shall be the auditor.
- 11.7. The auditor may attend general meetings.

PART XII – NOTICES

- 12.1. Notice of a general meeting shall be given to:
 - (a) every person shown on the register of Ordinary Members, Non-Voting Members and Honorary Members as a member on the day the notice is given; and
 - (b) the auditor, if Part XI applies.

No other person is entitled to be given notice of a general meeting.

- 12.2. A notice may be given to a Member or a Director either personally (by delivery, facsimile, telegram, telex or e-mail) or by first class mail posted to such person's registered address.
- 12.3. A notice sent by mail shall be deemed to have been given on the second day following that on which the notice was posted. In proving that notice has been given it is sufficient to prove the notice was properly addressed and put in a Canadian Government post office receptacle with adequate postage affixed, provided that if there shall be, between the time of posting and the deemed giving of the notice, a mail strike or other labour dispute which might reasonably be expected to delay the delivery of such notice by the mail, then such notice shall only be effective when actually received. Any notice delivered by hand or sent by facsimile, telegram, telex or e-mail shall be deemed to have been given on the day it was so delivered or sent.
- 12.4. If a number of days' notice or a notice extending over any other period is required to be given, the day the notice is given or deemed to have been given shall not, but the day on which the event for which notice is given shall, be counted in the number of days required.

PART XIII – MISCELLANEOUS

- 13.1. Any meeting of the Foundation, the Board, or any committee may also be held, or any Member, Director or member of the committee may participate in any meeting of the Foundation, the Board or any committee, by conference call or similar communication equipment or device so long as all the Members, Directors, or persons participating in the meeting can hear and respond to one another. All such Members, Directors or persons so participating in any such meeting shall be deemed to be present in person at the stated location of such meeting and, notwithstanding the foregoing Bylaws, shall be entitled to vote by a voice vote recorded by the Secretary of such meeting.

- 13.2. The rules governing when notice is deemed to have been given set out in these Bylaws shall apply mutatis mutandis to determine when a Board resolution shall be deemed to have been submitted to all of the Directors and when an Ordinary Resolution shall be deemed to have been submitted to all of the members.
- 13.3. The Foundation shall have the right to subscribe to, become a member of and cooperate with any other society, corporation or association whose purposes or objectives are in whole or in part similar to the Foundation's purposes.
- 13.4. Subject to an order of the Registrar pursuant to the *Societies Act* stating that the Foundation is a "reporting society" as defined under the *Societies Act*, the Foundation shall be deemed not to be a "reporting society".
- 13.5. The Foundation shall be deemed not to be a subsidiary of any other society or corporation.
- 13.6. The Board shall cause true accounts to be kept of:
- (a) all transactions of the Foundation;
 - (b) all sums of money received and expended by the Foundation with full particulars of such receipts and expenditures;
 - (c) the assets and liabilities of the Foundation.
- 13.7. The fiscal period of the Foundation shall be as the Board designates from time to time.
- 13.8. At each annual general meeting the Board shall make available to the Members of the Foundation, financial statements for the immediately preceding, fiscal year showing the income and expenditures of the Foundation during the immediately preceding fiscal year and the Foundation's assets and liabilities as of the end of that fiscal year.

PART XIV – INDEMNIFICATION

- 14.1. Subject to the provisions of the *Societies Act*, each director or senior manager of the Foundation shall be indemnified by the Foundation against expenses reasonably incurred by him or her in connection with any action, suit or proceeding to which he or she may be made a party by reason of his or her being or having been a senior manager or director of the Foundation, except in relation to matters as to which he or she shall be finally adjudged in such action, suit or proceeding to have been derelict in the performance of his or her duty as a senior manager or director. "Derelict" shall mean grossly negligent, criminally negligent or intentionally engaged in tortious conduct with the intent to defraud, deceive, misrepresent or take advantage improperly of an opportunity available to the Foundation.
- 14.2. Subject to the provisions of the *Societies Act*, the Board is authorized from time to time to give indemnities to any Director or other person who has undertaken or is about to undertake any liability on behalf of the Foundation or any society or corporation controlled by it, and to secure such Director other person against loss by mortgage and

charge on the whole or any part of the real and personal property of the Foundation by way of security, and any action from time to time taken by the Directors under this paragraph shall not require approval or confirmation by the Members.

- 14.3. Subject to the provisions of the *Societies Act*, no Director or senior manager for the time being of the Foundation shall be liable for the acts, neglects or defaults of any other Director or senior manager of the Foundation or for joining in any receipt or act for conformity or for any loss, damage or expense happening to the Foundation through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Foundation, or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Foundation shall be placed out or invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any funds or property of the Foundation shall be lodged or deposited, or for any other loss, damage or misfortune whatsoever which may happen in the execution of the duties of his or her respective office or trust or in relation thereto, unless all or any of the same shall happen by or through the wilful act, default or neglect of such director or senior manager.
- 14.4. The Foundation shall, to the full extent permitted by the *Societies Act*, indemnify and hold harmless, every person heretofore, now or hereafter serving as a Director or senior manager of the Foundation and his or her heirs and legal representatives.
- 14.5. Expenses incurred with respect to any claim, action, suit or proceeding may be advanced by the Foundation prior to the final disposition thereof in the discretion of the Board and upon receipt of an undertaking satisfactory in form and amount to the Board by or on behalf of the recipient to repay such amount unless it is ultimately determined that he or she is entitled to indemnification hereunder.
- 14.6. The Foundation shall apply to the Court for any approval of the Court which may be required to make the indemnities herein effective and enforceable. Each Director and senior manager of the Foundation on being appointed shall be deemed to have contracted with the Foundation upon the terms of the foregoing indemnities. Such indemnities shall continue in effect with regard to actions arising out of the term each Director or senior manager held such office notwithstanding that he or she no longer continues to hold such office.
- 14.7. The failure of a Director or senior manager of the Foundation to comply with the provisions of the *Societies Act* or of the constitution or these Bylaws shall not invalidate any indemnity to which he or she is entitled under this Part.
- 14.8. The Foundation may purchase and maintain insurance for the benefit of any or all Directors or senior managers and former Directors and senior managers and their respective heirs and personal representatives as a director or senior manager or as an heir or personal representative of a former director or senior manager.
- 14.9. Each Member who becomes a Director or senior manager shall automatically be entitled to the benefit of this Part XIV of the Bylaws and shall continue to be entitled to the benefit of these Bylaws even though he/she may no longer be a Member or Director or senior manager.

PART XV - CHARITABLE PROVISIONS

- 15.1. The activities of the Foundation shall be carried on without purpose of gain for its members and any income, profits or other accretions to the Foundation shall be used in promoting the purposes of the Foundation.
- 15.2. Upon the winding-up or dissolution of the Foundation, the funds and property remaining after the payment of all costs, charges and expenses properly incurred in the winding-up or dissolution, including the remuneration of a liquidator, and after payment to employees of the Foundation of any arrears of salaries or wages, and after payment of any debts of the Foundation, shall be distributed to such charities, registered under the provisions of the *Income Tax Act*, or such “qualified donees” allowed under the *Income Tax Act*, as shall be designated by the Board of Directors of the Foundation. Any of such funds or property remaining which had originally been received for specific purposes shall, wherever possible, be distributed to “qualified donees” or charities registered under the provisions of the *Income Tax Act* carrying on work of a similar nature to such specific purposes.

PART XVI – BYLAWS

- 16.1. On being admitted to membership, each Member is entitled to and upon request the Foundation shall provide him or her with a copy of the Constitution and Bylaws of the Foundation.
- 16.2. These Bylaws shall not be altered or added to except by Special Resolution of the Ordinary Members and the Honorary Members; provided that Bylaws 15.1 and 15.2 shall not be altered, amended or deleted without the unanimous consent of the Ordinary Members and the Honorary Members.
- 16.3. Each and every bylaw contained herein is subject to the Provisions of the *Income Tax Act* and amendments thereto and the Directors and members shall not cause the Foundation to do any act or thing which is in contravention of the *Income Tax Act*.