



NORTH CHANNEL YACHT CLUB  
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## Issue Briefing Note<sup>1</sup>

To: NCYC MC  
From: Leighton Roslyn  
Date: 2021-01-10  
Re: Membership List Issues

### 1. THE ISSUE:

- a. The keeping of an official membership list is the responsibility of the MC, but it appears that no formal process for doing so has been adopted.
- b. There is a need for a policy to be developed so that the integrity of the membership list can be assured.
- c. There is confusion and conflicting views as to mooring inspection and insurance data in the Membership List and the Secretary and Membership Recorder require direction to resolve those issues.

### 2. HISTORY & DISCUSSION:

- a. Article 5 of the By-laws deals with Membership
- b. The granting of membership is entrusted to the Board of Directors – the Management Committee. [Article 5.1 and 8.1]
- c. Article 5 goes on to set out a complete code of practice for how membership applications are dealt with. If the application is successful, the MC is supposed to confer membership by adopting a resolution admitting the applicant to Membership [Article 5.5.4.2.3]
- d. Membership ends when terminated under Article 5.6 of the By-laws. However, unlike the granting of membership, termination does NOT always require a resolution of the MC. It is automatic upon the happening of certain events.
- e. Article 5.6.1 provides that membership ceases upon any of several things occurring.
- f. In particular see Article 5.6.1.2:
  - i. This provides for ceasing of membership if the member has not paid fees and “hence is no longer in good standing”.
  - ii. Whether a member is no longer in good standing may be obvious in some cases, but not in others – for instance if there is a dispute as to what fees might be owing.
  - iii. Only a resolution of the MC can establish that the member is determined to be no longer in good standing.
  - iv. At that point, the name can be removed, but arguably not before.

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<sup>1</sup> C:\Google Drive NCYC\NCYC\0 Management Committee\2021\2021-02-16\Archive\2021-02-10 Briefing Note re Membership List.docx

- g. The same is true of the other factors listed in 5.6.1. Whether any one or more of them is true or established requires a determination of the MC evidenced by a resolution of the MC – it should not be up to any one member of the MC to unilaterally determine whether the criteria have been met.
- h. We should consider amending Article 5.6 to add a provision that specifically requires a resolution of the MC except for the case of 5.6.1.6 which requires a 2/3 majority resolution.
- i. The Secretary is responsible for keeping the membership list up to date [Article 7.7.5.6 and Schedule B Duties and Responsibilities of the Secretary]
- j. The Secretary is assisted in this by the Membership Recorder [Schedule B Duties and Responsibilities of the Membership Recorder]
- k. But how is the Secretary or Membership Recorder to know that membership has terminated? Are they to use their own understandings and discretion or only update the list upon direction by the MC after the MC has assessed the evidence of the termination event having happened?
- l. There is no provision in the By-laws or the Rules and Regulations Policies and Procedures which specifies the format of the Membership List or how it is maintained.
- m. The integrity of the Membership List is important:
  - i. The Treasurer relies upon the Membership List for the issuing of Membership Invoices and for preparing a budget for presentation at the SPM.
  - ii. The Membership List is relied upon to establish who has voting rights at meetings of members.
  - iii. The MC depends upon the List to estimate the Work Party Hours or cash in lieu of hours that are available for operation of the Club.
  - iv. The Fleet Captain relies upon the List to know who has the right to occupy a slip or mooring location and to encourage compliance with mooring inspections.
  - v. Membership entails both rights and responsibilities and the general membership needs a reliable tool to determine who has those rights and responsibilities so that non-members can be challenged and members can be held accountable.
  - vi. Upon termination of membership, privileges are lost but the former member still has some obligations – such as removal of personal property [Article 5.6.3]
- n. In the past, decisions about the Membership List have been made by various members of the MC who believed themselves to be knowledgeable about the intentions of individual members:
  - i. In many cases the member was contacted to ascertain their intentions and that information has been passed to the Secretary and the Membership Recorder to update the List.
  - ii. In some cases an email chain could be relied upon as evidence to support the change,

- o. It is not clear that direct evidence from the member was obtained in all cases, nor is any such evidence maintained in any organized fashion.
- p. Article 5.9 deals with changes in membership classes. A member can apply to change their membership class, but there is no procedure set out for how such change is documented.
- q. While the Courts are generally reluctant to interfere in the internal governance of an organization, they have held that the failure of an organization to properly maintain its membership records is fatal to any application to the Court for assistance when there is an unresolved dispute as to membership – and in particular as to voting rights. When the organization cannot prove who is a member, the organization may be wound up by Court Order [See: Warriors of the Cross Asian Church v. Masih, 2007 CanLII 41440 (ON SC), <<https://canlii.ca/t/1t421>>]
- r. There are other issues with the Membership List:
  - i. There are inconsistencies and differences of opinion as to Mooring Inspection dates that appear on the Mooring Chart and the Membership List.
  - ii. One view is that it is more meaningful to state the mooring inspection date to be the year when an inspection is next required, rather than the date of the last inspection.
  - iii. Rule 1.11.12 provides as follows:
    - 1.11.12 **Mooring Inspections:**
    - 1.11.12.1 Each mooring is hauled out at least once every three years for thorough inspection, maintenance and overhaul to bring it back to at least the minimum mooring standards;
    - 1.11.12.2 The Fleet Captain may direct that a mooring be inspected and overhauled as deemed necessary;
    - 1.11.12.3 Inspections are performed by the member and two other members and are recorded on a Mooring Inspection Form signed by the inspecting members;
    - 1.11.12.4 Completed Mooring Inspection Forms are given to the Fleet Captain who records the inspection in a log kept for that purpose;
    - 1.11.12.5 Moorings not inspected within the 3 year period, may be removed by members at the Fleet Captain's direction. [amended AGM 2015]
  - iv. Some members think that the process is to add 3 years to the date of the last inspection to arrive at the date when the next inspection is required. Then they argue that they are in compliance as long as they perform the next inspection by the end of the 3<sup>rd</sup> year. That can effectively give them 4 years of use between inspections.

- v. Rule 1.11.12 is not clear about this and there is room for argument.
- vi. However, Rule 1.4.9.1 provides as follows:
  - 1.4.9 Do not start the launch process unless, in accordance with the Mooring Standard provisions:
    - 1.4.9.1 the vessel's mooring has been inspected if required that year;
- vii. Rule 1.4.9 is specific in requiring that the mooring inspection take place before launching at the beginning of the season.
- viii. The placement of that provision makes it escape the attention of members, leading to confusion and argument.
- ix. Uncertainty could be resolved by having the Membership List record the year when the next inspection is required. The members and the Fleet Captain would then know that the member's vessel cannot be launched until the inspection is performed at the beginning of the boating season that year.
- x. We should consider restating the language in Rule 1.11.12 to remove room for argument. The MC can do that as the MC can amend Rules. We should do so before next spring.
- xi. **Insurance Renewals:** There may be an issue with insurance renewal dates as recorded in Membership List as well.

### 3. PROPOSED RESOLUTIONS:

#### a. **Membership List:**

- i. It is proposed that the MC adopt the following resolution:

That Article 5.6 of By-law #1 as amended be further amended to include the following provisions:

5.6.4: Upon the happening of an event which ends the membership of a member, the Management Committee will adopt a resolution confirming that this has occurred and authorizing the Secretary to amend the Membership List to reflect the change. The Secretary will then update the list and send a notice to the affected person [now a former member] advising of the change, Such notice is to be sent to the person at the last known municipal address or email address recorded in the Membership List.

5.9.3 Upon a change in membership class being approved by the Management Committee, the Management Committee will adopt a resolution confirming that this has occurred and authorizing the Secretary to amend the Membership List to reflect the change.

5.10 **Membership List:** The Secretary will maintain a Membership List in which is recorded information pertaining to current members and will amend such list from time to time upon becoming aware of changes in the recorded information, but names of members will be added or removed only upon resolution of the Management Committee authorizing such changes.

- ii. Under Article 21, the MC has the power to amend the by-laws [see in particular Article 21.1.1, 21.1.4, and 21.1.10] by adopting a resolution to that effect.
- iii. Under Article 21.2.1 such amendment has immediate effect but requires confirmation at the next AGM or general membership meeting called for that purpose. Accordingly this amendment needs to be added to either the 2021 SPM or the 2021 AGM agenda. If not confirmed, the amendment ceases to have ongoing effect.

b. **Mooring Inspections:**

- i. It is proposed that the MC adopt the following resolution:

That Rule 1.11.12 Mooring Inspections: be amended by adding thereto the following provisions:

1.11.12.6 Members are not permitted to launch a vessel in the year in which a mooring inspection is required until the inspection has been performed and any deficiencies are corrected.

1.11.12.7 The Fleet Captain will advise the Secretary when a mooring inspection has been completed and the Secretary will then update the Membership List to show the year in which the next mooring inspection is required.

1.11.12.8 The next mooring inspection year is determined by adding 3 years to the year in which the last mooring inspection was completed.