



AGENDA

SPECIAL BOARD OF DIRECTORS MEETING

Friday, August 10, 2018 – 9am

Santa Rita Springs, Anza Room

GVR Directors: Carol Crothers (President), Donna Coon (Vice-President), Denise Nichols (Secretary), Roger Myers (Treasurer), Carol Lambert (Assistant Secretary), Tom Sadowski (Assistant Treasurer), Nina Campfield, Lynne Chalmers, Charles Sieck, Tim Stewart, Sandra Thornton, Gail Vanderhoof, Kent Blumenthal (non-voting)

| | Agenda Topic | Board Member | Exhibit | Action |
|------|---|--------------|---------|--------|
| I. | Call to Order / Quorum | Coon | | |
| II. | New Business | | | |
| | 1. GVR Board response to GVR Foundation Board Correspondence of July 23, 2018 | Coon | X | X |
| | 2. Recommendation to make public the legal opinion of July 26, 2018 | Coon | | X |
| III. | Member Comments | | | |
| IV. | Adjournment | | | |

**In accordance with GVR Bylaws, Board Meetings shall be governed by Roberts Rules of Order unless otherwise determined by the Board of Directors.*

Members and guests are expected to show respect and common courtesy and refrain from using offensive language and behavior. [GVR Corporate Policy Manual, Section II-Membership, Subsection 1. Code of Conduct]



July 23, 2018

GVR Board of Directors
Green Valley Recreation, Inc.
1070 S. Calle de las Casitas
Green Valley, AZ 85614

GVR Board of Directors,

The purpose of this correspondence is to respond to a list of questions (attached) pertaining to the GVR Foundation. The list was submitted to GVR's CEO on July 10, 2018 by GVR Board President, Carol Crothers, then forwarded to me. I shared and discussed the list of questions with the GVR Foundation Board.

IRS-authorized charitable foundations, as is the GVR Foundation, represent opportunities provided by the federal government in support of local and national causes on a tax-exempt basis. These charitable foundations do magic. They help enable individuals and nonprofit organizations accomplish worthy endeavors that would otherwise not be possible or not able to be done as well without their assistance. In 2015, the GVR Foundation was established at the behest of the GVR Board of Directors to support GVR members and the greater Green Valley community, of which GVR membership represents 80% of all residents. Since its inception, the GVR Foundation has spent hundreds of hours of volunteer time and thousands of dollars to ensure that the GVR Foundation is successful in its mission and that all of its activities are 100% compliant with federal and state laws that govern IRC 501(c)(3) foundations.

It is unfortunate that a segment of the current GVR Board questions the validity of the GVR Foundation and prior agreements between the GVR Foundation and GVR. By so doing, the current GVR Board has disparaged the good name of the GVR Foundation, and as a result, the GVR Foundation's fundraising ability has been diminished, as well as its ability to assist GVR and its membership as intended. Trust by the GVR Foundation Board in the current GVR Board has also suffered.

The GVR Foundation will offer a detailed response to all questions posed by the GVR Board of Directors, provided that the GVR Board agrees to the following conditions. The conditions have the unanimous support of the GVR Foundation Board of Directors who recognize the reputational damage done to the GVR Foundation by the current GVR Board:

1. Affirmation by vote of the GVR Board at an open board meeting that the list of questions submitted to the GVR Foundation is a finite list (e.g., will not be revised or changed once submitted). Each question will be read aloud at the open GVR Board meeting.
2. Attribute to its author each GVR Board question submitted to the GVR Foundation.

GVR Board of Directors

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3. Questions posed to the GVR Foundation Board will refer only to legal or procedural matters. No individual opinions or items pertaining to personal matters will be considered.
4. A GVR Board officer other than the current GVR Board president will serve as liaison to the GVR Foundation Board on all matters pertaining to the submitted list of GVR Board questions and the GVR Foundation Board's response to same.
5. The GVR Foundation Board and the GVR Board will jointly obtain independent legal counsel who is expert in nonprofit and foundation law to answer all legal-related questions submitted by the GVR Board.
6. The GVR Board agrees to pay all legal fees associated with answering questions submitted by the GVR Board to the GVR Foundation.
7. The GVR Foundation will present answers to the list of questions submitted by the GVR Board at a regularly scheduled, open meeting of the GVR Board, whereby:
 - a. Notice of the GVR Foundation presentation will be given in advance to all GVR members and to the local Green Valley News newspaper;
 - b. The GVR Foundation presentation to the GVR Board will be videotaped at GVR's expense and placed on the GVR and GVR Foundation websites;
 - c. The complete list of questions and answers will be published in GVR's eBlast and in the GVR Now! newsletter.

I look forward to soon receiving a response to this letter.

Respectfully,



Blaine Nisson
President, GVR Foundation

C: GVR Foundation Board of Directors

Attachment: List of Questions from GVR President Carol Crothers

Wendy Ehrlich, Attorney PLLC
9671 N. Horizon Vista Place
Oro Valley, AZ 85704

Confidential Memorandum: Attorney-Client Privilege

To: Board of Directors, Green Valley Recreation, Inc.
From: Wendy Ehrlich, Esq.
Date: July 26, 2018
Re: Member's Inquiry Concerning Removal of Directors and/or Officers

It is my understanding that a GVR member made a written request of the Board that it answer the following questions:

- (1) The procedures and requirements for removing or recalling GVR Board Officers and/or Directors;
- (2) The procedures and requirements for a member who wishes to call a special meeting of GVR; and
- (3) Who would chair such a special meeting.

The removal of officers is solely within the Board's purview (per Article VII, Section 2 of GVR's Bylaws and A.R.S. §10-3843(B)). Any number of directors may be removed by a vote of the members (per A.R.S. §10-3808(B)(1)), with or without cause.

In most nonprofit corporations, a recall election would be held pursuant to the procedures set forth in the Arizona Nonprofit Corporation Act (A.R.S. §10-1702): (1) members holding at least ten percent of the voting power would sign and deliver to a corporate officer a written demand for a special meeting of the members to recall one or more directors; (2) the corporation would provide members with notice of a special meeting for that purpose; and (3) members would vote at the meeting in person or by proxy.

What makes this question slightly more complicated for GVR, however, is that there are conflicting provisions in Article XI of GVR's Bylaws as to whether members may vote at a special meeting: Section 1 states that "The election of Directors, the amendment of Bylaws and any matter that requires approval of the members *shall* be taken by written ballot" (emphasis added); Section 2 states that "Any action, including proposed amendments to these Bylaws or the election of Directors, which can be properly taken by the members of GVR at an Annual or Special meeting of said members, *may* be taken by written ballot. The use of the word "shall" in the former denotes that a vote by written ballot is mandatory; the use of the word "may" in the latter denotes that members may vote at a special meeting *or* by written ballot.

Given this conflict in GVR's Bylaw provisions, and the fact that the Arizona Nonprofit Corporation Act (A.R.S. §10-3808(B)(5)) allows members to vote on removing a director at a meeting or by written ballot, it is my opinion that the procedure for removing one or more GVR directors would be as follows: (1) members holding at least ten percent of the voting power would be required to sign and deliver to a corporate officer a written demand that GVR conduct a removal election; and (2) GVR would conduct the vote in one of two ways: by written ballot (electronically or otherwise) or by noticing a special meeting at which members would vote in person or by proxy. If the latter, the Board President would preside over the meeting unless the Board President were a subject of the recall petition, in which case those duties would best be delegated to the most senior officer not subject to recall or to corporate counsel.