



# WESTCHESTER PARKS FOUNDATION

BY- LAWS

Adopted: 12-10-2020

# WESTCHESTER PARKS FOUNDATION, INC. BY-LAWS

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## **ARTICLE I – OFFICES**

The principal office of the corporation shall be 450 Saw Mill River Road, Ardsley, County of Westchester, and State of New York.

The corporation may also have offices at such other places within or without this state as the board may from time to time determine or the business of the corporation may require.

## **ARTICLE II – PURPOSES**

The purposes for which this corporation has been organized shall be exclusively charitable within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986, as the same may be amended, and primarily for the benefit of the parks, facilities and programs of the County of Westchester, under the jurisdiction and control of the Department of Parks, Recreation and Conservation, to wit:

1. To develop and cultivate wider public interest, participation, support and enjoyment of recreation and park facilities and programs, in the County of Westchester, including those operated by the Department of Parks, Recreation and Conservation of the County of Westchester, and to contribute to the support, including financial support, of such facilities and programs.
2. To provide funding for or bring professional staff in, for PRC staff enrichment, or specific training,
3. To encourage and maintain public appreciation of parks and public open spaces in the County of Westchester as being essential and meaningful to a healthy and attractive environment. To promote the conservation of resources, both natural and man-made.
4. To give assistance, including financial assistance, to recreation, horticultural, musical, cultural and leisure-time programs and projects of the Department of Parks, Recreation and Conservation of the County of Westchester.
5. In furtherance of its purposes as an exclusively charitable organization as set out herein, but not for any other purpose, the Corporation shall have and may exercise, to the extent permitted by law, the power:
  - a. To receive and maintain a fund or funds of real or personal property, and subject to the restrictions and limitations hereinafter set forth, to apply the whole or any part of the income and/or principal thereof exclusively for charitable purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986, as the same may be amended, in such manner as in the judgment of the Board of Trustees will best promote and express the purposes of the corporation set forth above in this Article and be consistent with the provisions of said Section 501 (c) (3), as the same may be from time to time amended.

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- b. To do all things incidental, necessary, or convenient to accomplish the aforesaid purposes and, except as otherwise herein expressly provided, to have and exercise all other powers, rights, privileges and authority, now or hereinafter conferred upon Not-For-Profit corporations by the laws of the State of New York together with the power to solicit gifts and contributions from the general public. Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Not-For-Profit Corporation Law Section 404 (b) – (t).
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6. It is the intention of the corporation at all times to qualify and remain qualified as exempt from Federal income tax under Section 501 (c) (3) of the United States Internal Revenue Code of 1986, as the same may be amended. Accordingly:
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- a. Notwithstanding any other provision of these articles, the corporation is organized exclusively for one or more of the following purposes; religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, as specified in section 501 (c) (3) of the Internal Revenue Code of 1986, and shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal income tax under section 501 (c) (3) of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent Federal tax laws.
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- b. No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, director, officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation), and no member, trustee, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.
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- c. No substantial part of the activities of the corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Internal Revenue Code section 501 (h), or participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office.
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- d. In any taxable year in which the corporation is a private foundation, as described in section 509(a) of the Internal Revenue Code of 1986, the corporation shall distribute its income for said period at such time and manner as not to subject it to tax under section 4942 of the Code; and the corporation shall not (a) engage in any act of self-dealing as defined in section 4941 (d) of the Code; (b) retain any excess business holdings as defined in section 4943

(c) of the Code; (c) make any investments in such manner as to subject the corporation to tax under section 4944 of the Code; or (d) make any taxable expenditures as defined in section 4945 (d) of the Code or corresponding provisions of any subsequent Federal tax laws.

- e. In the event of dissolution, liquidation, termination or winding up of the corporation, all of the remaining assets and property of the corporation shall, after necessary expenses thereof, be distributed exclusively to the County of Westchester Department of Parks, Recreation and Conservation.

### **ARTICLE III – MEMBERSHIP**

There shall be no members of the Corporation.

### **ARTICLE IV – GOVERNANCE**

#### **BOARD OF TRUSTEES**

##### **Section 4.1. Powers.**

The property and affairs of the Corporation (which shall herein and in all documents and business of the corporation be known as the “Foundation”) shall be governed by a board of trustees, which shall be referred to herein and in all documents and, business of the Foundation as the Board of Trustees (the “Board”).

##### **Section 4.2. Number of Trustees.**

The number of Trustees shall be as prescribed in Section 4.3.

##### **Section 4.3. Selection of Trustees.**

The Trustees shall be selected as follows:

##### **Ex Officio Trustees**

The following persons, by virtue of their position, shall serve as Trustees: (i) the Commissioner of the Department of Parks, Recreation and Conservation of Westchester County. (ii) The Executive Director of the Westchester Parks Foundation, these shall be a non-voting positions.

##### **General Trustees**

A minimum of seventeen (17) but no more than Twenty-seven (27) Trustees, divided into three (3) classes of nine (9) each (or fewer if there are fewer than 27 Trustees), elected by the existing Trustees. The classes shall be referred to as Class 1, Class 2 and Class3 respectively, and the terms of the three classes will be staggered so that each year the term of one class will expire. Class 1 Trustees, Class 2 Trustees and Class 3 Trustees shall each have the same powers, rights and obligations and shall differ only as to the time at which their term of office shall expire.

**Section 4.4. Terms of Office.**

Each person serving as a Trustee at the time of the effectiveness of these By-Laws shall continue to serve (subject to earlier resignation or removal as provided herein) as a Trustee of the class for which he was elected or appointed for a term expiring at such time as specified in the By-Laws in effect at the time of his election or appointment and until his successor shall have been selected and shall have assumed office, or until his death resignation or removal. Notwithstanding the foregoing, the term of a person serving as a Trustee at the time of the effectiveness of these By-Laws may be adjusted if necessary to give effect to the staggered terms of Trustees described in Section 4.3.

Thereafter, (a) each Trustee shall hold office until the later of the third annual meeting of the Board following his election or the date his successor shall have been selected and shall have assumed office; (b) each Trustee shall hold office for so long as such appointment shall be effective or until his death, resignation or removal, if earlier; and (c) each Ex Officio Trustee shall at all times be the incumbent or acting officer named in Section 4.3.

**Section 4.5. Qualifications of Trustees.**

No more than two General Trustees shall be an officer or full time employee of, or shall hold any elective office in the County of Westchester government.

**Section 4.6. Life Trustees.**

The Board may elect, by a majority vote, one or more Life Trustees. Each Life Trustee shall hold office until his death or resignation. A Life Trustee shall be entitled to notice of and attendance at all meetings, but shall not be (i) counted in determining a quorum; (ii) entitled to vote on any matter submitted to the Board for a vote; or (iii) considered a Trustee for any other purpose.

**Section 4.7. Resignations.**

Any Trustee may resign at any time by delivering written notice to the Chair. The resignation shall take effect at the time specified in the notice; unless required by the terms of the notice, acceptance shall not be necessary to make the resignation effective. Failure of any Trustee to attend three (3) consecutive meetings of the Board of Trustees without excuse shall, in the discretion of, and upon action by, the Board, operate as a resignation.

**Section 4.8. Removals.**

Any General Trustee may be removed for cause by the Board, provided there is a quorum of not less than a majority of the Trustees present at the meeting of the Board at which such action is taken

**Section 4.9. Vacancies.**

Vacancies in the Board shall be filled as follows:

**Ex Officio Trustees:**

Shall not be filled;

**General Trustees:**

Shall be filled by a majority vote of the remaining General Trustees, at such time, if any, as such Trustees shall deem appropriate. In the event the Trustees decide to elect a General Trustee pursuant to the preceding sentence, such General Trustee shall be elected to fill whichever class of Trustee in which the vacancy has occurred. In the event all classes of General Trustees shall have the same number of General Trustees then serving, then such new General Trustee shall be elected to the class having the longest term remaining.

A General Trustee elected pursuant to this Section 4.9 shall hold office for a term expiring at the time the term would otherwise have expired for the vacancy being filled.

**ELECTION OF OFFICERS**

**4.10. Officers; Qualifications.**

The officers of the Board shall be a Chair of the Board of Trustees (the “Chair of the Board”), one or more Vice Chairs of the Board of Trustees (the “Vice Chair of the Board” or “Vice Chairs of the Board”), a Treasurer, a Secretary, and such additional officers as the Board may from time to time elect. The Chair of the Board and the Vice Chair or Vice Chairs shall be elected annually by the Board. Unless otherwise approved by the Board, (i) no such additional officer shall also be a Trustee, and (ii) no Ex Officio Trustee shall also be an officer. Any two or more offices, except those of Chair of the Board and Secretary, may be held by one person.

**4.11 Terms of Officers.**

The officers of the Board can complete the term of any vacancy which he/she was appointed to fill, and in addition can serve one (1) complete three (3) year term. The officers shall hold the office until the completion of his/her term, or until his/her successor shall have been elected and shall have assumed office, or until his/her death, resignation, or removal, as the case may be.

**4.12 Resignations.**

Any officer may resign at any time by delivering, written notice to the. The resignation shall take effect at the time specified in the notice unless required by the terms of the notice; acceptance shall not be necessary to make the resignation effective.

**4.13 Removals.**

Any officer may be removed with or without cause at any time by the Board.

**4.14 Vacancies.**

Any vacancy in any office, however arising, shall be filled by the Board for the unexpired term.

**4.15 Chair and Vice Chair.**

The Chair of the Board shall preside at all meetings of the Board. The Chair of the Board shall be, ex-officio, a member of all committees of the Board of the Foundation and must be a General Trustee. In case of a vacancy in the office of Chair of the Board, or during his or



her absence or inability to act, the powers and duties of the Chair of the Board shall be exercised by the senior Vice Chair of the Board present and able to act, or in the case of the unavailability of all the Vice Chairs of the Board, by the senior General Trustee (as determined by length of service to the Foundation) present and able to act.

#### **4.16 Treasurer.**

The Treasurer shall monitor the Executive Director who shall receive and disburse all funds of the Corporation under the direction of the Board and shall deposit all funds in the name of the Corporation and all securities in such depository or depositories as the Board may from time to time designate or approve. The Treasurer shall cause the Executive Director to maintain custody of and preserve all records and documents relating to the property of the Foundation and keep proper books of accounts which shall be open at all times to inspection by the Board. The Treasurer shall render to the Board upon request a report of all the transactions of the Executive Director, and at least once a year he or she shall submit to the Board a statement of the financial condition of the Foundation, of accounts audited annually by an independent certified public accountant appointed from time to time by the Board of Trustees, whose examination shall be made in accordance with generally accepted auditing standards. The report will consist of a balance sheet and related statements of income and expenses and of changes in all funds for the fiscal year then ended. The Board may require the Treasurer to ensure that the Executive Director obtain such insurance and in such amount as it shall determine. The Treasurer need not be a Trustee.

#### **4.17 Secretary.**

The Secretary shall monitor the Executive Director who shall cause notices to be issued of all meetings of the Trustees, and of all committees and a record to be made of the proceedings of the same. The Secretary shall also cause the Executive Director to attend to all official correspondence, shall ensure that the Executive Director has custody of and preserves the corporate seal and the archives, and shall affix the seal under the direction of the Chairman of the Board or the Board. The Secretary need not be a Trustee.

#### **4.18 Additional Officers.**

Additional officers shall have such responsibilities, powers, and duties as the Board may from time to time prescribe.

#### **4.19 Executive Committee.**

There shall be an Executive Committee of the Board charged with management oversight and supervision of the operations of the Foundation. The Executive Committee shall consist of the Chair of the Board, the Vice Chair of the Board, the Secretary (providing such Secretary is a Board Member), the Treasurer (providing such Treasurer is a Board Member), the Immediate Past Chair and four other Trustees appointed by the Chair. The Executive Committee shall act as the Finance Committee.

### **INCREASE OR DECREASE IN NUMBER OF THE BOARD OF TRUSTEES**

341 The number of Board of Trustees may be increased or decreased by a majority of all of the  
342 Board members. No decrease in number of Trustees shall shorten the term of any incumbent  
343 Board member.  
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## **ARTICLE V**

### **MEETINGS AND OPERATIONS OF TRUSTEES**

#### **Section 5.1. Annual Meeting.**

The annual meeting of the Board shall be held at the December meeting of each year or on such other date fixed by the Board.

#### **Section 5.2 Regular Meetings**

The Board shall hold at least three (3) regular meetings (in addition to the annual meeting) at times fixed by the Board. The Chair may call, and upon written demand signed by not less than one—fifth of the entire Board shall call, special meetings of the Board.

#### **Section 5.3. Place of Meetings.**

Meetings shall be held at a place within the County of Westchester fixed by the Board or designated in the notices of meeting or waivers of notice of meeting.

#### **Section 5.4. Notice of Meetings.**

Written notice shall be given of all meetings of the Board. Notice of a special meeting shall state (a) the place, date, and hour of the meeting; (b) the purpose or purposes for which the meeting is called; and (C) that it is being issued by or at the direction of the persons calling the meeting. A copy of the notice of each meeting shall be given to each trustee not less than 10 nor more than 30 days before the meeting. Service shall be given in one of three ways: either by email; personally; or by first class mail if requested in writing by such Trustee to the Secretary. Address for such notice shall be that appearing in the records of the Foundation maintained by the Secretary.

#### **Section 5.5. Waiver; Lack of Protest.**

Notice of a meeting need not be given to a Trustee who submits a signed waiver of notice, before or after the meeting, or who attends a meeting without protesting before the meeting or at its commencement the lack of notice.

#### **Section 5.6. Quorum.**

A quorum at a meeting of the Board shall be at least one more than half of the total-voting members of the Board then in office. Vacancies of General Trustees may be filled as provided herein by less than a quorum of the Board.

#### **Section 5.7. Vote.**

Except as otherwise required by the Not for Profit Corporation Law (“N-PCL”), action of the Board shall be by majority vote of the Trustees present at the time of the vote, except that the election of General Trustees shall be by plurality, of the votes cast. Each Trustee shall have one (1) vote.

#### **Section 5.8. Action without a Meeting; Electronic Participation.**

Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all the members of the Board or the committee consent in writing

to the adoption of a resolution authorizing the action and the consent is filed with the minutes of the proceedings of the Board or committee; provided, however, that failure to file such consent shall not affect the validity of the action taken. Said action in writing may be through electronic mail or traditional mail. Any one or more Trustees may participate in a meeting of the Board or a committee thereof by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

#### **FIXING RECORD DATE**

For the purpose of determining the members entitled to notice of or to vote at any meeting of members of the Board or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting, or for the purpose of determining the members entitled to receive any distribution or any allotment of any rights, or for the purpose of any other action, the board shall fix, in advance, a date as the record date for any such determination of members. Such date shall not be more than fifty (50) days prior to any other action.

#### **PROXIES**

Every Trustee entitled to vote at a meeting of the board or to express consent or dissent without a meeting may authorize another trustee to act for him/her by proxy.

Every proxy must be signed by the member or his attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the member executing it, except as otherwise provided by law.

#### **ORDER OF BUSINESS**

The following order of business at all meetings of members shall be as follows:

1. Consent Agenda
  - i. Attendance
  - ii. Approval of Minutes
  - iii. Committee Reports
  - iv. Financial Report
  - v. Commissioner's report
2. Report of Chair
3. Report of Executive Director
4. Old and Unfinished Business
5. New Business
6. Other Business
7. Adjournments

## COMMITTEES

### **Section 5.9 Vacancies; Secretary; Minutes.**

Vacancies in the membership of any Standing Committee shall be filled by action of the entire Board. Vacancies in the membership of any Special Committee shall be filled by the Chair. At each meeting of a committee a secretary shall be appointed, but failure to appoint a secretary shall not affect the validity of any action taken. Each committee shall keep regular minutes of its proceedings and report them to the Board when required, but failure to keep minutes or to make reports shall not affect the validity of any action taken.

### **Section 5.10 Nominating Committee.**

The Nominating Committee shall have the responsibility for recommending replacements as vacancies occur in the Board (whether resulting by resignation, death or removal of a Trustee or Trustees or by the increase in the number of Trustees permitted under these By-Laws) and reporting to the Board on the adequacy of the size and structure of the Board and the committees to conduct the business of the Foundation. In addition, the Nominating Committee shall have responsibility for identifying and cultivating individuals who have, and would be willing to, contribute to the Foundation, the experience, skills and resources needed by the Board and the committees.

### **Section 5.11 Finance Committee.**

The Finance Committee shall have responsibility for the review of all matters affecting the financial condition of the Corporation. Among other activities, the Finance Committee shall monitor the preparation of the annual budget, the presentation of periodic financial statements, and the implementation of general operating procedures. The Committee shall report to the Board of Trustees. The Executive Committee acts as the Finance Committee.

### **Section 5.12 Personnel Committee.**

The Personnel Committee shall be comprised of the Officers of the Corporation and shall be vested with the responsibility of reviewing and evaluating the Executive Director and making recommendations for action to the Executive Committee which will provide a report to the full Board of Trustees. Such evaluations shall at a minimum occur annually and before the end of any probationary periods.

## FINANCE

All funds of the Foundation shall be managed by the Executive Director and supervised by the Board and shall not be commingled with funds of the County of Westchester or any other person, organization, or unit of government.

### **Section 5.13 The Foundation Budget.**

At the annual meeting of the Board, the Executive Director shall present to the Board for consideration a budget showing estimated income and expenses of the Foundation for the ensuing fiscal year.

Any budget adopted by the Board shall without further action authorize the Executive Director to pay out the amounts included in such budget from time to time on request or

pursuant to a fixed schedule. The budget as adopted by the Board may be amended or modified from time to time in accordance with such procedures and subject to such limitations as the Board may prescribe.

The Executive Director shall pay out no funds and no officer or employee shall incur any expense in addition to the amounts specified in the budget as approved or so amended pursuant to written policies and procedures adopted by the Board.

#### **Section 5.14 Signing of Checks.**

Pursuant to written policies and procedures adopted by the Board, the Executive Director and/or certain employees of the Foundation may sign, make, and evidence in the name of the Foundation checks, vouchers, drafts, warrants, orders for the payment of money or receipts.

#### **Section 5.15 Fiscal Year.**

The fiscal year of the Foundation shall begin on January 1 of each calendar year and end on December 31 of that year.

### **SURETIES AND BONDS**

In case the board shall so require, any officer or agent of the corporation shall execute to the corporation a bond in such sum and with such surety or sureties as the board may direct, conditioned upon the faithful performance of this duties to the corporation and including responsibility for negligence and for the accounting for all property, funds or securities of the corporation which may come into his/her hands.

### **ARTICLE VI - SEAL**

The seal of the corporation shall be stored at the office of the Foundation in the care and custody of the Executive Director.

### **ARTICLE VII -ADMINISTRATION**

#### **Section 7.1 Executive Director**

The Board of Trustees shall retain a chief administrative official, the Executive Director, who shall serve at the pleasure of the board and report to the board Chair.

The Executive Director shall serve as an ex-officio member of the Board of Trustees and Executive Committee, but shall not have voting rights on either the Board or Committee.

The Executive Director shall have responsibility for and control of all personnel of the Westchester Parks Foundation, Inc., including the hiring and dismissal of staff, subject to any controls as may be determined by the Board of Trustees, and shall have such other powers and duties as may be assigned from time to time by the Board of Trustees.

The Executive Director is the chief staff executive. He or she shall initiate and participate in the formation of new policies and make decisions within existing policies approved by the Board of Trustees, assure that organizational objectives are attained and needs addressed, and

provide management and leadership to complement constructive growth and functioning of the Foundation.

Subject to any restrictions the Board of Trustees might from time to time impose, the Executive Director shall have the authority to enter into any contract or execute and deliver any instrument involving the name of and on behalf of the Westchester Parks Foundation, Inc., as outlined by the Executive Committee.

### **Section 7.2 Executive Director Contract and Evaluation**

The Westchester Parks Foundation shall enter into a contract with the Executive Director for a period of time determined by the Board of Trustees.

The Executive Committee shall review, evaluate, and assess in writing the Executive Director's performance at least once a year and shall report thereon to the Board of Trustees

## **ARTICLE VIII – CONSTRUCTION**

If there be any conflict between the provisions of the certificate of incorporation and these by-laws, the provisions of the certificate of incorporation shall govern.

## **ARTICLE IX– AMENDMENTS**

Except as otherwise required by the N-PCL, these By-Laws may be amended or repealed in whole or in part, by a majority Vote at any meeting of the Board, provided, that notice of the proposed amendment or repeal, together with the text of the principal substantive changes, shall have been given in the notice of the meeting.

## **ARTICLE X - NON-DISCRIMINATION**

The Westchester Parks Foundation, Inc. shall not discriminate on the basis of race, disability, religion, color, national origin, age, gender, covered veteran's status, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, source of income, place of business or residence, pregnancy, childbirth, or any other unlawful basis. This policy is in compliance with Title VII of the Civil Rights Act, the Americans with Disabilities Act, and the Age Discrimination in Employment Act.

This Westchester Parks Foundation will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the New York State, for any NYS-funded project. This organization will do so by actively and affirmatively soliciting bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

## **ARTICLE XI - GENERAL PROVISIONS**

### **Section 11.1 Compensation; Interested Trustees and Officers.**

The Trustees, the Chair of the Board and the Vice Chairs of the Board shall receive no compensation for their services in those capacities, but other officers shall receive such compensation as the Board may from time to time determine. If a Trustee or an officer is interested, directly or indirectly, in a contract or transaction affecting the Corporation or he or she or a member of his or her family is proposed to be compensated for services actually rendered to the : (a) the material facts as to the Trustee's or officer's interest must be disclosed in good faith to the Board, and (b) the contract prior to its execution, the transaction, prior to its consummation or the compensation, prior to any payment, must be approved by a majority vote of the Board, the interested Trustee not being counted for the purpose of establishing a quorum and not voting.

### **Section 11.2 Indemnification and Insurance.**

Except as otherwise directed by the Board, any Trustee, officer or employee made a party to any action or proceeding, whether civil or criminal, by reason of the fact that he is or was a Trustee, officer or employee of the Foundation or arising out of any action or actions taken or not taken by such Trustee, officer or employee as a Trustee, officer or employee of the Foundation, shall be indemnified to the fullest extent permitted by law.

The Corporation shall obtain such insurance as the Board shall from time to time determine to protect the Foundation against losses caused by the fraudulent or dishonest acts of any Trustee, officer, or employee, to reimburse the Foundation for any obligation incurred pursuant to the first paragraph of this Section 11.2, and to indemnify Trustees and officers under circumstances permitted by law.

### **Section 11.3 Roberts Rules of Order Revised**

Unless otherwise provided by the provisions of these by-laws, all general or special meetings of the board of trustees and all committees shall be governed by the rules adopted by the Board of Trustees. Any questions of procedures not governed by said rules shall be governed by "Roberts Rules of Order Revised."

The Chair, at his or her discretion, may appoint a trustee or other person to be the official "Parliamentarian."

REVISED (December 20, 2020 - JAS)