



# U.P. Land Conservancy

148 West Hewitt Avenue, Marquette, MI 49855

Phone (906) 225-8067

*Land Today for Life Tomorrow*

## Upper Peninsula Land Conservancy

### Policy 3C(a): Proxy Voting

*Board Approved: 10th September 2019*

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#### **PURPOSE:**

Policy 3C: Board Governance states in *Expectation #3: Attendance* that individual Members of the Board of Directors are expected to attend the majority of the regular board meetings, and that meetings of the Board of Directors are held monthly; therefore a Director is expected to attend seven out of twelve Meetings of the Board of Directors per year on average.

The purpose of Policy 3C(a) is to clarify meaning of “attendance” in Expectation #3 as it relates to votes by Proxy.

The Board of Directors recognizes that the purpose of serving on the Directorship of a deliberative assembly is to act as fiduciaries of the corporation and that Directors have obligations that cannot be easily transferred to others; such duties are often best carried out by discussing, in person, the facts which surround an issue prior to voting for or against certain corporate actions. Therefore, the Board recognizes that in-person or remote attendance at all or most of the Meetings of the Board of Directors is strongly preferred.

The Board of Directors also recognizes that any number of reasons may prevent a member or members of the Board from attending any particular meeting, that the establishment of a quorum for voting purposes is essential to conduct corporate matters, and that carefully constructed policies on votes by Proxy may help meet quorum requirements.

These Policies set out below are designed to encourage Board Members to be present and actively engaged in business at monthly Meetings of the Board, whether in person, by telecommunication, or by proxy.

#### **BASIS:**

**The Michigan Nonprofit Corporation Act 162 of 1982, Section 450.2421 et seq:** ‘Authorizing person to act for shareholder or member by proxy; election of directors by proxy; validity; revocability; methods of granting authority; use of copy, facsimile, or reproduction’ states, “...*Except as otherwise provided by statute, in the articles of incorporation, or in a bylaw, a director or other person that is entitled to vote in the*



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*election of directors of a corporation organized on a directorship basis may authorize another person or persons to act for the director or other person with respect to the election of directors by proxy.”*

**UPLC Bylaws (restated 28th February 2017)** authorize Members of the Board of Directors to vote by Proxy:

*3.14 AUTHORIZATION TO ACT BY PROXY. A Director may authorize another person to act for the Director at a specific meeting of the Board of Directors or a committee thereof by signing a written proxy which specifies the date and place of the meeting. The proxy must be presented at the meeting and be kept with the minutes of the meeting. To be eligible to serve as a proxy holder, the holder shall be at least 18 years of age and cannot be an employee of the corporation. A proxy can only be used for one meeting and is revocable by the Director giving it at any time prior to or during the meeting. Michigan Compiled Law Section 450.2421.*

**Robert’s Rules of Order (revised, 4th edition) Article VIII: Vote** are decidedly negative in their view of Proxy Voting:

*“Proxy voting is incompatible with the essential characteristics of a deliberative assembly ... with [incorporated societies of a social, benevolent, or religious character], membership ... should not be allowed to appoint any proxies who are not members of the organization. The state law is above the by-laws of the society, and if the state law empowers members of all corporations to appoint proxies to vote at all business meetings, no by-laws of an incorporated secret society could prevent non-members holding proxies from attending and voting at all business meetings of the society. This should not be the case...unlimited proxies would be a serious interference with their work.”*

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## **VOTING BY PROXY**

If a member of the Board of Directors expects to be absent from a regular or special meeting of the Board, they may elect one other member of the Board to represent them at that one meeting.

### **WHAT:**

There are five generally recognized types of proxies, of which ***only Directed and Limited-Directed Proxies are acceptable for use*** by Directors of the Board of the UP Land Conservancy:



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1. **General Proxy:** The holder of the proxy has discretion to do whatever they wish at the meeting and can speak, make motions, second motions, and vote on all issues in the stead of the principal
  - a. General Proxies are **NOT** acceptable for “Attendance” at UPLC meetings and will **not** count towards quorum for voting requirements.
2. **Limited Proxy:** the holder can only vote on certain issues at the meeting. The holder has the discretion to vote on those certain issues in the stead of the principal as they see fit. For all other matters, the principal will be listed as abstaining from voting.
  - a. Limited Proxies are **NOT** acceptable for “Attendance” at UPLC meetings and will **not** count towards quorum for voting requirements.
3. **Directed Proxy:** The holder of the proxy can only vote as directed by the principal. The principal will direct the Proxy Holder on all anticipated votes for the meeting. If any unexpected voting matters arise, the principal will be listed as “abstain”
  - a. Directed Proxies **are** acceptable for “Attendance” at UPLC meetings and **will** count towards quorum for voting requirements.
4. **Limited Directed Proxy:** The holder of the Proxy can only vote on certain issues and can only vote as directed by the principal, all other issues the principal will be listed as “abstain”
  - a. Limited Directed Proxies **are** acceptable for “Attendance” at UPLC meetings and **will** count towards quorum for voting requirements.
5. **Quorum Proxy:** The Proxy only counts for purposes of obtaining a quorum and nothing else. The principal will be listed as present but abstaining from voting on all actions.
  - a. Quorum Proxies are **not** allowed for “attendance” at Meetings of the Board of Directors for UPLC. They will **not** be counted towards quorum.

**Only Directed and Limited-Directed Proxies will be utilized by UPLC.** Both types of proxy require the director who expects to be absent (the principal) to be engaged with the issues up for vote and to prepare in advance for said vote despite a planned absence. This will ensure that the principal is still carrying out their fiduciary duties and will encourage the principal to ask questions and hold discussions with other directors and staff in advance of the meeting. Directed and limited-directed proxies also ensure that it is reasonable to count proxy votes for quorum as the Board of Directors know that each director’s opinion is heard in the meeting.

## **WHO:**

- Only a Member of the Board of Directors may designate a Proxy
- The Proxy must be a currently elected Director of the Board
- The Proxy cannot be a staff member of the organization
- The Proxy must be at least 18 years of age



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- Proxy holders must be physically present at the meeting; proxy holders cannot attend “remotely”
- Each Board Member can hold up to two proxies at each meeting

## **WHEN:**

- Proxies must be delegated as soon as possible when a Director is aware that they will be absent from a meeting.
- Proxies must be declared no later than the start of a meeting
- Documentation of the proxy must be produced at the start of the meeting
- Inspection of the proxy cards will be carried out by a member of the Executive Committee before proceeding with business requiring a vote
- Proxy will be considered in effect when the Secretary has received the proxy (generally at the start of a meeting during roll call).
- Proxies will only be valid for one meeting unless otherwise determined on the proxy card, up to one month
- Proxies are revocable at any time by the principal

## **HOW:**

When a director becomes aware that they will not be able to participate in the meeting, they must elect a proxy holder. The elected proxy holder must agree to act as proxy for the principal. The Secretary of the Board of Directors should be made aware of this agreement as soon as possible so that any necessary arrangements can be completed.

The principal will inform themselves of the items on the agenda and form an educated opinion on the items which are expected to be called for a vote at the meeting. Upon determining the direction of their vote on each agenda item (yes, no, abstain), the principal will clearly document those votes and sign, whether physically or electronically, the proxy document. The document must then be given to the proxy holder prior to the meeting for which the proxy is intended.

According to Michigan State Law, “Proxy documents” may be “Any telegram, cablegram, or other means of electronic transmission” including “A copy, facsimile telecommunication, or other reliable reproduction of the writing or transmission” as long as it sets forth or includes with it information from which it can be determined that the document was authorized by the principal and given to the specific proxy holder.

All proxy documents must include:

- The name and title of the Principal and the name and title of the Proxy Holder



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- The date of the execution of the document as well as the date of the meeting and/or expiration
- The type of proxy to be used (Directed or limited directed)
- The specific items to be voted on and their predetermined votes
- The verifiable signature of the Principal

Proxy documents must be physical documents; an emailed proxy document must be printed out as well as saved in a lockable format (such as .pdf) with the digital records. Written documents must be digitized and saved in accordance with Document Retention and Destruction policies.

At the start of the meeting, the proxy holder should provide the physical proxy document to the Secretary during roll call, and a member of the Executive Committee will inspect it for validity and completeness before moving on to business.

The proxy document must be kept with the corporate records and minutes of the meeting for which the proxy was utilized.

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## **EXAMPLE PROXY DOCUMENT:**

On this date (DATE written) I, (first and last name), an acting Director of the Board for the Upper Peninsula Land Conservancy, hereby assign (First and Last Name), an acting Director of the Board for the Upper Peninsula Land Conservancy, to act as my proxy at the regular meeting of the Board of Directors on (DATE). NAME is authorized to act only as directed from the day of the specified meeting until (DATE). This proxy document specifies that NAME is directed to vote on the matters listed below in the assigned fashion (If applicable: They are not authorized to vote on Agenda Item 2c and I will abstain from voting on that issue).

(List all agenda items)

AGENDA ITEM 1: Yea

AGENDA ITEM 2.D: Yea

AGENDA ITeM 5.c: NAY

SIGNATURE