

Date: December 2, 2020

Memo: DBPA Bylaws Review

To: DBPA Board Members

From: Josh Wolsky

Regarding the revision of the of the DBPA Bylaws, you have been provided with multiple documents including:

1. The current bylaws
2. The template on which the revised bylaws have been based.
3. A draft of revised bylaws

As you will see, the general framework of the existing bylaws and the current draft version are very similar. That said, the draft version and the template on which it was based is much simpler. The language is easier to follow and understand and it is a generally more cohesive document. By its reading, it would appear that the existing document was revised a few times in an ad hoc manner; the result is a document that has become disjointed, circular, and in some places, difficult to understand.

With that in mind, the following are items should be considered for Board discussion and consideration. Following today's meeting and introduction of these issues, I will be in touch to survey your individual thoughts on these issues so as to finalize the document prior to adoption.

#### New Elements, Deviations, and Points of Consideration

1. Article II - Mission, Goals, Values

These elements, particularly the goals and values, and new elements. The mission has been revised; the goals and values are offered as a starting point for discussion. The goal and intent in offering these is to set the DNA of the organization so it is more likely to produce and replicate the positive results the Board has identified as desirable.

Also contemplated is an Organizational Ethos, though it is not included in the draft. This language would -- in essence -- serve as a pseudo code of conduct that would communicate and further distill and join the mission, goals, and values into set of expectations and call to action.

2. Article III - Membership

Membership criteria is designed towards inclusivity of all who support the mission, goals, and values. Elements of rates, member taxonomies are pulled from the bylaws and the Board is empowered to adjust these elements through resolution -- a less administratively burdensome process. Standing Membership categories are articulated for Retail, Food & Beverage, Property Owner/Developer, and Investor Members.

3. Article IV - Membership Meetings.  
An annual and quarterly membership meetings are articulated as well as conditions for their scheduling and administration.
4. Article V - Board of Directors  
Per Board feedback, make-up of the Board has been restructured to require one Director from each of the Standing Membership Categories, e.g., Retail, Food & Beverage, etc. Terms of service, selection of Directors through election, appointment from like-members, or board appointment are provided as well as other standard clauses regarding Board guidance, operation, and expectation.
5. Article VI -- Officers  
Advisory Committee - This was a new element that existed in the template used. It was left in this initial draft for Board awareness and contemplation. It adds additional administrative elements as well as oversight and protection, much of which are apparent in this and later Articles.

Recommendation: Elements of the Advisory Council can be stripped from the Bylaws, but their worth knowing about in the event they might serve a needed role.

6. Article VII - Committees  
A framework authorizing committees is included, but none are set as 'Standing' with the exception of the Executive Committee. The existence and role of the Executive Committee is worthy of discussion regarding role and authority. Further clarification, empowerment or restriction may be called for depending on the desire of the board.
7. Article VIII - Executive Officers  
Per recommendations from Bismarck Downtowners, the CEO/COO positions are provided for bylaws. This is a deviation from past practice in which the lead staff position was outlined as an Executive Director.
8. Article IX - Conflict of Interest & Compensation -- NEW ITEM  
This is a new article that addresses Director conflicts of interest regarding DBPA business. It is provided largely as it was in the template version; It appeared thoughtfully crafted, and worthy of inclusion.
9. Article X - Indemnification  
Elements of Indemnification, expenses regarding, and insurance are more simply articulated in the draft version. There is a presumption of legal expertise that went into drafting this language, and review by a local attorney is appropriate.
10. Article XI - Books and Records.  
This is dramatically simpler and worthy of Board Discussion. The existing outline of operational policy (in current bylaws) is included at the end of this document and could

be contemplated for inclusion or as procedures set through resolution.

11. Article XII - Amendments

Both the Articles of Incorporation and Bylaws are included in this section, though it is presumed that these bylaws serve both purposes. Slightly different provisions are provided depending on which sections are proposed for revision.

12. Article XIII - Waiver of Notice

This was copied from the existing bylaws. Similar provisions exist elsewhere in the document, but this clause provides specific clarity.

**Existing Bylaws - Articles Regarding Contracts, Books, Records, Administrative Operations:**

**ARTICLE 8**

**Contracts, Checks, Deposits, and Funds**

1. **Contracts:** Any contract must be approved by the Board of Directors and any other agent involved. The contract must be signed by the President and the agent.
2. **Checks, Drafts, etc:** All checks, drafts, or orders for payment of money, notes, or other evidences of indebtedness issued in the name of the DBPA shall be signed by any two of the following:
  - a. President
  - b. Vice President
  - c. Secretary
  - d. Treasurer
3. **Deposits:** All funds of the DBPA shall be deposited from time to time to the credit of the DBPA in such banks, trust companies, or other depositories as the Board/Executive Director may select. Executive Director may not hold in his/her possession any undeposited amount greater than \$500 in any form of currency or check.
4. **Gifts:** The Board may accept on behalf of the DBPA any contribution, gift, bequest, or devise for the general purpose of the DBPA or for any special purpose of the DBPA, and not for individual benefit.

**ARTICLE 9**

**Books and Records**

The DBPA shall keep correct and complete books and records of accounts and shall also keep minutes of proceedings of its members, Board and committees having any of

the authority the Board, and shall keep at the registered principal office a record giving the names and addresses of members entitled to vote. All books and records of the DBPA may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time in the business office of the DBPA during normal business hours.