

# The Florida Parliamentarian

*Let All Things Be Done Decently and In Order*

## CALENDAR

**FSAP Annual Meeting  
and  
Henry M. Roberts Day  
and Fall Meeting  
October 16-October 18**

**NAP Training Conference  
Virtual  
August 28-30**

**Nomination for Members  
of Distinction Deadline  
September 1, 2020**

## The New Reality- Virtual Meetings

The NAP National Training Conference will not be held in San Antonio this year. This year it will be held virtually from August 28 to 30. To make lemons out of lemonade, this can be a good thing! It means that all the wonderful education at this conference is now more easily accessible to all NAP members. We can all attend from the comfort of our home.

NAP plans to open registration on July 16, so be watching for it and take advantage of this unique opportunity.

For those who have never attended virtual classes or workshops, you have an interesting experience in store. All you need is a computer, laptop or an iPad or similar device. For audio you need to test your device to see what will work best—headphones or if you can get adequate sound through your device.

Sam King and Karen Price have offered their perspectives on attending virtual educational programs or the recordings. (See pages 3 and 5)

Your editor has also had the

privilege of attending several live streamed workshops these past few months. These workshops were held on Zoom, which is a very easy platform to use.

The workshops I attended included an explanation on how to use the system, a 15-minute presentation on a parliamentary topic, break-out groups to discuss the topic further, and a time for the group to share its conclusions. They were an hour in length and the time really flew by. It was educational and stimulating to be able to share knowledge in this setting.

As we move forward, we don't know how much time is needed in order for most of our members to feel safe enough to gather together again. FSAP is exploring the possibility of a virtual meeting so we can conduct our business as well as provide more education.

Units may want to do the same thing. We have a lot to learn about how parliamentary procedure can assist people to continue to function in a world where we may need to remain apart for an undetermined amount of time.

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## PRESIDENTIALLY SPEAKING....



President Henry Lawton, PRP

I hope that you and your families are well during this pandemic.

Teleconferencing has become an interesting topic. Whether you like it or not, it has become one of the main means to be connected with others for meetings. It has been around for a number of years; it is how my teams handled business from the 1980's until I retired.

With this in mind, these tools can become a good mechanism to practice parliamentary procedure. Zoom, Google and other organizations have tools that will allow people to see and hear each other, in some cases for free. What better instrument to use for practicing presiding and making motions.

Recordings can be made for your review. You get to see and hear yourself speak, great confidence can and will be attained.

When new people are joining your units or there are individuals who are undecided about becoming members of NAP these tools can assist you with reaching out to others and making a difference in helping others have productive and short meeting.

Recently, I provided a short foundation session in parliamentary law and procedure for individuals I have been trying to get to come to our unit meeting. After the presentation, my wife, and I were busy on our phones for more than an hour.

Try these means to perfect your parliamentarian confidence, they do work and together with other parliamentarians we become better.

Henry C. Lawton, Jr., Professional Registered Parliamentarian

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**DEADLINES FOR COPY**

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**FSAP WEBSITE**

<http://www.flparliamentarian.com>

## LEARNING DURING COVID-19 by KAREN PRICE

I do not usually write an article for the Florida Parliamentarian, but thought I would give a shout out with my experience recently. Since March 2020 things in the world have been different and challenging. As President of the Bradenton Unit, I discovered we could not have our meetings due to the Public Library, where we meet, being closed and this COVID-19 thing. So, what to do? Virtual Meeting, aka electronic meeting, good idea, but I found out that we did not have this means in our bylaws. What to do now? Lucky for me and many of you, NAP came to the rescue and started having Webinars on this and many other topics. These webinars which cover many topics have been helpful and you all know as parliamentarians we are constantly learning.

I cannot encourage enough all members to attend when they can. If you can not view at the time of the original webinar, NAP does have them available at the NAP Store. Many are free and some you pay for. Make sure you visit the NAP website often for valuable information regarding electronic meetings and other topics. <https://www.parliamentarians.org/electronic-meeting-resources/>

The information I received from these webinars were also helpful for my involvement in my community HOA, which also did not have electronic meetings in their bylaws and the board needed to meet.

The Bradenton Unit does not meet again until October, and there will be a bylaw change to vote on by our members so next time, hopefully not, we will be ready.

## NEW FSAP DIRECTORY AVAILABLE ONLINE

The FSAP member directory has been updated as of June 15, 2020. This directory reflects members who paid dues by June 1, 2020.

The directory is available to FSAP members only through the FSAP website: [www.flparliamentarian.com](http://www.flparliamentarian.com) Click on Membership at the top of the page and select Member Portal. The password is fsap.

The directory is divided into three parts: Members alphabetically, Members by unit, and FSAP past presidents. Please review your listing in the directory and let Carol Austin know if you have a correction. Contact Carol at [carolaustinprp@cs.com](mailto:carolaustinprp@cs.com)

The following members renewed since the June 15 update:

Renier Diaz de la Portilla, 1861 NW S River Dr #1801, Miami FL 33125, [rdportillapa@gmail.com](mailto:rdportillapa@gmail.com), (305) 261-7000, MAL

Clifton Eserman, 4135 NW 67th Way, Coral Springs FL 33067, [eserman@me.com](mailto:eserman@me.com), (954) 326-9613, Broward-Palm Beach

Virgie Lee Shaw, 3111 Anderson Rd., Coral Gables FL 33134-6502, [drshaw3111@aol.com](mailto:drshaw3111@aol.com), (305) 443-0602, South Dade

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All page numbers are references to *Robert's Rules of Order Newly Revised*, 11th ed., unless otherwise noted. Send questions to the Associate Editor, Mark Moriarty, PRP

E-mail to: [mmoriarty2016@outlook.com](mailto:mmoriarty2016@outlook.com)

## QUESTION:

I am a board member on an executive board. The board has a special rule of order that allows any member of the society to comment on any agenda item before the executive board takes action on an item. The rule states:

*“Members may comment on all scheduled Agenda items at the time the item is being considered...the board will act on an agenda item after comments from members have been heard.”*

With members present, the chair put a question to a vote without calling for member comments. A fellow executive board member moved for unanimous consent to hear member comments. The vote failed on a 2-2 tie vote. The original main motion subsequently passed 3-1. No member comments were made.

Was the vote a valid vote? Does the approval of the original main motion need to be redone because the chair didn't follow correct procedure?

## ANSWER:

### ***Duties of the Chair:***

The chair has many duties during a meeting. In addition to your board's special rule, two other relevant duties requiring the chair's attention are the duty to put to vote all questions that come before the assembly, and the duty to expedite business in every way compatible with the rights of members.

Yes, special rules are adopted to be followed, but sometimes chairs get overwhelmed, impatient, or impartial. Sometimes they are inexperienced, and don't know better. Whatever the reason mistakes happen. Missteps don't invalidate votes.

### ***Motion to Suspend the Rules***

If the chair knowingly wanted or had reason to bypass member comments, he or she could have requested or passed the gavel and made a motion to suspend the rules. The motion to Suspend the rules allows consideration of business that could not otherwise have been considered at the time.

Because the motion involved the suspension of a special rule of procedure, it would have required previous notice and a two-thirds vote, or a vote of a majority of the entire membership.

### ***The motion for 'unanimous consent'***

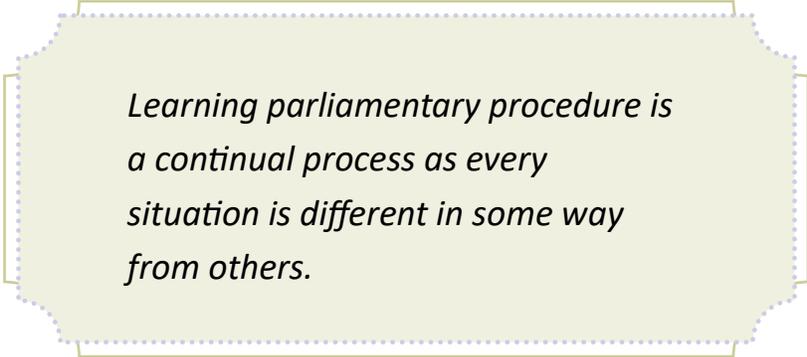
Your fellow executive board member's motion for 'unanimous consent' makes no sense. There is no motion for unanimous consent. Unanimous consent is a procedure or a method a chair can use to approve items without formal votes. The procedure is appropriate when there is no minority viewpoint or opposition to a matter. If the board member was wanting to call a breach of the rules to the attention of the chair, a point of order is the correct term.

## THE WINDS OF CHANGE by STEPHANIE (SAM) KING, PRP

**Definition of winds of change:** forces that have the power to change things—used generally to mean change is going to happen. *Merriam-Webster.com*

Recently, I was appointed as the FSAP Education Chair. It was during the ‘stay at home’ time period and afterwards I thought to myself, “What were you thinking to take on such an important position?” Should I be fearful or should I be excited as the world and NAP are in a time of great change?

NAP has been proactive in hosting informational webinars on the fifth Tuesdays and hosting various informative webinars recently in the past few months. As a NAP member this is your opportunity to use these webinars for your personal training and growth. The webinars will be available at the NAP bookstore until June 30<sup>th</sup> for free and then after that they may be purchased.



*Learning parliamentary procedure is a continual process as every situation is different in some way from others.*

The current listing of webinars include: two recent 5<sup>th</sup> Tuesday webinars, “Unit and Association Tax Filing Requirements” and “Electronic Meetings Platforms, Electronic Meetings that Pass Parliamentary Muster, and Will Your Organization Be Here in Ten Years?” Recently very current topics were posted on “Electronic Voting and Elections,” Part 1 and Part 2.

When each of us decided to become involved with the parliamentary process we knew that it was going to be a continual learning process as every situation is different in some way from others. With that in mind, we need to look at the state of the world and realize that we must be a leader for others. We need to embrace the tools that are needed to use the internet and the different formats available for meetings. This will be a changing process as even Google now has added its own version of meetings to complete with Zoom.

Let’s embrace the future and change! Set aside time to go to the NAP website, sign in, go to the bookstore, and pick a webinar to watch. Get comfortable with the electronic format and the excellent information that is available to you.

Be the force for change, get the knowledge to help others and organizations through the changes that are here and those that are coming. We can’t stop change, but with knowledge we can make it better for ourselves and others.

## Does the Chair Vote in the Event of a Tie? by Jim Slaughter, PRP

In board and membership meetings you'll sometimes hear the phrase that the chair gets to vote "in case of a tie vote." But is that accurate? In short, no. The chair only being permitted to vote in the event of a tie is not the general rule, would be unfair, and is not language found in any of the major parliamentary authorities, including *Robert's Rules of Order Newly Revised (11th Edition)*. While a few state statutes and some bylaws have such language, that's mostly due to a misunderstanding of common parliamentary practices. So, what's the general rule in *Robert's* and other parliamentary manuals?

### Chair Voting in Smaller Boards

In general parliamentary procedure as well as *Robert's Rules of Order Newly Revised (11th Edition)*, small boards operate much less formally than membership meetings or conventions. In fact, *Robert's Rules* has a whole section devoted to informal "Procedure in Small Boards," which is defined as "not more than about a dozen members present." The presiding officer of a small board of directors (if a member of the body) is a full participant—the chair can make motions, speak, and vote on all issues, although some politically choose not to do so.

### Chair Voting in Membership Meetings or Conventions

In larger bodies the chair is supposed to be less a participant and more of a presiding officer. Even so, there are instances in which the chair is permitted to vote, such as when the vote is by ballot. And even at other times, the presiding officer may vote if the vote will affect the outcome. That means that the chair can vote "AYE" in breaking a tie and cause something that was going to fail to pass. However, that's only half the story. Under *Robert's Rules* and other parliamentary manuals the chair can also vote "NO" in the event a proposal is going to pass by one vote, which creates a tie and causes the motion to fail (since it did not receive a majority vote).

So even in larger bodies where the chair usually does not vote, the chair can vote to cause a proposal to pass or to be defeated. If the chair could only vote in the "event of a tie," the presiding officer would only ever vote AYE. And in the event of a two-thirds vote (e.g., to limit or close debate, to suspend the rules, etc.), such a rule would make no sense as there is no such thing as a "tie" in a 2/3 vote.

### When the Chair's Vote Affects the Outcome

Members often ask about how to break a tie vote. In contrast to a tie during an election, a tie vote on a motion isn't too much of an issue. If a motion requires a majority vote and only receives 50 percent of the votes, the motion fails because it didn't receive more than half of the votes. As to a two-thirds vote, the vote either is or isn't two thirds, so the concept of a tie is irrelevant.

One additional issue regarding tie votes is more relevant to larger assemblies. The chair tends to be a full participant in smaller boards and votes on all issues. As a result, the chair's vote is already in the totals. That's not the case in larger assemblies where, except for a ballot vote, the chair tends not to vote unless his vote will affect the outcome. That means the chair can impact the vote in one of two ways:

## Does the Chair Vote in the Event of a Tie? (continued)

**In the event of a tie:** The chair can vote *in favor* of the motion. Without that vote, the motion will fail, so the chair's vote will change the outcome so that the motion is adopted.

**If a motion is going to pass by one vote:** The chair can vote *against* the motion. Because there is now a tie, the motion will fail.

The following taken from *Notes and Comments* (which is a Q&A on *Robert's Rules* and won the 2013 Phifer Award from the Commission on American Parliamentary Practice, an affiliate of the National Communication Association) provides:

### What about a tie vote?

A motion either obtains a majority (or two-thirds) vote or it does not (RONR p. 53-54 and 405-406). Since a majority vote is more than half the votes cast, a tie vote simply means that the motion is rejected. When the vote results in a tie, the chair should state, "By a vote of ten in favor and ten against, the motion is lost. The next item of business is . . ."

*The expression "to break a tie" should be replaced with "affect the outcome."*

### When may the chair vote?

Theoretically, the presiding officer has the same voting privileges as every other member. In practice, however, the chair's adherence to this privilege when the vote is by voice or by show of hands would conflict with the responsibility to remain impartial. *Robert's* recognizes the right of the chair to vote, but suggests that the chair protect impartiality by "exercising his voting right only when the vote would affect the outcome" (RONR p. 50, 53-54, 405-406). Thus, the chair may vote to break a tie in favor of a motion she favors or to create a tie if against a motion. The reverse is also true: when the vote is a tie or a motion is adopted by one vote, the chair affects the result by not voting. If the chair is against the motion and the vote is a tie, the chair is in effect voting against the motion by declining to vote in favor. If the motion is adopted by one vote, the chair is in effect voting for the motion by declining to vote. A statement that the chair can vote to break a tie is half wrong and therefore misleading. The expression break a tie should be replaced with the phrase affect the outcome. The principle applies equally to decisions requiring a two-thirds vote.

Members who recall the times when they used to hem and haw over what to do about a tie vote will be in awe of the chair's efficiency and knowledge of parliamentary procedure.

## **Rethinking Governance Structures During a Crisis by Paula Goedert**

Opportunities emerge during crises—including chances to update outdated governance structures. Here are some ideas for dusting off ineffective procedures and making real progress in the face of adversity.

We are seeing that the first reaction of many nonprofits to a crisis is to stand still. When faced with a black hole in front of us—of unknown depth and proportion—we stop moving and stare into the abyss.

There is another way of dealing with crises. Our politicians teach us to never let a crisis go to waste. How can we use the current crisis caused by the COVID-19 to eliminate outdated governance structures that hinder leaders' ability to act quickly to fast-changing circumstances? Now is the time to take a hard look at bylaws and policy provisions that shackle nonprofits to ineffective governance procedures.

### **House of Delegates Approvals**

Many national nonprofits have layered governance structures that include a large body of representatives from different geographic or special-interest constituencies, often called councils or houses of delegates. These bodies often include hundreds of individuals who meet in person once or twice a year to conduct business on behalf of the organization. I have never heard a nonprofit leader say, "Our house of delegates is nimble."

Permitting a house of delegates or a convention body to debate and recommend sweeping policy issues can add value to the board's understanding of member needs and overall direction. Giving the house control of decisions that are crucial to day-to-day management of the nonprofit's business operations doesn't work. Management decisions should be made on a timely basis by leaders who really know what is going on at headquarters. The board can do that—even if the discussions are on Zoom or other online platforms—not the assembly of delegates.

Take a hard look at the responsibilities of the assembly. Even the most die-hard supporters of expansive governance will have to admit that more flexibility is necessary to face a crisis, and we don't know how long this crisis will continue.

### **Election Process**

So many nonprofits have election procedures that require an in-person meeting. During a crisis, the law will permit a nonprofit to follow the "cy-près" doctrine and do the "next best thing." But many nonprofits have procedures that are hard to replicate in a virtual world.

One of these procedures is nominations from the floor during the election. It is a vestige of when nonprofits were small clubs, in which members generally knew each other. Permitting a member to self-nominate or someone to nominate from the floor today can result in a member who may be unsuitable for all sorts of reasons to end up on the board and be disruptive or ineffectual.

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Nominations from the floor are not an ideal way to get the best talent. Board members need to be interviewed and vetted, and those who can make the most significant contributions should be presented to members as candidates for election. If self-nominations or member nominations are permitted, they should be done in advance, with mechanisms for the voters to get to know each candidate's good and bad points well before being asked to vote. Now is the time to move the process back a few steps, giving voters a chance to make informed decisions.

### **Bylaws Amendments**

The lack of trust in future leaders is never so apparent as in bylaws provisions governing the process of bylaws amendments. Many nonprofits have processes that were designed to be slow and cumbersome, to make sure future leaders and voters carefully consider each amendment as if it were a momentous and permanent change. For example, some bylaws can only be changed after two "readings" at delegates' meetings, separated by a lengthy period of time. It guarantees a delay of many months, or sometimes a year, to make any changes.

Bylaws must be a living document, changing with the times, and these times are changing fast. Nonprofits can't wait a year to adapt to this or any coming crisis—and we have no idea what is coming next. Members may be more inclined to agree to an elimination of provisions like this, especially when presented with evidence of how they slow necessary changes to keep the nonprofit afloat.

## **Flexible Bylaws by Ann Guiberson**

In addition to the suggestions in the article above, the COVID-19 crisis has clearly brought to light the need for bylaws to be as flexible as possible. I have been working with many clients during this period and the main issue most of them face is how to work around inflexible bylaws. The issues mainly seem to come down to the following:

- The need to hold elections by mail or electronic ballot.
- The requirement to have nominations from the floor.
- No provision for being able to act in an emergency and no definition of what constitutes an emergency.
- The need for a member or delegate meeting to be held electronically. Many bylaws permit electronic board and committee meetings but not the member/delegate assembly.

Not only are bylaws not supporting flexibility, but many state laws are also inflexible and do not provide any relief for organizations to be able to act. There is also the human factor in that many leaders do not feel comfortable in permitting member debate in virtual meetings.

As we move forward in this setting, parliamentarians need to work together to develop solutions to these problems.

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## The Rights of Nonmembers in Board Meetings by Ann Guiberson, PRP

If you watch or attend town meetings, you have become accustomed to seeing members of the public speaking at council meetings. The same is true for most condominium and homeowners associations. State laws frequently specify that condo and homeowners association members have the right to be notified of and attend board meetings. They may also have the right to speak on all agenda items.

Confusion begins to creep in for other types of organizations, such as trade associations and professional societies. Members of these organizations may believe they have a right to attend and speak at the board of directors' meetings. Let's take a look and see if that belief is correct.

First, let's take a look at what a member is. The *Merriam-Webster Dictionary* says a member is one of the individuals composing a group. Most bylaws define who can be a member of that particular group. They also define membership in groups related to the organization, such as the board of directors. Bylaws typically state who the members are of the board of directors. So if a board is composed of the officers and five directors, no other members of the association are members of the board. They are all nonmembers with respect to the board.

*Robert's Rules of Order Newly Revised*, 11th edition, was written as a manual for members, so it is not surprising that there is little said about nonmembers. There are some nuggets, however, that can help clarify what rights a nonmember has in a board meeting.

1. A deliberative assembly (the board) is normally entitled to determine whether nonmembers may attend or be excluded from its meetings (even when not in executive session.) (p. 95-96)  
 "Nonmembers, on the other hand—or a particular nonmember or group of nonmembers—can be excluded at any time from part or all of a meeting..." (p. 644) Remember, though, this is the default position. It has become the fashion for the bylaws or standing rules (policies) to provide that all board meetings are open to members of the organization. If that is the case, board nonmembers who are members of the organization may attend any board meeting, except those held in executive session.
2. Sunshine laws do not apply to private organizations. RONR on page 95 states: "Many public and semipublic bodies, however, are governed by sunshine laws—that is, their meetings must be open to the public. Normally, such laws have no application to private, nongovernmental bodies."
3. In cases where nonmembers are permitted to attend, they do not have a right to participate in debate or to vote. "Any nonmembers allowed in the hall during a meeting, as guests of the organization, have no rights with reference to the proceedings." (RONR p. 648) RONR on page 263 provides, "the rules cannot be suspended so as to give the right to vote to a nonmember,\*" and in the footnote: "In contrast the rules may be suspended to allow a non-member to speak in debate." Note the keyword here is "allow." Permission can be granted by unanimous consent or by a majority vote of the board.

To sum up, nonmembers ordinarily do not have the right to attend or to debate in board meetings. The board can vote to permit nonmembers to attend and debate if no other provision exists.

## EX-OFFICIO MEMBERS

The term *ex officio* means by virtue of office or position. *Robert's Rules of Order Newly Revised*, 11th edition recognizes two types of *ex officio* members:

1. Those who are under the authority of the organization. These individuals can be a member such as a past president, a nonmember officer such as a CPA treasurer, or an employee like the CEO.
2. Those who are primarily honorary, such as the mayor or the governor's wife. These persons are typically welcome to participate but not expected to attend.

Unless restricted by the bylaws, *ex officio* members who are under the authority of the organization have all the rights of membership on a board or committee. They are counted in the quorum, they may attend and participate in meetings, and they may vote on all matters. Any limitation to these rights must be specified in the bylaws. For example, if you want the past president to serve on the board but not vote, the bylaws should state: "The past president shall serve as an *ex officio* member without vote on the board of directors." If the bylaws limit the right to vote, all the other rights of speaking and debate remain intact.

Frequently the bylaws state that the president is an *ex officio* member of all committees. In this case, the president has the right to participate, but does not have the obligation to attend. The president is not counted in the number needed for quorum even if attending the meeting. The assumption is the president will not be a full working member of the committee, but there are no limitations on participation if the choice is made to attend.

Other officers may be named to committees related to their duties. Often the treasurer is named to the finance committee or the secretary to the resolutions committee because these committees are related to their duties. In some cases the bylaws state that certain committees are chaired by certain officers, such as the vice president chairs the strategic planning committee. When officers are named to committees by office, their membership on the committee ends when they no longer hold their offices.

The term *ex officio* can cause problems if not understood and used properly. For example, if an executive director, pastor, or other board employee is named as an *ex officio* member of the board, the board cannot exclude them or require that they leave the room when they go into executive session. They have the right to be present, take part in debate, and vote. If the board wants to have a private discussion about the employee, the bylaws should state that they may be excused from all or part of a meeting by majority vote.

Making someone an *ex officio* member should not be done lightly. They have all the rights of the other board members. So, if something else is intended, consider other options such as an invitation to attend and observe, or present a proposal, or provide information. A guest can be given the privilege of speaking if the board agrees to permit it.

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## Deadline September 1: Honor FSAP Members of Distinction

The FSAP Executive Board voted to recommend to the assembly at the FSAP annual meeting in May 2019 that the FSAP participate in the NAP building program fundraiser by purchasing tiles in honor of or in memory of FSAP members who have given extraordinary service to FSAP and/or NAP. The Executive Board encourages all members of FSAP to nominate members whom they believe deserve such recognition by the Association.

To implement the nomination process, President Henry Lawton, PRP, appointed a committee to solicit and to collect nominations and to recommend to the Board the names of those in whose honor or memory tiles should be purchased. The members of the committee are Helen Popovich, PRP, chair; Carol Austin, PRP; Shirley Brodbeck, RP; and Ann Guiberson, PRP.

The committee invites you to submit the names of FSAP members whom you believe should receive such recognition. Please fill out the nomination form for each of your nominees and email the completed forms to Dr. Popovich (hpopovich@mac.com) by September 1, 2020. The nomination form can be downloaded from the website, [www.flparliamentarian.com](http://www.flparliamentarian.com) on the Publications page in the March 2020 Florida Parliamentarian paragraph.

The committee also encourages you consider purchasing tiles to honor or memorialize your special mentors or others who impacted your growth as a parliamentarian. You can find information on the Wall of Honor tiles at: <https://polarengraving.com/thenationalassociationofparliamentarians>

If you have any questions or would like to know more about the project, please contact Dr. Popovich.

## Twelfth Edition of RONR

The 12th Edition of Robert's Rules of Order Newly Revised is about to be released.

The new book will be available in hardcover, paperback, and spiral-bound, which is exclusive to NAP. Pre-purchased books will ship the first week of September.

Order yours from NAP.

Member Prices:

Hardbound: \$32.00

Paperback: \$18.00

Spiral-Bound: \$22.00

RONR In Brief, 3rd edition is also available.

