

MEETING SPOTLIGHT 2020

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Over this coming year, Perkins & Anctil, P.C., will be sharing a series of educational articles to assist our clients in the day to day operations of their associations. This article is the first in a series which will focus on all aspects of planning, preparing and hosting an Annual Meeting.



1. MEETING PREPARATION

a. Prior to the actual meeting, review the meeting package to make sure it includes all enclosures and was prepared in accordance with the documents. Verify the time and place required for the meeting along with the meeting notice requirement.

b. Make sure the proxies comply with the provisions of the documents. If directed proxies are being utilized, review the condominium documents to confirm their use is permitted pursuant to the documents.

c. A list of unit owners should be updated and current. If possible, utilize a software program (such as Excel) to calculate the number of unit owners in attendance or represented by proxy and confirm the establishment of a quorum.

d. Only unit owners and the holder of a valid proxy and/or a Power of Attorney are permitted to attend the meeting. Other individuals may not be permitted to attend the meeting without the consent of the voting body.

e. Although this seems obvious, make sure the meeting location is set-up in advance with adequate seating and accommodations for people with physical limitations. Make sure all audio-visual equipment is set-up in advance and working properly.

2. QUORUM

a. Confirm the establishment of a quorum prior to commencement of the meeting. A quorum is the minimum number of voting members that must be in

attendance at the meeting of the organization for that meeting to be legally organized in order to transact business.

b. Without a quorum, legally there are only a few matters which can be undertaken including: recessing the meeting in an attempt to reach more voting members; setting the date for the continuance of the meeting; and adjourning the meeting.

c. Certain condominium documents in Massachusetts contain conflicting provisions with respect to quorums. Provisions pertaining to quorums are customarily found in the By-laws or Declaration of Trust in the section regarding meeting requirements.

The provisions pertaining to meetings usually contain language providing that over 50% of all the unit owners constitute a quorum. However, some provisions require 51% to establish a quorum. This language contains a specific number to identify what vote is required when a quorum is achieved.

Further, often the documents will include either (a) the 50% or 51% of the entire beneficial interest or (b) in terms of elections 51% of the entire beneficial interest.

This means, at least in terms of elections, that over 50% or 51% of the entire beneficial interest must be present to elect each candidate. This can be daunting at best. A small minority of documents provide that the Association is authorized to adjourn the meeting for a time not to exceed a certain period depending on what is set forth in the documents and often may have a reduced quorum requirement.

It is our practice to recommend that Boards consider reducing the quorum requirement, for instance 33 1/3 percent and require either a majority (majority of the entire beneficial interest present at the meeting or plurality, whoever has the most votes) as requirements. An addendum to the governing documents is necessary to accomplish this.

3. THE MEETING

a. Establish set meeting rules or procedures for the annual meeting. Attempting to use “Roberts Rules of Order, Newly Revised” can be confusing as it requires a fair amount of background about Parliamentary Procedure language which can be difficult to interpret.

However, we do recommend a book by Jim Slaughter titled “The Complete Idiots Guide to Parliamentary Procedure.” Jim is a registered Parliamentarian and a member of the College of Community Association Lawyers. We feel his book is helpful because it addresses issues surrounding Parliamentary Procedure and motions.

Boards also have the option to prepare their own set of rules and procedures to utilize during annual meetings and internal debates.

b. Have extra ballots and proxies available at the meeting. This is helpful in the event a quorum is established, but someone must leave during the middle of the meeting (thereby impacting the quorum). In that situation, an individual can execute a proxy at that time which will maintain the quorum and ability to continue the meeting.

NEW HAMPSHIRE

1. MEETINGS:

a. For those who are board members and/or managers in New Hampshire, the New Hampshire Condominium Law 356: B has been amended over the years in such a manner as it makes it difficult to simply comply with the Act. As such, we offer the following information:

The Board must schedule, not less than quarterly, and in addition to the time set forth in the By-laws an open meeting of Unit Owners affording them a reasonable opportunity to communicate on any matters affecting the association.

At its discretion, the Board may hold a meeting not open to unit owners providing the meeting is recorded and the recording is made available to the unit owners upon request. If there are any materials to be distributed at the meeting, the Board at the same time shall make copies of these materials reasonably available to unit owners with the exception of unapproved minutes from matters to be considered in executive session.

Executive session may only be held for purposes of discussing matters set forth in 356: B(37)(d). These purposes include the following:

- a. Consultation with the Association's Attorney;
- b. Discussions surrounding potential or existing litigation or mediation;
- c. Labor or personnel matters;
- d. Contacts if public knowledge may affect the negotiations.

Please note that no final vote for action can be taken in executive session. Meetings of the association shall be conducted in accordance with the most recent edition of "Roberts Rules of Order, Newly Revised."

The new legislation also has provisions regarding quorums, mail in ballots, and the director's appointment and the duty each class owes the association; removal of officers and directors; meeting by telephone, or other conferencing processes.

a. The secretary or other duly authorized officer of the condominium, who shall also be a member of the Board of Directors, shall prepare an affidavit which shall accompany a list of addresses of all unit owners currently on file with the association and attest that the notice of the association meeting was provided to all unit owners in a manner conforming with the statute.

b. With respect to quorums unless the condominium documents provide otherwise, a quorum shall be deemed to be present throughout the meeting of the unit owners until adjourned and persons entitled to cast more than 33 1/3 % of the votes are present at the beginning of such meeting. The document may provide a smaller percentage, but not less than 25%.

c. If a quorum is not met for an annual meeting, the Board shall reschedule the meeting within sixty (60) days and provide for proper notice and proxies.

d. A person may not count undirected proxies representing more than 10% of the votes of the association.

Future articles in this series will address issues concerning budgets and the budget approval process.