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MARCH
2020

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March 2020



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Community Leaders are forged in the furnace of knowledge and experience

By Mark L. Wade, CMCA, AMS, LSM, PCAM

Imagine attending your HOA Annual meeting. You walk in and everyone who sees you wants to shake your hand and thanks you for the excellent job you're doing. The mood is festive, and the band is getting set up for the afterparty where there will be finger foods, salads and drinks and of course dancing. The meeting is about to begin and you're not worried at all because there are no issues in your community. Only good things have happened all year long. As you stand up to conduct the meeting the audience erupts in applause. It is so loud it wakes you up and you realize it's your alarm clock.

Now, imagine that you're attending the HOA Annual meeting. You walk in and there is not a friendly face in the crowd. Some are upset with you because you didn't support the idea to do away with annual assessments and let everyone live and let live. Others are mad because you weren't able to get the hot tub motor replaced, after it broke, in 2 hours and they missed their daily gathering/gossip session. It seems like the whole community is upset over something. The neighbors dog urinated in their yard, the motorcycle comes by every morning and it's so loud, there is no place to park right outside their door and can you believe they even saw a weed in the common area this morning. You dread standing up to conduct the meeting but it must be done. As you stand up, a tomato is tossed at you. You jerk your head to the side to miss the tomato and hit it on the nightstand next to your bed. Immediately your awake and it's only 2 AM.

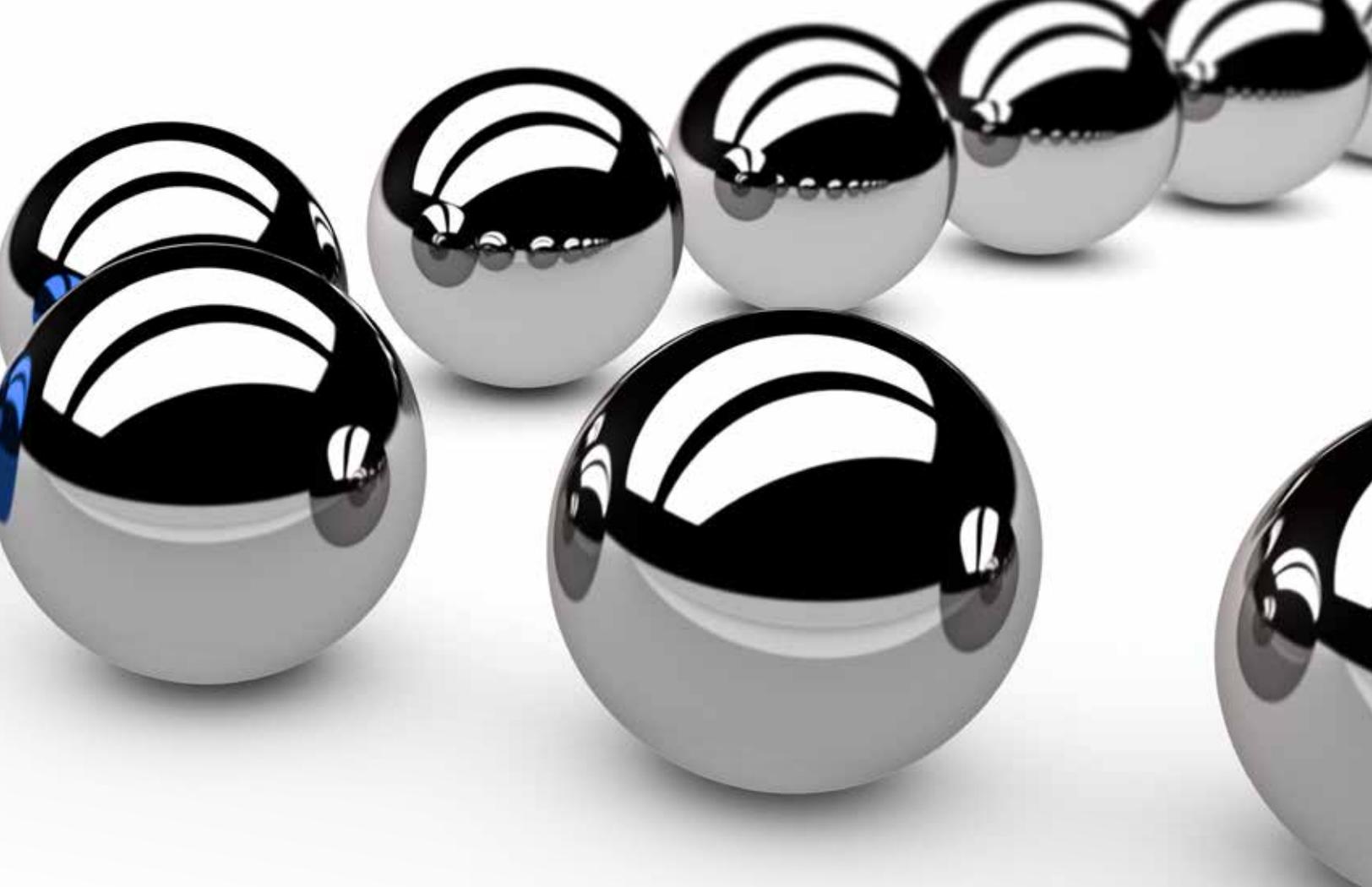
Somewhere between these two scenarios is where your Annual HOA meeting will be this year. You've been building toward this moment the entire year. The desired outcome will in large part be a direct result of how the HOA did in several areas this past year. Were you at or under budget? Were there any major disasters that could have been avoided? Are the rules being enforced fairly and regularly?

Are there regular meetings that allow residents to voice concerns about the issues of the day? Are the communications tools you use adequate to keep your residents informed? Were you able to conduct the Board and other meetings in a way that kept control over controversial issues and people without being disrespectful? Were your meetings organized? Will you walk into the meeting wearing a big smile? When you start a meeting, do you know it will end in a reasonable amount of time?

You may not be able to control all things about the Annual HOA meeting. You may only be able to control a few things but be sure you control the things you can in a dignified and professional manner that shows the confidence of a well seasoned and knowing leader. I once saw such a man step up to the microphone during a meeting that was about to go wild. You know the kind, people yelling, people shaking fists and tempers about to hit the flash point. This leader was well dressed and groomed showing the professional that he was. He took the microphone and as all eyes fastened upon him, he smiled. And then, in a soft voice that required all to be quiet in order to hear him, he subtly took control of the meeting and changed the mood. In a well planned speech, he addressed the concerns directly without a lot of unneeded words. By the end, residents were shaking his hand and thanking him. I'll never forget the lesson I learned from Darcy Stewart that night.

Let's all make it our goal to do all we can to show our residents that in this world of so much hate, distrust and anger, there are still community association leaders who can and will calm the troubled seas of discontent in their community and our industry. Let us be the beacon on the hill that shines above, below and through the clouds of darkness by exhibiting our honesty, loyalty, integrity and support of the communities that trust us to be their leaders.





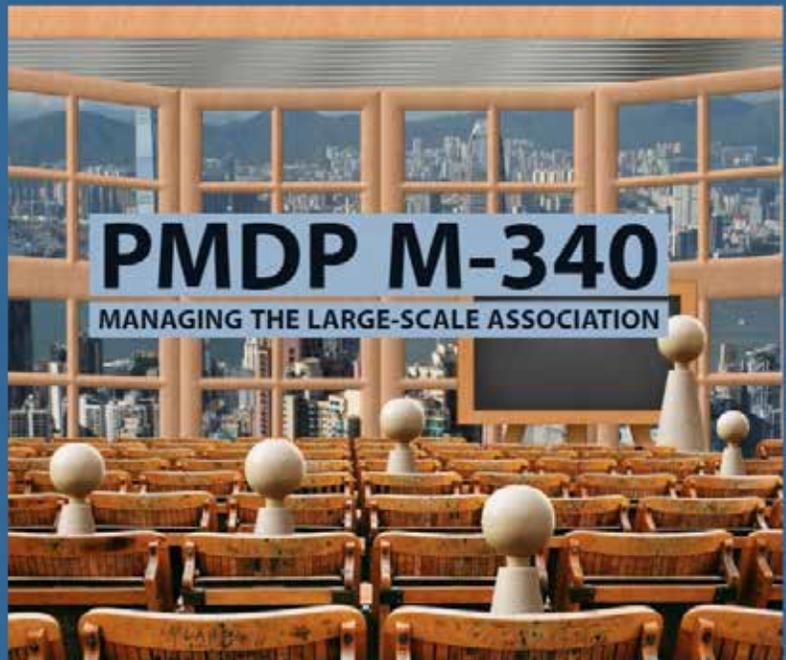
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HOW TO CONDUCT A LEGALLY APPROPRIATE ANNUAL MEETING



By Augustus H. Shaw IV, Esq., CCAL

The most important Members' meeting a homeowners' association (hereafter, "HOA") is required to conduct is the Annual Meeting of the Members. Not only do most HOA Governing Documents require HOAs to conduct Annual Meetings, Arizona law, at Arizona Revised Statutes (A.R.S.) §33-1248(B) (Condominiums) and A.R.S. §33-1804(B) (Planned Communities), requires HOAs to conduct an Annual Meeting at least once per year.

Annual Meetings are meetings of the Members held to conduct the "business" of the Membership and allow the Membership to address their HOA. In most HOAs, Annual Meetings are conducted for three main purposes; to conduct Member "Business;" to elect Members to the Association's Board of Directors; and to allow the Members to address the HOA.

Effective planning for an Annual Meeting begins sixty (60) days before the date of the Annual Meeting with the sending of the Annual Meeting Notice and Director Nomination Form (if a Board Election will occur).

Annual Meeting notice requirements are usually discussed in the HOA's Bylaws. A.R.S. §33-1248(B) (Condominiums) and A.R.S. §33-1804(B) (Planned Communities) states a HOA must provide no fewer than ten (10) days nor more than fifty (50) days' notice. The notice shall state the date, time and place of the Annual Meeting and the purpose for which the Annual Meeting is called.



The Director Nomination Form should be sent with the Annual Meeting Notice if a Board election will occur. The Director Nomination Form requests that Members nominate themselves or other Members to run for the Board of Directors. The Director Nomination Form also provides the Member with an opportunity to provide qualifications concerning their election to the Board. The Director Nomination Form should require that the Director Nomination Form be returned by no later than thirty (30) days from the date they are sent.

Once the return time for the Board Member Nomination Forms has expired, the Board Election ballot may be drafted. When drafting a ballot, the requirements of A.R.S. §33-1250(C) (Condominiums) and A.R.S. §33-1812(A) (Planned Communities) must be kept in mind.

Conducting an Annual Meeting can be a daunting task. If, however, the HOA is prepared, conducting an effective Annual Meeting can be relatively easy. Below are a few Do's and Don'ts concerning Annual Meetings.

Do Create An Annual Meeting Agenda.

Effective Annual Meetings start with the Annual Meeting Agenda. Annual Meeting agendas will vary depending on the HOA and business to be conducted at the Annual Meeting. Agendas should be provided before the Annual Meeting is called to order.

Do Take and Ratify Annual Meeting Minutes.

Arizona Revised Statutes §10-11601(A) requires HOAs make a record of and keep annual meeting minutes. As such, it is important that HOAs take Annual Meeting Minutes. This should be done by the Secretary of the Association, or any other designated officer for the Board.

It is equally important that HOAs ratify Annual Meeting Minutes. Annual Meeting Minutes may only be ratified by the Members of the HOA. As such, most Annual Meeting Minutes will be ratified at the next Annual Meeting of the Members.

Do not Restrict the Participation of Members at the Annual Meeting.

Pursuant to A.R.S. §33-1248(A) (Condominiums) and A.R.S. §33-1804(A), Members of a HOA have the right to address the HOA at the Annual Meeting. As such, it is important that time is reserved to allow the Members to address the HOA at the Annual Meeting.

Do Allow a Qualified Person to Conduct the Annual Meeting.

Whether it be the HOA President, HOA Manager or HOA Attorney, make sure that the Annual Meeting is conducted by someone who is qualified to conduct the Meeting. Annual Meetings are difficult to conduct and can get out of hand. Having someone who has conducted Annual Meetings in the past and who is well qualified to conduct the Annual Meeting will make the Annual Meeting run more smoothly.

Keep all Election Related Materials.

Pursuant to Arizona Revised Statutes §33-1250(C)(7) (Condominiums) and Arizona Revised Statutes §33-1812(A) (7) (Planned Communities), Ballots, envelopes and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.

Augustus H. Shaw IV, Esq., CCAL is the Founding Partner of Shaw & Lines, LLC. A lecturer for many municipal HOA Academies and continuing legal education seminars, Augustus is a member of the prestigious CAI College of Community Association Lawyers. Augustus is a graduate of the University of Arizona College of Law and has been practicing law for over 19 years.



Making a **Positive Impact** with Your Annual Meeting

By Michael LaPoint, CMCA, AMS

Most community associations see very little attendance at their monthly or otherwise regularly scheduled Board meetings. Communicating with their homeowners occurs through newsletters, community-wide email blasts, bulletin board postings, occasional postcards, and other similar tools. Many of these same community associations, though, have significantly improved attendance at their annual meetings, even with today's advances in electronic voting options. Unfortunately, community associations often fail to take advantage of their annual meetings and make a positive impact on the community.

While the primary function of most annual meetings is to elect volunteers to fill open Board positions, the most effective and impactful annual meetings are also used to educate and engage homeowners. We encourage all community associations to include the following key elements in their annual meeting preparations and agendas:

Guest Speakers

It is always a good idea to have the local police department in attendance to discuss safety, recent crime trends in the area, and items that should be reported to them in addition to or instead of the association. This helps homeowners understand that the Board and Management Company partner with such local agencies to resolve issues as efficiently and effectively as possible.

In addition, if there are any significant projects taking place in the community, having experts and/or contractors at the meeting to briefly update the community, provide estimated timelines, and answer questions relating to the project(s) can be extremely helpful to all parties involved.

State of the Community Report

The Management Company should assist the Board in creating a state of the community report and presentation, to include prior year accomplishments and the goals and objectives for the upcoming year. Photos are always helpful, especially before and after photos of any completed projects. This report/presentation is best presented by the Board President and/or multiple Board members. If the Management Company is presenting this information, they should be deliberate in their approach, giving clear credit for accomplishments and planning to the Board. This is the Board's time to shine!

Financial Report

The Management Company should also assist the Board in creating a financial report and presentation detailing the association's current financial position and projected financial status for the foreseeable future. This is a great opportunity to educate homeowners about the association's reserve study and current funding level, actions being taken to improve the funding level, if needed, or maintain it at a high level, etc. This report/presentation is best presented by the Board Treasurer. Again, if the Management Company presents this information, they should be measured in their approach, giving credit to the Board for any financial successes and not placing blame for any financial failures/struggles. Instead, financial failures/struggles should be addressed from the position of the corrective action the Board is taking.

Committee Reports

If community associations have active committees, they should also be afforded time to briefly discuss their accomplishments from the prior year and plans for the upcoming year. The annual meeting can be a wonderful opportunity to find volunteers to participate on committees as well.

Conducting annual meetings in this manner improves homeowner confidence in the Board and overall satisfaction with the community. We believe that it also increases annual meeting attendance, if properly publicized and continued each year.

Community associations shouldn't be afraid to bring a little bit of fun to their annual meetings either. Part of your social event budget can include providing beverages (water, tea, and soda) and snacks at the annual meeting, along with a few raffle prizes (gift cards or small gift baskets). Not only does this help create a fun and lighthearted atmosphere for the meeting, but it also helps to increase annual meeting attendance.

Remember, the annual meeting is a meeting of and for the membership. Creating a welcoming atmosphere, keeping the meeting upbeat and positive, and using the opportunity to educate and fully engage homeowners will have a positive impact on the community and make for a successful annual meeting!



Michael LaPoint is the owner and CEO of Desert Vista Community Management, a Management Company member of CAI. Michael has been in the industry for over 15 years and has held the CMCA and AMS designations for over 10 years.

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March Madness for Homeowners' Associations:

The Annual Meeting

By Maura A. Abernethy, Esq.

It's that time of year again, March Madness. No, I'm not referring to college basketball or spring break. I'm referring to annual meetings. Every planned community and condominium association in Arizona must hold an annual meeting of the members every year. Many of those annual meetings occur in March.

Generally, annual meetings are the time and place for members to elect directors, approve the upcoming fiscal year's budget, and conduct other business that requires a vote of the members. In rare cases, annual meetings are overshadowed by competing interests not aligned with the stated agenda. This can happen if some members believe that they can override their association's procedures or policies during the annual meeting by obtaining a vote of the members present, for example, to put forward measures that are "pet projects" of a small segment of the population. Any action taken by members that was not stated on the agenda would not be valid.

Typically, the requirements for annual meetings are found in the association's bylaws. But some of the requirements of the annual meetings are governed by statute. For example, notice for annual meetings must be sent no less than ten days prior to the meeting and no more than fifty (50) days prior to the meeting. See A.R.S. § 33-1248(B) & A.R.S. § 33-1804(B). The applicable statutes require that notice of the annual meeting must be sent to the owner(s) of record either by hand-delivery or by regular United States mail to the mailing address (or other address on file that the owner designated in writing as the preferred mailing address) for

each lot or unit. The notice of any annual, regular or special meeting of the members shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, changes in assessments that require approval of the members and any proposal to remove a director or an officer.

It is important to remember that association business at annual meetings may only take place if quorum is present. Quorum is the minimum number of members that must be present (in person or by absentee ballot) to conduct business. Quorum requirements are also typically found in the association's bylaws.

Overall, annual meetings are the perfect time to meet or reconnect with neighbors. Many view the annual meeting as a good time to share their appreciation for the work their board of directors and/or manager accomplished in the previous year. Unfortunately, some members view the annual meeting as the perfect venue to promote a "pet project" or air their grievances against the sitting board of directors and/or the management company. Voicing criticism is acceptable and even expected, but having the members maintain a level of civility is critical in order to accomplish stated agenda items. Fortunately, for most homeowners' associations, their annual meetings are pleasant, informative, and fun. Balancing business with community connection is the winning ticket to avoiding March madness.

Maura A. Abernethy joined Goodman Holmgren Law Group in 2016 and currently focuses on general counsel and collections as an Of Counsel attorney.

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Stop the Madness

Planning for Successful Annual Meetings

By John Cligny, AMS, PCAM



Unfortunately, for too many community association board members, community managers, and community staff members annual membership meetings create stress and anxiety while bringing to life the adage “no good deed goes unpunished”. It doesn’t have to be that way! By reframing our expectations and attitudes about annual meetings we can lessen the stress and anxiety, positively engage community members and celebrate our community’s achievements and values.

Reframing our expectations and attitudes for the annual meeting starts with planning for an effective and successful meeting. Annual meeting planning should be on the board’s governance calendar well in advance of the meeting date. We all know annual meetings are required, let’s use the requirement to our advantage and leverage as a tool to meet the community’s goals.

Planning for purpose

The word purpose has two meanings. When used as a noun purpose conveys “the reason for which something is done or created or for which something exists.” When used as a verb purpose means “one’s intention or objective.” Both are instructive and critical when planning the annual meeting. Board leadership and community management must budget adequate time to discuss the purpose of the annual meeting. Annual meetings present a unique opportunity for community board members and management to both encourage community involvement and engage members in an informative and meaningful way.

Planning for plot

Status quo and unimaginative annual meetings are boring and often a waste of time amid busy schedules. As you engage the board in planning the annual meeting, consider a theme. Once you have clarity about the purpose of the meeting, you can develop the theme or plotline that keeps the meeting on schedule, informative and engaging. Engaging and informative themes (plots) can include health and safety awareness, community surveys and preferences, local initiatives and issues, fiscal planning and community goals.

Planning for participation

Purposeful, informative and engaging annual meetings should be well publicized and well attended. The Arizona State statute states that notice of the annual meeting must be provided all members no less than 10 days and no more than 50 days before the annual meeting. Plan when and how often you will publicize the annual meeting. Include an agenda and list any special topics or guest speakers. If you plan on featuring guest speakers such as local fire or police personnel, the landscape maintenance contractor or the association's attorney or CPA be sure to book them well ahead of time and be clear with them about the purpose of the meeting, the theme, and the topic you want them to speak to. If you plan on having a Q&A period be sure it is timed and moderated.

Planning for progress

Annual meetings provide a forum to celebrate the accomplishments of the association, recognize and thank outgoing board members, and key committee and community members, management and staff. And In many cases, new board members are seated. The annual meeting is also a great time to introduce community members to how the community is governed and remind them of the roles and responsibilities of the board and management. Use the annual meeting to inform members of new strategic plans and initiatives for the future and engage members in the vision of the board to strengthen the community and enhance members' community experiences.

With planning and attention to detail, the annual meeting of the membership can become an essential tool for effective community governance. Board members and participants will feel more at ease and comfortable when the annual meeting is well planned and publicized. Best of all, community members will feel wanted, valued and heard.

Stop the madness! Take control of the annual meeting by planning for a successful meeting.

John Cligny AMS PCAM is a veteran portfolio manager and community association management executive. As Co-founder of Association Consulting Group, John is a trusted advisor primarily focused on educating community association board members on effective governance to promote a positive public opinion of homeowner associations and community management.



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Don't Let Your Next Annual Meeting Fall into MADNESS

By Ruth Ingoldsby, CMCA, EBP

In today's fast-paced world poor planning is not just the downfall to a great annual meeting but could also spell social (media) disaster for you and your community. What better time than spring to organize your annual meeting process and make you the favorite in the eyes of your community? This way you are ready to implement your new procedures and avoid a meeting that falls into madness.

HOA Board Election Process

One of the many mandates in each HOAs governing documents is the requirement to have a yearly annual meeting of the owners. It is usually at this meeting that HOA members elect the board of directors for the upcoming year. This duly elected board becomes the governing body for the entire HOA so having a fair and impartial election where all owners votes count is of utmost importance. Considering the number of HOAs across the US is growing (there are over 9,500 owner associations in Arizona), it's important that the HOA board election process be clear and concise.

Tips for a Successful HOA Board Election

Check the Arizona state statutes for specific requirements for HOA or Condominium board elections (<https://www.azleg.gov/arstitle>). Some items to look for include when the meeting notice needs to be sent (how many days before the meeting), if the notices must be mailed or if they can be emailed, if the vote has a secret requirement, the minimum quorum requirements to hold a meeting, that a proxy cannot be used after developer turnover, etc.

Check your association's governing documents. Check both your CC&Rs and Bylaws. Look for meeting date and timing requirements, the terms of the positions, ballot secrecy, quorum requirements, if votes can be changed after submitted, is there an owner date of record of those that are eligible to vote, and if past due owners can vote, etc.

Make a list of all the election details. Once you know your requirements, make a list of all the details and keep it in an annual meeting folder so you can refer to it each year. You may even want to keep the pages of your governing docs with the specific sections highlighted that show the requirements in this folder. Your list should include the number of homes, quorum requirement, how



many ballots are required for quorum, how many directors are elected each year and the length of the terms, etc. Be sure to include the location of the meeting and your contact person.

Create a timeline of when each item needs to be completed. Advance planning of the timing will keep you on track to have a successful annual meeting and board election. Be sure to list all the dates: when to send the call for candidates, when the candidate intents must be received by, when the notice must go out, when the ballots must go out, when the ballots must be returned by, etc.

The goal in creating the HOA Annual Meeting Folder and Timeline is to ensure all requirements are met and the process is followed correctly each year. Failing to follow the process could result in an election being deemed invalid and needing to be redone, costing the association both time and money.

How to Add Electronic Voting to the Mix

Since electronic voting is permitted by Arizona state statute, it is very easy to incorporate this into your election process and offer owners another option for having their vote count. The process follows the same as Absentee Paper Ballots. Start by having the board adopt a resolution to add electronic voting as a method to accept ballots. Next, work with a company that offers the type of voting service you need. It is recommended that HOAs work with an electronic (or online) voting company that is specific to the HOA industry as they understand the complexities of how HOAs operate. Also, it is important to look for is a company that offers full-service management, not just a portal. A full-service voting company has the expertise to focus on your HOA election to make sure you reach quorum, while relieving some of the workload from the manager or election committee and providing third-party separation.

Ruth Ingoldsby, CMCA, EBP

Ruth is a Business Development and Operations Director with Vote HOA Now. Along with overseeing online votes throughout the US and Ontario, she presents both in-person and online to management companies, committees, and boards. Ruth has a communications degree from the University of Illinois, holds the CMCA designation, and is a CAI Educated Business Partner.



Myth: Our community has over 4,000 homes and has to go through the long, grueling process of signing everyone in, requiring all that attend the meeting to stand in a long line and sign in prior to taking a seat to participate.

Fact: There are no statutory requirements to require every person who attends the annual meeting to sign in. Nor are there typically any requirements in the governing documents that require a sign-in process for all attendees. Rather, pursuant to the Condominium Act and the Planned Community Act, “Votes cast by absentee ballot or other form of delivery, including the use of e-mail and fax delivery, are valid for the purpose of establishing a quorum.” Therefore, for larger communities (or any sized community, for that matter) where this creates frustration, is time consuming with long lines, and there is otherwise no need to have a record of everyone present, skip it! Rather, to make it easier, quicker, and a more comfortable process for the owners, have two lines, one that indicates, “if you’ve sent in your ballot already, come to this line, take the hand-outs and have a seat,” and the other one that states, “if you haven’t yet sent in your ballot, come to this line, sign-in, and it will be confirmed if you’re eligible to receive an in-person ballot.”

Confirming if one is eligible to receive an in person ballot includes double-checking that an absentee ballot wasn’t already received and if the owner’s voting rights are suspended based on the provisions of the association’s governing documents. You’ll be amazed at how well this works and how smoothly your next annual meeting will run. Move away from the mindset that “we’ve always had all homeowners sign-in, so that’s what you must do.”

There are times when a community wants to preserve those in attendance for a particular reason, and, therefore, has the option of requiring sign-in, if they so choose. The important take away here is, if owners have already submitted an absentee ballot, they do not need to sign in at the meeting.

Myth: The outcome of the election results must be announced at the annual meeting prior to adjournment.

Fact: While we all would love to announce the results of the election prior to adjourning, there are times when circumstances put the association in a situation where it needs to make the decision to send the results to the membership after the fact. Some examples are a close vote when there needs to be additional time for a recount. Another example might be an unexpected contentious matter that calls into question a certain component of the election process. In this situation, it is best to consult with legal counsel the next day and then proceed accordingly. We hope these tips provide some stress relief for you that one often feels during the “Annual Meeting Madness”!

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