

Over the past year, we have said many times, that community association living has become very tense. It is unfortunately a time when community associations which never experienced any issues are now dealing with many personality challenges. People are less respectful to one another and quick to “fight” with one another. Perhaps it is a sign of our times, but it makes it very challenging for many industries — not just community association managers, members of the board, vendors, and homeowners. Therefore, as we

approach Thanksgiving, let us take a moment to thank those in our communities who are trying to help make it better.



- Thank you to the community association manager who helps us with all of our day to day needs.
- Thank you to the members of the Board of Directors who volunteer their time.
- Thank you to the members of the community associations who attend meetings of the Board of Directors and participate.
- Thank you to the customer service departments of the management companies who answer the calls and questions of the members.
- Thank you to the members of the Board of Directors who come to meetings prepared and ready to make decisions.
- Thank you to the members of the community associations who follow the rules and/or correct their conduct when they learn they have violated.
- Thank you to those within the industry who continue to teach us all and provide great resources to us, including, but not limited to Community Association Institute (“CAI”) and MCD Media/Mike Davids.
- Thank you to the members of the Board of Directors who work together and try to do their best for the Association.
- Thank you to the community association managers who take the “heat” off of the members of the Board and deal with the day-to-day challenges with vendors and Owners.

There are many more people to thank and acts to acknowledge. Please take a moment and thank those within your association team for the support and guidance you have received over the past year. We at Keough & Moody, thank you all for your continued support and trust in our firm. Happy Thanksgiving!

Chuck, Dawn & Gabby

MEETING MINUTES: A SUMMARY NOT A PULITZER PRIZE WINNING NOVEL

Whether your Association is bound by the Illinois Condominium Property Act, Common Interest Community Association Act and/or the Illinois Not for Profit Corporation Act, meeting

minutes are required to be kept for every Board of Directors' meeting or Membership meeting. By definition "minutes" are a summarized record of proceedings at a meeting. They are meant to tell a story about what happened at the meeting. They convey what motions and actions a Board of Directors or Members approved. They reveal to us who was elected to the Board of Directors. They explain what projects are being investigated by the Board of Directors and what financial considerations are before the Board of Directors. They report to us when the Board has met in executive session. They state who attended the meeting and when it started and ended.

The keeping of minutes sounds so easy, doesn't it? Yet, we often see mistakes in the keeping of minutes. Too often, minutes are examples of what they should not be, instead of being the brief summary of the proceedings. Here are some common mistakes with minutes:

EXAMPLE NUMBER 1:

The Board of Directors calls a meeting to discuss the roofing project that is being investigated. The meeting minutes state that the Board of Directors has obtained two bids. The meeting minutes actually identify who gave the bids and the dollar amount of both bids. The minutes also state that "the bids are not yet where we want them to be in price." A Member of the Board moves to seek more bids and table the issue and all Members voted in favor.

What's the problem? The minutes now show the amounts of the bid. It will make it very easy for Owner Johnnie Smith to call his Cousin Bobby who owns a roofing company to tell him to contact the Board President and offer to give a bid. It should not be shocking then to anyone when Cousin Bobby comes in lower than the other bidders. Minutes should show the Owners the due diligence conducted by the Board of Directors. However, specific information should not be given until the Board is ready to vote. This ensures a fair bidding process. Here, in advance of disclosing this information, the Members of the Board should have known that they wanted more bids to consider. Remember, if a Board cannot discuss certain information or topics in an open meeting, the information should not be in the meeting minutes.

EXAMPLE NUMBER 2:

At the end of every meeting of the Board, the Board of Directors allows time for the Members to present questions or comments. The meeting minutes show the name of the Member, what they said or asked, whether they were happy or upset, and how the Board of Directors responded to the Owner. In fact, at one meeting, Member Caroline said she tripped over the uneven sidewalk that is at the entranceway of the Clubhouse. To ensure that all of this information is included in the meeting minutes, the Board secretary creates an audio tape for each meeting. Then, after she transcribes the minutes, before they are even approved by the Board, she deletes the recording.

What's the problem? The minutes should only note that a Member forum occurred. The specifics of what was said and by whom should not be included in the meeting minutes. In fact, including such detail can be detrimental to an association. Unfortunately, when Member

Martha fell two (2) years later at the Clubhouse entranceway, her attorney was able to rely on meeting minutes of the Board of Directors to show the Board was on notice of the uneven sidewalk and decided to do nothing. The meeting minutes were used against the Association in a court of law. Meeting minutes should not be a verbatim summary of what happened at the Board meeting. While it may seem that recording the meetings is a good way to ensure that the accuracy of the minutes, the actual recording is a “recording” of the minutes and a more accurate summation of what occurred. Hence, if the meeting is being recorded, the Board must then have a mechanism or policy for preserving these recordings. As this can be too cumbersome and it only encourages a verbatim summary of what happened at the meeting, recordings should not be kept. Meeting minutes should be simple and to the point.

EXAMPLE NUMBER 3:

The 100-unit condominium association only gets seven to eight (7-8) Members to attend the meetings of the Board of Directors. Five (5) of those people are Members of the Board. Therefore, to ensure transparency and to educate the Members of the Association about their investment, the Board of Directors has decided to create very detailed meeting minutes. The meeting minutes, on average, are three (3) pages and after they are typed up, the secretary sends the “DRAFT” of the minutes to the Board of Directors and posts the draft minutes to the Association’s website. The hope is that the Members will see what was discussed and will consider attending the next meeting of the Board.

What’s the problem? Nothing can or should replace the importance of attending meetings of the Board of Directors. The Board of Directors is correct that Members should want to know what is going on within the community they live and likely where they have one of their greatest investments. However, meeting minutes cannot be a substitute for the need to attend these meetings. Further, until the meeting minutes are approved by the Members of the Board of Directors, they are not considered to be an official record of the Association and should not be provided to the Members of the Association. Only the Board of Directors should receive the draft meeting minutes and they should not be made available to the Members or posted to the website until the Board of Directors officially approves the meeting minutes.

EXAMPLE NUMBER 4:

The Board of Directors for the ABC Condominium Association conducted an executive session in advance of the scheduled Board of Directors’ meeting. At the executive session, the Board of Directors conducted a violation hearing about an Owner’s repeated violation of the Association’s Rules and Regulations regarding her dog running around on the common elements unleashed. The Board of Directors kept meeting minutes of this executive session. The minutes show who was in attendance and what transpired. The minutes identify the alleged violator and all she had to say as to why she should not be held in violation. The minutes summarized not only what she said, but also the pictures that the Owner brought with about other Owners who are allowing their dogs to run around unleashed. The Unit Owner and names of these other alleged violators are included in the minutes. The minutes show when the Owner

left the hearing and then briefly summarized what the Board discussed privately, including who said she did not believe a word the Owner had to say, before calling the open Board meeting to order. After the Board meeting was called to order, the Board President stated that the Board just had an executive session to address an alleged violation of the Rules and to provide an Owner with a hearing. The Board President then made the following motion: “After considering all that was said at the hearing of the Owner on November 4, 2021, I hereby move to impose a fine of \$150 against the Owner who is the subject of Complaint Number 5346. All in favor?” Motion passed.

What’s the problem? The Board of Directors could not have handled addressing the violation matter in the open Board meeting. The problem is that all effort to protect the Owner’s identity is out the window since the minutes from the executive session has all of the details as to what transpired in the executive session. The meeting minutes from the executive session may be requested by any Unit Owner. The Owners will now know all that has transpired and who was involved, which is a direct violation of Illinois law. Meeting minutes for an executive session should be brief and include only general details as to what was discussed (i.e. violation matter, delinquencies, etc.). They should not include specific details.

What should be in the meeting minutes? The following is a sample of good meeting minutes that may be used as a template for any meeting of the Board of Directors or the Members.

XYZ CONDOMINIUM ASSOCIATION

NOVEMBER 4, 2021; Meeting of the Board of Directors

- I. Call to Order by Board President Johnson at 7:02 p.m.
- II. Board Members Present: Jane Smith, John Doe, Cathy Callonme, Betty Boredom, and Matt Mullovereverything. Property Manager Helen Heretohelp was also in attendance.
- III. Betty Boredom asked if anyone had any questions or requested changes to the meeting minutes from the October 1, 2021 Board meeting, which she previously sent to all. When no one did, she made a motion to approve the meeting minutes from the October 1, 2021, meeting of the Board of Directors and all voted in favor.
- IV. Board President Jane Smith gave her report, which gave an update on the roof project that is underway. She also explained that the Board just had an executive session to address an alleged violation of the Rules and to provide an Owner with a hearing. The Board President then made the following motion: “After considering all that was said at the hearing of the Owner on November 4, 2021, I hereby move to impose a fine of \$150 against the Owner who is the subject of Complaint Number 5346. All in favor?” Motion passed.
- V. Cathy Callonme has her Treasurer’s Report at which time she stated the current income of the Association is \$52,463.00. The total expenses to date are \$47,465.23. Total in Reserves as of October 31, 2021 is \$846,389.21.
- VI. Helen Heretohelp then stated she presented the Management Report to the Board one (1) week ago and asked if there were any questions. A few questions were asked about collections in general.

VII. The Board hoped it would be ready to vote on a vendor for the Association's landscaping needs for the spring of 2022. However, the Board needs more information. The issue was tabled with management directed to get a few more bids and clarification from those who did submit a bid.

VIII. Owner Q&A.

IX. Board President made a motion to adjourn the meeting and all voted in favor.

Meeting adjourned at 7:42 p.m.

It is never too late to correct how you prepare meeting minutes! If you have any questions about what should or should not be in the meeting minutes, be sure to ask before they are published. Remember: just because you always wrote a novel, does not mean you should continue to write them.

If you have any questions about any of the information within this newsletter, please do not hesitate to contact us.

Dawn Moody (dlm@kmlegal.com) & Gabby Comstock (grc@kmlegal.com)

Keough & Moody Webinars

Gabby and Dawn have concluded their webinars for 2021. We have so greatly enjoyed presenting to everyone this past year. We will continue with our presentations in 2022. Please feel free to email us ideas for our future presentations (dlm@kmlegal.com or grc@kmlegal.com).

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