

## “A Look Back at Online Voting’s First Year in Florida,” Florida Community Association Journal

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“How much longer do you think it will be?” an owner hissed in my ear as she tapped on her oversized watch to indicate her growing impatience as we reached the three-hour mark in a 400+ unit condominium election. I told her it shouldn’t be much longer while secretly hoping my optimism was accurate.

The volunteer Counting Committee had steadily opened the outer envelopes, carefully separating the inner envelopes and questioning any items, which required a judgment call, like a missing or questionable signature, a marking on an inner envelope, or missing voting certificates. Their willingness to assist was greatly appreciated as this process took time. Once the counting of the ballots commenced, there were additional hurdles, including ballots where more candidates were selected than seats available. Every ballot marked void felt like an avoidable failure. If only owners could be better coached in the mechanics of casting a secret condominium election ballot in the state of Florida.

When we were finished—almost four hours after we had started—and the winners announced, I mentioned to the new board that online voting should be considered as an option for the following year as it would have reduced the time to verify the results by half or more. An online voting system would have also prevented more owners from being disenfranchised as an online system could prevent unfortunate mistakes like voting for too many candidates or a lack of a signature on an outer envelope. The time spent trying to verify signatures alone before the counting even commenced underscored the inefficiency of the current system. The Florida Legislature approved the use of online voting for condominium, cooperative, and HOA owners a year ago last July. Despite the fact that online voting can mean the difference between inclusion and exclusion for many absentee owners, just how many associations have offered online voting as an option to their members for a variety of votes,

including the election of directors, amendment of documents, waiver of reserves, and approval of material alterations and capital improvement projects? The answer is—not enough.

Even for owners who are full-time residents, the prospect of attending a membership meeting or returning voting materials by mail is often not appealing. Directors and managers have lamented for years how apathy in their communities often prevents them from undertaking necessary improvement projects, and they have struggled to find effective ways to engage their members. With the advent of online voting, the convenience factor has never been more relevant. These days most of us spend a good portion of our lives getting things done online. We book hotel, plane, and restaurant reservations online; we pay our bills; we review our medical records; and, surveys reveal, we are making most of our purchases online as opposed to driving to the mall. We do all of the foregoing things online because it is simply more convenient.

The same is true for online voting. For many people, the convenience of casting a vote online is indisputable. What is still being discussed, however, is whether or not an online ballot is as secure as a paper one. A Miami-Dade Grand Jury issued a report several months ago which confirmed the suspicion that there is ample room for fraud to take hold in the midst of a membership vote. That fraud can come in the form of forged signatures, undue influence, and coercion on vulnerable members to cast their votes for a certain candidate or in a certain manner, as well as ballots going missing prior to the count. While online voting should not be seen as a panacea, it can increase a voter's odds of having his or her vote properly counted. One need only compare the skill set needed to forge a signature or discard a paper envelope with the skill set needed to hack into a website to intercept an online ballot in transit to decide which system is easier to manipulate. In addition, any manipulations online leave a digital footprint tied to a specific computer IP address whereas tracking down the culprit who forged or destroyed a paper ballot or one who opened an envelope and resealed it can be much trickier if not impossible.

Given the current time-consuming, inconvenient, and often flawed voting system in many communities, it is surprising that more communities have not yet jumped at the chance to take advantage of technology to solve some of their problems. Here are a few of the reasons we've heard for communities' reluctance:

1. Our owners don't know how to use computers.
2. It will be expensive.
3. Our attorney or manager told us he or she doesn't recommend it.

Last June, our law firm released our proprietary online voting software called BPBALLOT. Since then, we have had more than 60 associations statewide use our software to vote for elections, reserve funding, amendments, material alterations and, in one instance, a vote to cancel a contract entered into by the community's developer. Surprisingly, many of these associations had a

significant percentage of older owners, many of whom chose to vote online. With clear online voting instructions and fairly universal access to computers these days, the fear that older owners won't embrace an online voting option appears to be unfounded in many instances.

Online voting does not mean that the Board can send out notices and voting materials electronically in lieu of paper packages unless the members have consented to receiving notice that way. However, if you have received consents from the majority of your members for electronic transmission of meeting notices, then the combination of electronic transmission with online voting can result in a significant cost and labor savings to your association.

As for the price of online voting software, as with most services or products you wish to purchase or use, it pays to shop around. With growing competition in the marketplace, pricing should not be cost prohibitive for most communities.

Moreover, you may wish to utilize online voting for some types of votes but not others. For instance, if you have previously attempted to amend your governing documents without success, investing in an online vote may be worthwhile given your potential return on investment.

Lastly, as for the professional advisors who might be timid about online voting because they lack familiarity with the process, at one time or another many innovations in our industry were met with skepticism that later turned out to be unfounded. It's far too easy to continue with a flawed status quo out of fear, confusion, or even sheer laziness. To those association pioneers who have tried online voting in the year since it became legal in the Sunshine State and found it solved a problem, filled a gap, or created a bridge, I say "well done."

As I packed up my bag to leave yet another association meeting in a month filled with them, the woman who had confronted me earlier leaned in to grab my arm before she departed. "You know," she pronounced as she cast a sidelong glance at the pile of discarded inner envelopes that were strewn sloppily over the now vacant table. "There has to be a better way."

"Indeed," I said. "Indeed."