

“Board Workshop Meeting Subject to Sunshine Rules,” News-Press

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By: Joseph E. Adams



Q: What are the requirements for a condominium association board to hold a “workshop” meeting? Is the association still required to post notice if there is a quorum of the directors present? What if there is not a quorum present? Are minutes required? (M.M., via e-mail)

A: A “board meeting” is defined as any gathering of a quorum of the board to “conduct” association business. A gathering can occur physically, remotely (video or telephone conference), or a combination thereof.

“Conducting” business is not limited to meetings where votes are taken. In general, any gathering of a quorum of the board where association business is discussed or otherwise furthered is a “meeting.” There are two exemptions to this rule. First, meetings with legal counsel to obtain legal advice regarding pending or proposed litigation may be closed. Likewise, meetings to discuss “personnel” matters may be closed. Notice of closed meetings should still be posted.

The law requires the association to prepare minutes for all board meetings and general membership meetings. In general, notice of board meetings must be posted in a conspicuous place on the condominium property, with an agenda for the meeting, at least 48 hours in advance, except in the event of an emergency. The board may only address items on the posted agenda unless a majority of the board, plus one, declare an item to be an emergency, and it is ratified at the next meeting of the board with proper notice.

Unit owners are entitled to attend board meetings and speak to designated agenda items. The board can adopt rules that regulate the process by which unit owner comments are handled. The duty to post notice, take minutes, and allow unit owners to attend and speak are often generically referred to as the “sunshine rules” applicable to condominium associations.

The same sunshine rules apply to any committee of a condominium association that makes recommendations to the board regarding the annual budget, and committees that are authorized to take final action on behalf of the board. The meetings of these so-called “statutory committees” are subject to all requirements of boards, with the same limited exemptions. All other condominium committees (often referred to as “non-statutory committees”) are also subject to the same sunshine rules, unless the bylaws exempt them from same.

Where a quorum of directors has not gathered, a “board meeting” has not occurred and the sunshine rules do not need to be followed. There would be an exception to this statement if this group of directors constitutes a quorum and was part of a committee, in which case the rules laid out above would apply.

The law is generally the same for cooperatives. It is also similar for homeowners’ associations with a few slight differences. First, there is no requirement for posting an agenda, though it is recommended, and owners are still entitled to speak to “designated items,” which presumably means any item the board plans to take up. Secondly, the statutory committees in the homeowners’ association context are the architectural review committee and any committee that is authorized to expend funds on behalf of the association. Finally, homeowners’ association non-statutory committees are exempt from the sunshine rules, without need for excusal in the bylaws.

Q: Can condominium board incumbents use owner e-mail addresses obtained from ownership transfer forms to campaign? If so, are they required to share these e-mail addresses with other candidates? (S.D., via e-mail)

A: No. Section 718.111(12) of the Florida Condominium Act provides that information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit is not accessible to unit owners. Section 718.111(12) of the statute also provides that e-mail addresses are confidential unless the owner has provided written consent to receive official notices by e-mail or has otherwise consented to release of their e-mail address.

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