

“Single Director Can’t Set Agenda,” News-Press

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By: Joseph E. Adams



Q: Can any board member place items on the meeting agenda? (C.B., via e-mail)

A: This is one of those “chicken and egg” issues that has no clear answer. The statutes do not address it. Very few bylaws I have read address the issue. The bylaws I draft

for clients typically allow a set number of directors (not less than one but usually less than a majority) to require that an issue be placed on an agenda for a board meeting by making a written request to the president at least so many days before the meeting.

The president is usually empowered to chair all board meetings and, through the corporate secretary, typically has the authority to approve the final agenda for the meeting. It is important to keep in mind that under the Florida Condominium Act an agenda for the meeting must be posted at least 48 hours in advance and action taken at the meeting is generally limited to posted agenda items, except under emergency circumstances and with special procedures being followed. While the law does not technically require the posting of an agenda in the homeowners’ association context, it is generally considered best practice to do so.

Robert’s Rules of Order, while not legally binding in most association settings, suggest that when preparing an agenda, the board should review the prior meeting minutes to identify unresolved or ongoing items, and check with other board members to see if they have any items to be added to the agenda. This seems like a reasonable way to go about it.

In the event a board refuses to take up an item that is important in the eyes of the homeowners, the statutes say that if 20% of the total membership petition the board to address an item of business, not later than 60 days after the receipt of the petition, the board must take the petitioned item up at a board meeting. There is no requirement that board take any particular action, but the

board must at least discuss what it is that the petitioning members feel is important.

Q: A homeowner sent our HOA board a letter demanding mediation regarding a dispute he has. The association thinks the request is without merit and does not want to incur the expense of mediation. Can we just ignore it? (C.B., via e-mail)

A: Section 720.311 of the Florida Homeowners' Association Act requires an opportunity for presuit mediation regarding certain disputes before a lawsuit can be filed. The mediation demand must outline the nature of the dispute and also list at least five mediators that the parties find acceptable. The party receiving the demand must select one of those mediators and confirm its willingness to participate in the mediation within twenty days of the demand. If either party fails to participate in mediation process, the statute states that party is not eligible to recover attorneys' fees and costs in any subsequent litigation in the event they are the prevailing party.

Certain types of disputes between the association and an owner are not subject to the mediation laws. These include election and recall disputes which must be submitted to arbitration with the Division of Florida Condominiums, Timeshares and Mobile Homes, and disputes involving the collection of any assessment or other financial obligation.

CAI ANNOUNCES TRADE & EXPO

On Friday, April 9, 2021, the Community Associations Institute - South Gulf Coast Chapter will be conducting its Annual Trade Expo at the Lee Civic Center. The Expo is open to the public from 9:00 A.M. to 1:00 P.M.

Over 100 exhibitors providing products, services, and information to community association managers, boards, and residents will have booths.

Continuing education courses for community association managers and board members, "Legal Update" and "Board Certification," will be presented from 8:00-10:00 A.M. and 10:30 A.M.-12:30 P.M., respectively. Registration for these programs can be made online at www.southgulfcoastchaptercai.com.

Cash and raffle prizes will be awarded throughout the day. All events are open to the public, free of charge.

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