Fundamentals of HOA Budgets and Annual Meetings

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Disclaimer

- This seminar is being given for informational purposes only and does not constitute legal advice. The facts and circumstances surrounding each community are unique, and an attorney should be consulted with specific questions regarding a proposed action. Anyone using the information provided in this seminar material without seeking proper legal advice from an attorney does so at their own risk.

Annual Meetings

- Indiana Nonprofit Corp. Act (Ind. Code 23-17-1 et seq.) requires annual membership meetings. Also typically required by the HOA Bylaws.
- Timing typically set forth in By-Laws.
- Failure to hold can put the association at risk of being out of compliance with its By-Laws or state law.

Meeting Purpose

- Report to members on actions taken during the fiscal year and present forecast for coming year.
- Review financials/budget.
- Elect board/committee members.
- Deliver reports, discuss ongoing/anticipated projects.

Building Trust

- Meeting can be used to help build relationships, ensure transparency, and create trust.
- It’s often the only time many owners directly engage with the board and management.
- Involvement helps increase volunteerism—new committee members, future board candidates, and community leaders often emerge from annual meetings.
- Allowing owners to weigh in on key issues.

Other Meeting Topics

- Discussion of long-term issues (reserve studies, assessment adjustments, insurance, etc.).
- Covenant/By-Laws Amendments (discussion of ideas/drafts or even voting on proposed amendments.
- Special Assessments.
- Start these discussions early!

Pre-Meeting Considerations

- Date/Timing.
- Quorum Requirements.
- Nomination Process for Director Positions.
- Preparing Budget.
- Set Agenda
- Proxies.

Consider amending By-Laws to make conducting business easier.

Proxies

- Governed by Indiana Law.
- One member assigns voting power to another member.
- Can be general or limited.
- Proxies can be the key to obtaining quorum.

Proxies – Legal Requirements

- Name/address of member giving the proxy.
- Name of individual who can exercise member's proxy.
- The date on which the proxy is given.
- The date of the meeting for which the proxy is given.
- The member's signature.
- An affirmation under the penalties for perjury that the individual signing the proxy has such authority.
- Valid for 180 days from date on which it is signed.
- Member can create own proxy form.
- Kept with records of the meeting.

Meeting Tips

- Prepare agenda and STICK to it. Don’t create unnecessary agenda items.
- Annual meeting is not an open forum for venting and raising individual gripes; it is for ASSOCIATION BUSINESS.
- If needed, consider time limits (i.e. 3 minutes per person).
- Ask owners to submit agenda items in advance of meeting. If not on agenda, not discussed at meeting.
- Hold potentially contentious meetings in church or elementary school. If really contentious, bring in security.
- Have guest speakers (Police, city official, engineer, CPA, attorney), especially if critical issue to be discussed.

Meeting Minutes

Minutes Should Include:

- Type of meeting
- Time/date/location
- Whether a quorum was established
- Attendees
- Action taken prior meeting minutes
- Motions/votes and result of each.
- Officer/committee reports
- Unfinished/new business
- Adjournment time
- Recording secretary's signature

Minutes Should Not Include:

- Detailed or verbatim recitation of discussion
- Opinions, personal views
- Criticism of others
- How each individual voted
- Detailed notes from reports (reports do not have to be approved.)

Annual Budgets – The Law

- In Indiana, there is very little statutory law applicable to budgeting.
- Requirements will generally come from language in community's Declaration and/or Bylaws.
- Indiana Code 32-25.5-1, et seq. imposes specific requirements for budgeting, but those provisions are only applicable to associations formed after January 1, 2009. If your community was formed after that date, take note.

Owner Approval of Budgets

- If required by governing documents, owner approval is required.
- **HOWEVER, if association was formed after July 1, 2009, the owners MUST vote on and approve the budget, even if the governing documents say otherwise!**
  - *This is required by the Indiana Homeowners Associations Act.*

Budgeting Basics

- The budget serves as the basis for annual operating and reserve assessments.
- The budget is an estimate or guideline to show how assessments are being determined and should be detailed enough to show the ownership how the Association plans to spend the funds collected, and the funds to be designated to be saved for future capital repairs and replacements (reserve funds).

Budgeting Basics Cont.

- Understand what it takes to create a REALISTIC budget.
- Make informed decisions on approving the budget.
- Should be fact-based and math-based, not created based on hunches or general feeling.
- Use budget as a tool; it does not limit Board’s flexibility to adjust planned expenses as conditions change.

Getting Started

- Determine your community's fiscal year (Calendar year?)
- Create your budget adoption timeline.
- Work backwards from your planned adoption date.
- Example (Each association may differ based on covenant requirements.)

Gather Your Tools

- Current financial statements – income/expense report, balance sheet, general ledger (2 months)
- Prior year financial statements – to show historical spending.
- Contracts for services
- Delinquency report
- Reserve Study – (Useful Life Study, planned capital project list)

Formulating Budget

- Estimate expenses first, then calculate the amount of revenue needed to fund expenses.
- Some start with known revenue and then tailor expenses not to exceed revenue; however, this may limit the Board from understanding true financial needs for future planning.
- Even for associations with covenants that restrict or limit budget increases, it is important to know and understand the long-term needs.

Formulating Budget Cont.

- Estimate each operating expense using historical spending data or actual contracts.
- Include projected increases such as inflation or percentage increases in contracted services.
- Discussion on historical trend vs. zero based budgeting; when to use each method.

Formulating Budget Cont.

- *Discuss when to add a new budget line item (GL line item).*
  - When greater than $500.
  - When better expense tracking is needed.
  - To separate out contracted vs. estimated or as needed services.
  - Items not commonly included: insurable loss, bad debt, interest.

Formulating Budget Cont.

- *Projecting your income*
  - Income and expenses must balance to zero
  - Consider other income sources such as late fees, clubhouse rental fees, keys/fobs, etc.

Setting Assessments

- Once you have reviewed expenses and revenue, it is time to set assessments.
- Increases may be governed by covenants/bylaws.
- Should be realistic, factoring in long-term needs and reserves.
- Associations are at risk of long-term issues if they under-assess.

THANK YOU!!

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