



SCA (Qld) Conference

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Gold Coast

**BRAVE
NEW STRATA
WORLD**

Committee Meetings

Presented by Grant Mifsud

Agenda

1. The Basics

- i. Who's meetings are they?
- ii. What are Committee Meetings for?
- iii. Your Role

2. Preparation

- i. Where to start?
- ii. The unexpected

3. Technical Aspects and Best Practice

- i. Proxies at Committee level
- ii. Can you ask someone to leave
- iii. Conflicts of interest
- iv. Getting to the decision and recording accurate minutes

The Basics - Who's meetings are they?

Legislation States: Committee members composed in a way provided for in the Module...

In practice:

1. Committee elected at the AGM or replaced during the year
2. Committee representing the Body Corporate (Owners) interests
3. Committee includes (non voting):
 - i. Body Corporate Manager; and
 - ii. Caretaking Services Contractor when appointed

The Basics - Who's meetings are they?

What about the other owners and interested parties?

1. All owners can attend as observers (watch this space)
2. Interested parties – Who's interest?
 - i. Owners – Interested party to represent their owner in a way prescribed by the Act (POA, Nominee etc.)
 - ii. Others – By Invitation and or approval of the Committee

The Basics - What are Committee Meetings for?

Answer:

Making Decisions

More Questions:

1. What decisions cant be made?; and
2. What decision can be made?

The Basics - What are Committee Meetings for?

What decisions cant be made?

The legislation (Standard Module section 100 Part 3 Restricted issues):

- (a) fixing or changing a contribution to be levied by the body corporate; or
- (b) to change rights, privileges or obligations of the owners of lots included in the community titles scheme; or
- (c) on an issue reserved, by ordinary resolution of the body corporate, for decision by ordinary resolution of the body corporate; or
- (d) that may only be made by resolution without dissent, special resolution, majority resolution or ordinary resolution of the body corporate; or
- (e) to start a proceeding, other than:
 - (i) a proceeding to recover a liquidated debt against the owner of a lot; or
 - (ii) a counterclaim, third-party proceeding or other proceeding in relation to a proceeding to which the body corporate is already a party; or
 - (iii) a proceeding for an offence under chapter 3, part 5, division 4 of the Act; or
 - (iv) a prescribed chapter 6 proceeding; or
- (f) to pay remuneration, allowances or expenses to a member of the committee unless, under section 43, the decision is not a decision on a restricted issue for the committee.

prescribed chapter 6 proceeding:

- (a) means a proceeding, including a proceeding for the enforcement of an adjudicator's order, under chapter 6 of the Act; but
- (b) does not include an appeal against an adjudicator's order.

If you can read this you have great eyesight 😊

The Basics - What are Committee Meetings for?

What decisions cant be made? - Summary of common items:

1. Issue or amend levies
2. Enter into service contracts (defined as term of 12 months or more)
3. Change by-laws (except EU area transpositions)
4. Start proceedings (except owner debt collection and adjudicator order enforcement)
5. Pay Committee members (unless within the prescribed limit for reimbursements)
6. Approve expenditure above the Committee spending limit (not to be confused with major spending limits)

The Basics - What are Committee Meetings for?

So what can you do? - Anything else?

YES

Conditions?

Not a restricted or reserved matter requiring approved at a general meeting.

Examples?

The Basics – Your Role

The legislation: Code of conduct - Schedule 2 in summary:

1. Knowledge of Act, including code
2. Honesty, fairness and professionalism
3. Skill, care and diligence
4. Acting in body corporates best interest
5. Keeping body corporate informed of developments body corporate's best interests
6. Ensuring employees comply with Act and code
7. Fraudulent or misleading conduct
8. Unconscionable conduct
9. Conflict of duty or interest
10. Goods and services to be supplied at competitive prices
11. Body corporate manager to demonstrate keeping of particular records

The Basics – Your Role

In Practice:

1. Advisor – Legislative knowledge of procedural matters
2. Impartiality – Don't get caught up in opposing opinions
3. Act in best interests – Its all about them
4. Guidance – Help them through the minefield
5. Communication - Keep them informed
6. Listen – 2 ears 1 mouth
7. Honesty – Tell the truth
8. Take accurate minutes – Watch this space

Preparation – Where to start?

Step 1 – Go back to the beginning!

1. Last meeting action items
 - i. All actioned?
 - ii. What about carry over items?

Step 2 – Review what has happened since the last meeting!

1. Correspondence?
2. Reports:
 - i. Caretaking
 - ii. Financials including arrears and term deposits

Preparation – Where to start? Continued

Step 3 – Planning ahead

1. Compliance Status
 - i. Workplace Health and Safety Audit
 - ii. Fire Safety
 - iii. Quantity Surveying
 - iv. Others?

2. Contracts
 - i. Any expiring?
 - ii. Terms to be reviewed?

3. Next Meeting Date – Proactive or reactive?

Preparation – The Unexpected

How do you prepare for the unexpected?

Answer: You can't!

So what can you prepare for?

Answer:

1. Building Issues – Consider what may stem from the agenda items you already know about
2. Legislative Issues – The Code of Conduct requires that you:

Must have a good working knowledge and understanding of the Act, including this code of conduct, relevant to the person's functions.

Preparation – The Unexpected Continued

Building Issues:

1. By-laws – The 4 P's
2. Disputes – Know the steps
3. Maintenance – Read the Caretakers Report
4. Spending – Know the Committee and Major spending limits
5. Funding – Be familiar with provisions in the Sinking Fund Analysis

Preparation – The Unexpected Continued

Legislative Issues:

1. Usually relate to the building issues
2. Do your research
3. Be prepared to say:

“I need to review the issue and get back to you”

Preparation – The Unexpected Continued

Legislative Issues – Tips and Tricks!

1. Get familiar with where to find the applicable section of the Act or Module
 - i. Index
 - ii. Search words
 - iii. Dictionary

2. Know how to provide advice within the parameters of our role - FILAC:
 - i. Facts – Gather the facts
 - ii. Issue – From these facts determine the issue
 - iii. Law – Determine the legislation that applies to the issue
 - iv. Apply – Apply the legislation to the issue identified
 - v. Conclusion – Your advice

Technical Aspects and Best Practice

Proxies at Committee level – Standard Module Part 2:

1. Must be a voting member to receive
2. Must be in the prescribed form
3. Can only hold one proxy at a time
4. Secretary or Treasurer can only appoint a proxy with approval
5. Cant be used if the member is present
6. Cant be used in a PBC
7. Cant be represented at more than 2 meetings in the same year
8. Cant use a contract to prevent proxy votes or give/receive a proxy
9. Special resolution can prohibit use – specific or altogether

Technical Aspects and Best Practice

Can you ask someone to leave? – Standard Module Part 4 Division 2:

1. Non Voting Members
2. Non Committee Members

Technical Aspects and Best Practice

Can you ask someone to leave? – Non Voting Committee Members (Must):

1. Not be present for disputes about them;
2. Engagements of Body Corporate manager or service contractors;
3. Caretaking service contractors letting authorization;
4. Vote to decide if the non voting member can be present (contradictory);
5. Anything else lawfully decided

Technical Aspects and Best Practice

Can you ask someone to leave? – Non Committee Members (Must):

1. By-law Breach
2. Disputes including disputes with non voting members
3. Proceedings
4. Vote to decide if the non member can be present (contradictory)
5. Failing to comply with direction to only speak if invited (May)

Technical Aspects and Best Practice

Conflicts of interest (voting and non voting Committee Members)

1. Must disclose direct or indirect if the interest could conflict performance of duties
2. Not vote on the matter if a voting member
3. Must not exercise proxy vote if conflicted personally or by virtue of the proxy given

What is a conflict of interest? A matter that the person has a direct or indirectly interest.

Technical Aspects and Best Practice

Getting to the decision:

1. Have you ever been at a meeting where the Committee talk around in circles and don't get to a decision?
2. Without knowing what it is they are talking about how can they make a decision?
3. Your role is to provide guidance - Hot Tip! FILAC

Technical Aspects and Best Practice

Recording accurate minutes:

Now that you have guided them to a decision – what do you do?

1. Confirm the decision – verbally
2. Ask questions if you aren't sure what they have decided
3. Record sufficient preliminary details so that the minute reader knows the background to the decision made
4. No need to write long winded preliminary details, verbatim records of discussion or lengthy resolutions – less is more
5. What, where, when, how and who of decision – no ambiguity

Summary

Remember what the meetings are for and your role – Its all about them!

The 5 P's – Prior Preparation Prevents Poor Performance

FILAC – Facts Issue Law Apply Conclusion

Record approval for the proxy given, the conflict of interest, abstain from voting, ask them to leave because of a dispute, confirm this is the decision then add the resolution to the minutes!

Questions and Further Contact

For more information on this session please contact:

Name: Grant Mifsud

Archers the Strata Professionals

P: 07 3220 9400

E: grant.mifsud@abcm.com.au