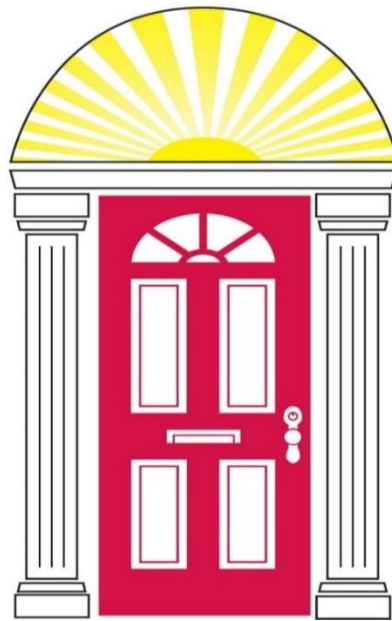


**COMMON INTEREST COMMUNITIES**  
**EDUCATION SERIES:**  
***ANNUAL MEETINGS 101***



***October 23, 2021***

**MERCERTRIGIANI**



**BREAKFAST BRIEFS**

# Program Overview

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- Legislative Recap
- Annual Meetings Basics
- Planning Tips

# ***2021***

# ***LEGISLATIVE RECAP***

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# *Virtual Meetings*

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## *House Bill 1816 & Senate Bill 1183*

- Permits membership meetings to be held partially or entirely by electronic means.
- Guidelines **must be** adopted that ensure:
  - Attendees are authorized to attend.
  - Attendees entitled to participate have the opportunity to participate.

# *Voting*

## *House Bill 1816 & Senate Bill 1183*

- Unless prohibited by governing documents:
  - Allow member voting by absentee ballot.
  - Allow member electronic voting.
- Guidelines must be adopted for electronic voting – and protect the secrecy of votes **if** governing documents require secret balloting.

# ***ANNUAL MEETING***

# ***BASICS***

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# Meeting Types

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- Association
- Board
- Committee
- Organizational
- Regular
- Special

# Distinguish Board and Association Meetings

- **Association Meetings**
  - At least once annually
  - Meeting of the *members*
  - Motions made by members
- **Board Meetings**
  - For the *Board* – *motions by Directors*
  - More frequent
  - Open to members – for observation



# Association Meetings

## Location

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- Physical Location vs. Virtual vs. *Hybrid*
  - Section 55.1-1935, Condominium Act
  - Section 55.1-1832, Property Owners' Association Act
- Board discretion unless ***prohibited*** by governing documents.
- Consider non-electronic alternatives.

# Association Meetings

## Notice

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Depends on:

- Type of meeting – Annual **or** Special.
- Type of community – condominium **or** property owners association.
- Whether association is incorporated.

# Association Meetings

## Notice – Annual Meeting

- *Condominium Unit Owners Associations* –  
At least **21 days** prior to meeting  
(Section 55.1-1949, Condominium Act)
- *Property Owners' Associations* –  
At least **14 days** prior to meeting  
(Section 55.1-1815, Property Owners' Association Act)
- *If incorporated* –  
Not more than 60 days prior to the meeting  
(Section 13.1-842, Nonstock Corporation Act)

# Association Meetings

## Notice – Special Meeting

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- *Condominium Unit Owners Associations* –  
At least **7 days** prior to meeting  
(Section 55.1-1949 of Condominium Act)
- *Property Owners' Associations* –  
At least **7 days** prior to meeting  
(Section 55.1-1815 of Condominium Act)
- *If incorporated* –  
Not more than 60 days prior to the meeting  
(Section 13.1-842, Nonstock Corporation Act)

# Association Meetings Notice

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***BUT***

Always review governing documents

—

Satisfy most ***restrictive*** timeframe

# Association Meeting Notice

- Must include:
  - Time and Date
  - Place
  - Purpose (for **special** meeting or matters)
- U.S. Mail or hand-delivered to Owners ***at address of Record***
- Electronic – Owner Consent and Certification
  - *Virginia Condominium Act, Section 55.1-1949*
  - *Property Owners' Association Act, Section 55.1-1815*

# Association Meetings

## Agenda

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- May be specified in governing documents
- Certification of Notice
- Quorum Determined
- Officer and Committee Reports
- Elections
- New and Old Business

# Association Meetings

## Quorum

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*The minimum number of members required for a group to conduct business and to cast votes.*



# Association Meetings

## Quorum

- Bylaws (*always review governing documents*)
- Condominium Act – Section 55.1-1952.A
  - As specified in condominium instruments
  - *Unless specified in the condominium instruments* – persons entitled to cast 33-1/3 percent of the votes
  - Percentage may be larger but not less than 10 percent

# Association Meetings

## Quorum

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- Property Owners' Association Act – does **not** address quorum
- Nonstock Corporation Act – Section 13.1-849.A
  - As specified in Bylaws
  - If Bylaws silent – 1/10 of votes entitled to be cast

# Association Meetings

## Lack of Quorum

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***Review governing documents in advance of the meeting!***

- Authority to continue meeting –
  - Recess
  - Adjourn to a fixed date and time
  - Quorum Reduction
- Consider impact of not convening meeting.

# Association Meetings

## Lack of Quorum

### *Condominium Act - Section 55.1-1952.C*

- Association **or** Unit Owner may petition court to reduce quorum requirement
- Pre-conditions:
  - No Annual Meeting due to lack of quorum for **3 consecutive years**; and
  - Good faith attempt to convene meetings

# Association Meetings

## Lack of Quorum

### *Nonstock Corporation Act – Section 13.1-840*

A court may order a member meeting when:

- There has been no annual meeting for **15 months** since the last Annual Meeting; or
- A demand for a Special Meeting was submitted and
  - Notice of the Special Meeting was not issued within 30 days of the demand **or**
  - The Special Meeting was not held in accordance with the notice.

# Association Meetings

## Voting

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Voting –  
In **Person** or by **Proxy**



# Proxies

## Condominium Unit Owners Associations

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- *Bylaws control*
- Virginia Condominium Act – Section 55.1-1953.D
  - Signed by one unit owner of record
  - Dated
  - Revocable with Notice
  - Terminates after first meeting
  - Explanation of an uninstructed proxy
  - Electronic transmission

# Proxies

## Property Owners Associations

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- ***Governing documents control*** – most often **bylaws**.
- Property Owners' Association Act does ***not*** establish proxy requirements.
- Nonstock Corporation Act only requires proxies to be in writing (Section 13.1-847).



# Voting

## Condominium Unit Owners Associations

- Condominium Act - Section 55.1-1953 - either:
  - Undivided interest assigned each Unit
    - Square Footage
    - Par Value
  - One vote per Unit
- Voting procedures established in the Bylaws
  - Cumulative voting?
  - Secret ballot?
  - Bullet voting?
  - Absentee or mail-in voting?
  - Electronic?

# Voting

## Property Owners' Associations

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- Review governing documents – some communities have established voting procedures
- Most Common: “one lot, one vote”
  - Cumulative voting?
  - Bullet voting?
  - Electronic?
  - Secret ballot?
  - Absentee or mail-in voting?

# Electronic Voting Authority

- The rule - Permitted *unless* prohibited.
- Statutory Authority
  - *Condominium Act* –
    - Section 55.1-1935
    - Section 55.1-1953
  - *Property Owners' Association Act* –
    - Section 55.1-1832
    - Section 55.1-1815
  - *Nonstock Corporation Act* – Section 13.1-847.1

# Electronic Voting

## Voting Considerations

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- When must voting occur?
  - ***During*** the meeting
  - ***Before or After*** the meeting (aka *absentee voting*)
- Are secret ballots required?
  - Attention must be given to *process*
  - Preserving secret ballots with proxies
- Voting by proxy or by ballot.

# Non-Electronic Options

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- Associations ***must*** reasonably accommodate owners with non-electronic alternatives
  - Condominium Act – Section 55.1-1935
  - Property Owners' Association Act – Section 55.1-1832
- No reason required
- Common alternatives?
  - Telephone
  - Proxy
  - Email Ballot
  - ***Hybrid***

# Association Meetings

## Suspending the Right to Vote

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- Authority must be established in **recorded** documents and statute.
- Established (written) Board policy – ***Record Date***
- Policy should be reviewed and adopted at least two months prior to meeting.
- Policy should be briefly summarized in meeting notice.

# ***PLANNING TIPS***

# Planning Considerations

- Kind of meeting.
- Governing document requirements.
- Timely notice of meeting.
- Meeting script.
- Election procedures.
  - Adopt Guidelines
  - Election Committee
  - Call for Candidates
  - Floor Nominations
- Voting.
  - Proxies
  - Absentee
  - Ballot



# Virtual Meetings

## Measures to Implement for Virtual Meetings

- Develop guidelines.
- ***Verify attendees*** as members or proxies.
- Provide attendees with an opportunity to ***participate***.
  - Hear proceedings
  - Participate in proceedings
  - ***Vote***

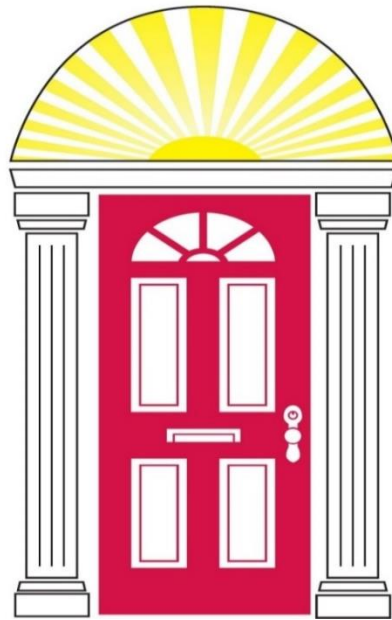
# Virtual Meeting Tips

- Require registration for attendees.
- Establish and communicate ground rules.
- Position camera properly – at eye level.
- Prepare materials in advance.
- Rehearse the meeting.
- Review meeting settings.

# Virtual Meeting Etiquette

- Make introductions at beginning of meeting.
- Ensure background is clean and work-appropriate.
- Look into camera when talking instead of looking at yourself.
- Be aware of audio and video settings.
- Eliminate distractions and avoid multitasking.
- Be mindful of background noise; mute when appropriate.
- Do not eat.

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