How to Hold Electronic Meetings and Votes
Community Associations Institute
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1) Two types of meetings and votes to consider:
   a) Board meetings and votes
   b) Member meetings and votes

2) Two types of issues to consider for both board and member meetings:
   a) Notice
   b) Participation and Voting

3) What is electronic transmission? §450.2106(4): "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:
   a) It does not directly involve the physical transmission of paper.
   b) It creates a record that may be retained and retrieved by the recipient.
   c) It may be directly reproduced in paper form by the recipient through an automated process.

4) Notice of Electronic Transmission: MCLA §450.2406a Notice by electronic transmission. In addition to any other form of notice to a member permitted by the articles of incorporation, the bylaws, or this chapter, any notice given to a member by a form of electronic transmission to which the member has consented is effective.

5) Board meetings and votes
   a) Do you need a board meeting at all? (1)
      i) MCLA §450.2141: When, under this act or the articles of incorporation or bylaws of a corporation … the corporation or the board … may take action after notice … or after lapse of a prescribed period of time, the action may be taken without notice and without lapse of the period of time, if at any time before or after the action is completed the persons entitled to notice or to participate in the action to be taken … submits a signed waiver or a waiver by electronic transmission of the requirements.
   b) Do you need a board meeting at all? (2)
      i) Unless prohibited by the articles of incorporation or bylaws, action required or permitted to be taken under authorization voted at a meeting of the board or a committee of the board may be taken without a meeting if, before or after the action, all members of the board then in office or of the committee consent to the action in writing or by electronic transmission. The written consents shall be filed with the minutes of the proceedings of the board or committee. The consent has the same effect as a vote of the board or committee for all purposes.
6) Notice to Board Members
   a) Regular meetings.
   b) Special meetings.
   c) MCLA §450.2143(2): When a notice is required or permitted by this act to be
given in writing, electronic transmission is written notice.
   d) (3) When a notice or communication is permitted by this act to be transmitted
electronically, the notice or communication is given when electronically
transmitted to the person entitled to the notice or communication in a manner
authorized by the person.

e)
7) Regular Meetings:
   a) MCLA §450.2521(2) A regular meeting [of the board] may be held with or
without notice as prescribed in the bylaws.
   b) A typical bylaw provision: “Regular meetings of the board of directors shall be
held at such times and places as shall be determined from time to time by the
board of directors. Notice of regular meetings shall be given to each director
personally, by mail, telephone, facsimile, or telegraph at least 10 days prior to the
date named for such meeting.”
   c) Alternate provision: “Regular meetings of the board of directors shall be held at
such times and places as shall be determined from time to time by the board of
directors. Notice need not be given of the regular board meeting.”

8) Special Meetings:
   a) MCLA §450.2521(2): A special meeting shall be held upon notice as prescribed in
the bylaws.
   b) Typical provision: “Special meetings of the board of directors may be called by
the President on three days’ notice to each director given personally, by mail,
telephone, facsimile, or telegraph, which notice shall state the date, time, and
place, and purpose of the meeting.”
   c) Alternate provision: “Special meetings of the board of directors may be called by
the President on three days’ notice to each director given personally, by mail,
telephone, electronic transmission, which notice shall state the date, time, and
place, and purpose of the meeting.”

9) Participation by board members: MCLA §450.2521(3): Unless otherwise
restricted by the articles of incorporation or bylaws, a member of the board or of
a committee designated by the board may participate in a meeting by means of
conference telephone or other means of remote communication by which all
persons participating in the meeting can communicate with each other.
Participation in a meeting pursuant to this subsection constitutes presence* in
person at the meeting.

   a) Are there alternate means of holding board meetings? Note that each of these
requires participants to have a computer, a microphone, speakers (or
headphones) and a web cam (built-in on most newer laptop computers)
i) Webex, www.webex.com
ii) Gotomeeting, www.gotomeeting.com
iii) Imeet, www.imeet.com
iv) Skype group video, www.skype.com
v) iChat (part of the Mac OS)

10) Voting by board members: MCLA §450.2523: The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the board or of the committee, unless the vote of a larger number is required by this act, the articles, or the bylaws.
   a) Since voting at board meetings is by voice vote, no form of electronic voting is usually required.

11) Member Meetings
   a) Notice.
   b) Participation and Voting.

12) Again, do you need a meeting at all?
   a) MCLA §450.2407(1): The articles of incorporation may provide that any action required or permitted by this act to be taken at an annual or special meeting of shareholders or members may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action taken, are signed and dated by the holders of outstanding stock or members having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares or members entitled to vote on the action were present and voted.
   b) MCLA §450.2407(3): Any action required or permitted by this act to be taken at an annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote, if all the members entitled to vote on the action consent to the action in writing.
   c) However: MCLA §450.2402: An annual meeting of shareholders or members for election of directors and for such other business as may come before the meeting shall be held at a time as provided in the bylaws, unless such action is taken by written consent as provided in section 407.

13) Notice to Members
   a) MCLA §450.2143(2): When a notice is required or permitted by this act to be given in writing, electronic transmission is written notice.
   b) (3) When a notice or communication is permitted by this act to be transmitted electronically, the notice or communication is given when electronically transmitted to the person entitled to the notice or communication in a manner authorized by the person.

14) Notice of a meeting of members:
a) MCLA §450.2404(1) Except as otherwise provided in this act, notice of the time, place, if any, and purposes of a meeting of shareholders or members shall be given in any of the following manners:

i) By written notice, given personally, by mail, or by electronic transmission, not less than 10 nor more than 60 days before the date of the meeting to each shareholder or member of record entitled to vote at the meeting.

ii) By including the notice, prominently displayed, in a newspaper or other periodical regularly published at least semiannually by or in behalf of the corporation and addressed and mailed, postage prepaid, to a member or shareholder entitled to vote at the meeting not less than 10 nor more than 60 days before the meeting.

15) Member participation in a meeting

16) Participation by teleconference:

a) MCLA §450.2405(1): A corporation may provide in its articles of incorporation or in its bylaws for a shareholder’s or member’s participation in a meeting of shareholders or members by a conference telephone or other means of remote communication by which all persons participating in the meeting may hear each other if all participants are advised of the means of remote communication in use and the names of the participants in the meeting are divulged to all participants.

b) MCLA §450.2405(4) Subject to any guidelines and procedures adopted by the board of directors, members not physically present at a meeting of shareholders or members may participate in the meeting by means of remote communication and are considered present in person and may vote at the meeting if all of the following are met:

i) The corporation implements reasonable measures to verify that each person considered present and permitted to vote at the meeting by means of remote communication is a member.

ii) The corporation implements reasonable measures to provide each shareholder or member a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings.

iii) If any shareholder or member votes or takes other action at the meeting by means of remote communication, a record of the vote or other action is maintained by the corporation.

17) Adjourned meetings: A shareholder or member may be present and vote at an adjourned meeting of the members by a means of remote communication if he or she was permitted to be present and vote by that means of remote communication in the original meeting notice.

18) A word about Proxies

a) MCLA §450.2421(1): Except as otherwise provided in the articles of incorporation or in a bylaw ..., a member entitled to vote at a meeting of members or to express
consent or dissent without a meeting may authorize other persons to act for the member by proxy.

b) (2) A proxy shall be signed by the member or an authorized agent or representative. A proxy is not valid after the expiration of 3 years from its date unless otherwise provided in the proxy.

19) “Writing” MCLA §450.2421(5): Without limiting the manner in which a shareholder or member may authorize another person or persons to act for him or her as proxy, each of the following methods constitute a valid means by which a member may grant authority to another person to act as proxy:

a) Delivering a writing, including a fax to the person who will hold the proxy.

b) Transmitting a telegram, cablegram, or other form of electronic transmission to the person who will hold the proxy.

20) Who decides the proxy is valid? Any telegram, cablegram, or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram, or other electronic transmission was authorized by the shareholder or member. If a telegram, cablegram, or other electronic transmission is determined to be valid, the inspectors or, if there are no inspectors, the persons making the determination shall specify the information upon which they relied.

21) “Signed”

a) “…by signing the writing or causing his or her signature to be affixed to the writing by any reasonable means, including, but not limited to, facsimile signature.”

22) But:

a) A copy, facsimile telecommunication, or other reliable reproduction of the writing or transmission may be substituted or used in lieu of the original writing or transmission for any purpose for which the original writing or transmission could be used, if the copy, facsimile, telecommunication, or other reproduction is a complete reproduction of the entire original writing or transmission.

23) A copy of the handout can be downloaded from: www.sowell-law.com/CAI2012