

**MEETING MINUTES
MATTER
A PRIMER ABOUT
MEETING MINUTES**

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WHAT ARE MEETING MINUTES?

- Minutes are the corporate record of the Condominium or HOA
- The Board speaks through its meeting minutes
- Minutes should capture:
 - Date, Time, type of meeting, attendance at meeting
 - Votes



WHY HAVE MEETING MINUTES?

- Evidence of any corporate action,
- Evidence of fulfillment of the Bd's fiduciary duty
- Proof the Board acted diligently and in good faith
 - Examples:
 - Whom we hired to do what, aka, what contracts have been agreed
 - When decisions were made to expend money
- Transparency
 - allows homeowners to see what the Board has been doing



ARE MINUTES REQUIRED BY LAW IN DC, VA, MD?

- Yes.
- **DC Condo Act says, in pertinent part: Minutes shall be recorded and shall be available for examination and copying by unit owners in good standing, ... Reference to the motion and the stated purpose for the executive session shall be included in the minutes. ... A motion passed, or other formal action taken, in an executive session shall be recorded in the minutes of the open meeting, but this shall not require disclosure of any details that are properly the subject of confidential consideration in an executive session. The action or actions authorized by a motion passed in an executive session shall be reflected in minutes available to unit owners in good standing. 42-1903.03.**
- De Facto necessity in DC due to lender questionnaires. DC Condo Act does not require inclusion of minutes in resale packets, but lenders are asking for them, so the marketability of a unit or house partly depends on good minute-taking, and recordation.

VA LAW

- Va Laws say:
 - draft minutes of the board of directors shall be open for inspection and copying (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first. POAA 55.1-1815
 - Subject to the provisions of subsections B, C, and E, upon request, any unit owner shall be provided a copy of such records and minutes. 55.1-1945 ... Minutes of the meetings of the executive board shall be recorded and shall be available as provided in § 55.1–1945. 55.1-1949. ... A copy of any approved minutes of the executive board and unit owners' association meetings for the six calendar months preceding the request for the resale certificate. 55.1-1991 Va Condo Act
 - The secretary or any other officer as designated in the bylaws or by resolution of the board shall have responsibility for preparing and maintaining custody of minutes of the directors' and members' meetings and for authenticating records of the corporation. 13.1-872 of the VA NCA (See also other sections of Va. NCA

MARYLAND LAW REQUIRING MINUTES

- Md Condo Act: (2) A statement of the time, place, and purpose of any closed meeting, the record of the vote of each board member by which any meeting was closed, and the authority under this section for closing any meeting shall be included in the minutes of the next meeting of the board of directors. 11-109.1 ... (3) A hearing occurs at which the alleged violator has the right to present evidence and present and cross-examine witnesses. The hearing shall be held in executive session pursuant to this notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. 11-113

MD LAW CONT'D

- Md HOA Act
- A statement of the time, place, and purpose of a closed meeting, the record of the vote of each board or committee member by which the meeting was closed, and the authority under this section for closing a meeting shall be included in the minutes of the next meeting of the board of directors or the committee of the homeowners association. ||B-III



WHAT IF BOARD ACTS IN BETWEEN MEETINGS?

- DC law states: (d) The executive board may take action without a meeting by resolution issued with the unanimous written consent of the members of the executive board in support of the action being taken. A copy of the resolution **shall be attached to the minutes of the next executive board meeting that occurs following its adoption.** (DC Condo Act 42-1903.03).
- See also 2-408 of Md Corporate statute, 13.1-851 Va. corporate statute;
- See all relevant governing docs

- If Actions Outside of Meetings and their ratifications are not captured in minutes, the Board and Association's liability risk increases.

DO WE NEED TO TAKE MINUTES DURING EXEC SESSION?

- Arguably no. Exec session minutes may be withheld from view. If they exist at all, they are subject to discovery request in the event of litigation. They may also be grounds for lengthy debates about books and records requests. Md and other laws contemplate the existence of exec session minutes, but do not mandate that minutes be taken during exec session.
 - Query: if no vote occurs during exec session and the primary function of minutes is to record votes, then is it wise or necessary to keep exec session minutes?
- Consider taking personal notes during exec session then destroying those after a time period to avoid arguments over the availability of exec session minutes, and over whether exec session was properly taken, whether the Board illegally 'hid' a vote during exec session.

CAN MEETINGS BE RECORDED?

- That's a question for an upcoming class about Conducting Good Meetings.
 - Short answer: usually yes they can be recorded. Usually the Board can regulate the recordation of meetings.
 - Whether it is helpful, valuable for meetings to be recorded is a question worth discussing with your management and legal teams. Considerations:
 - Recordings become discoverable, and are part of books and records subject to disclosure
 - A recording may contain inflammatory statements that are extraneous/not needed for the minutes, but that create liability
 - Minutes should not be a narrative of the meeting, so a meeting recording is often not used by a seasoned minute-taker



WHAT DO ROBERTS RULES REQUIRE?

- 12th edition:
 - The chair **lets** the floor alternate, as far as possible, between those favoring and those opposing the measure
 - The minutes **must** never reflect the secretary's opinion, favorable or otherwise, on anything said or done



ROBERT RULES: THE MTG CHAIR CAN DECLARE!

- A formal motion to approve the minutes is not necessary, although such a motion is not out of order....After any proposed corrections have been disposed of...[the] minutes are thus approved without any formal vote, even if a motion for their approval has been made
- The only proper way to object to the approval of the secretary's draft of the minutes is to offer a correction to it, offer a motion to refer the minutes to a committee [for redrafting] or to postpone their approval
- The correction and approval of minutes is an example of business that is normally handled by unanimous consent



ROR 12TH ED. FAVORS PRO ACTION, AND TIME MANAGEMENT

- The secretary's draft of the minutes is often sent to all members in advance of the meeting at which those minutes are to be approved, usually with the meeting notice. When this has been done, it is **presumed that the members have had an opportunity to review these draft minutes**, and they are not read at the meeting unless a member requests it



WHO SHOULD TAKE MINUTES?

A volunteer or paid contractor who understands the task.

→ What is the task?

- Record in digital form the following information:
 - Date, time, place, manner, type of the meeting
 - Attendees. Board and minute-taker can discuss whether directors and homeowner attendees are personally named. Guests should be noted
 - Motion presented
 - Who seconded the motion
 - Optional: summary of discussion
 - Vote count of the voting directors who voted for/against the motion
 - Optional: summary of report of officers, directors, committee chairs, guests



WHY TAKE MINUTES?

- Legal necessity
- Accountability
- De Facto necessity in DC due to lender questionnaires

PRACTICE TIP

- The smoothest minute-taking we've seen includes the following:
 - Bd & mgmt. develops and circulate the meeting agenda 1-2 weeks before the meeting
 - Mtg agenda is available for unit owners to review, and sent to directors prior to the meeting
 - Minute-taker uses the meeting agenda as a guide to note what actions the Board took, such as votes, the Board's postponement of its review of a matter, noting the Board consulted with XYZ person. If no action was taken, little needs to be stated in minutes aside from date, place, time, attendance.
 - it is unnecessary to record discussions verbatim or even in summary form if they do not relate to an action.
 - Sometimes a Board will think that capturing its reasoning about something is worth doing; this can be true sometimes, not always

**SAMPLE MINUTES
– SEE ATTACHED**



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THANK YOU FOR COMING

