

## Chapter Four: Board Meetings

Each Board has developed its own way of doing things. Some are strict and formalistic; others are casual and relaxed. What they all have in common is that they are where decisions for the corporation are made and recorded. As such, they are critically important. We attempt here to provide the fundamentals that apply no matter how informal your Board may conduct its business.

First is the notice of the Board meeting. Unless you consent to waive it, you have a right to be informed, in advance and in writing, of all Board meetings. Your Bylaws will typically define how this notice is to be given and when. The point is that as an elected representative of your Members, you are entitled to know when there are meetings. If the Board meets without giving you notice, its actions may be set aside and voided by a court.

Another key requirement is that minutes be taken. While Secretaries vary widely on the details contained in their minutes, the point here is that essential information must be recorded. These minutes constitute the official record of the corporation. Clarity is vital. Whether motions are passed is essential. They often become important documents in legal proceedings. Accordingly, great care should be given to them. At each meeting, the Board should be approving the last meeting's minutes.

We often hear frustration expressed by Boards that their Managers do not carry out the directives given during Board meetings. The solution is quite simple: pass a motion that spells out exactly what the Manager is expected to do and include a deadline. This gives a clear message of the Board's will, and a timetable for completion. At subsequent meetings, ask about the status of the assignment. If the Manager fails to carry out the Board's directives, this serves as a legal basis for beginning the process to terminate the Manager's contract. If you have a problem of this nature, the Cooperative Attorney needs to be involved and giving guidance to the Board.

Board meetings are either open to the Membership or closed. Contrary to popular belief, the State of Michigan's Open Meetings Act does not apply to Cooperatives. Still, many Boards find it politically wise to conduct their meetings in the open. This helps, in the opinion of many, to dispel the notion that the Board engages in self-dealing and acts contrary to the interests of the Membership when it meets behind closed doors. Others meet in closed session except for a quarterly open meeting.

Regardless of whether your Cooperative holds this view, there are times when a closed meeting is necessary and appropriate. Such instances include when the Board meets with a Member to discuss complaints that the Member has violated a Cooperative rule; or when the Cooperative Attorney attends the meeting to discuss pending lawsuits. Consideration of an application for membership is another time when a closed session is appropriate so as to protect the private information garnered during the application process.

During the meeting, there may be times when it is important to resort to rules of procedure. Most Cooperative Boards have adopted Robert's Rule of Order, or are governed by them through the Bylaws. It is important for all Board Members to know requirements such as what constitutes a quorum of the Board, which is typically three out of five Directors, as it is a prerequisite to conducting any business.

Since a majority of a mere quorum may, in the case of a five person Board is two Directors, those who did not attend that meeting may want to reconsider decisions made by the two. For that reason, knowledge of the ins and outs of motions to reconsider is important. Bear in mind, though, that third party reliance on the vote of the Board, even if it is just two Directors at a three person Board meeting, may expose the Cooperative to legal exposure. For example, if a contract is awarded at such a meeting, the vendor who relies on it and begins to perform may have a cause of action if that decision is reversed by the other Directors at a subsequent meeting. At times like that, the Cooperative Attorney needs to be involved.

Another essential element of the Board meeting is each Director's right to be heard. What should happen is a Director makes a motion. The motion needs to be clear. It must describe exactly and completely what action is being authorized, how it is to be carried out, when it is to be done, and by whom. Before there is discussion, it must be supported by another Director. If there is no second to the motion, it then dies for lack of support. If it is seconded, then the Chairperson should call for discussion of it. All of the discussion should relate to the motion and it is the Chairperson's job to keep everyone focused on the matter at hand. A vote should not take place until everyone has had a chance to comment. If a Director disagrees strongly, he or she may file a written dissent that becomes part of the minutes. This is important if the Director believes that the Board is undertaking an illegal act, and it serves to protect that Director from liability for the act of the others.

Be aware that there are tools of procedure that serve to cut off either discussion of a pending motion or to bring about an abrupt end of a meeting. A motion to table a pending motion serves to stop discussion and puts it on the next meeting agenda automatically. Since it is not debatable, all that can occur once it is seconded is a vote on it. If it passes, there can be no more discussion or a vote on the motion that was tabled. Similarly, a motion to adjourn is always in order throughout the meeting. It also is not debatable. If supported, it ends the meeting without discussion.

Usually, Board meetings take place without resort to these rules. However, it is good to know how they work in the event you encounter an issue that sharply divides the Board. If the Board knows in advance that it will be facing such a controversial matter, it is prudent to have the assistance of your Cooperative Attorney to guide you through that meeting.