

apm NEWS

News, Issues & Information for Community Associations - FALL 2001

MEMBER MEETING PREPARATION FOR COMMUNITY ASSOCIATIONS

A majority of Annual Members Meetings occurs in the fall and winter. Preparation for Members Meetings should begin now and the Association's By-Laws will provide the guidelines for such a meeting. In the absence of such direction, state statutes will also help in noticing and running the meeting. The following are generally the reasons for member's meetings: annual member's meetings, election meetings, amendment meetings, meetings to waive reserves, meetings to waive audit requirements, some special assessment meetings, recall of directors, some meetings which require special expenditures and for any other purpose whereby the membership is required to vote or ratify an action taken by the Board of Directors. In many instances, many of the above mentioned purposes of a members meeting may be incorporated into one single meeting. The requirement for separate meetings is unnecessary.

Generally, a majority of the total voting interests is required to constitute a quorum at a Member's meeting. In a homeowners association, the quorum requirement was lowered by statute to 30% of the total voting interests, unless the By-Laws allow for a lesser amount. This was instituted in order to increase the possibility of achieving a quorum at a members

meeting. In condominium and cooperative associations a majority of the total voting interests is required to have a quorum.

All associations are required to hold at least one members meeting annually. This meeting is usually the Annual Meeting for the association. The membership will elect the Directors for the coming year and address any other business that may be considered at this meeting. The annual meeting is usually a meeting at which the members will hear of the association's accomplishments for the past year and the anticipated challenges and projects for the coming year through officers and committee reports. It is a time and place whereby the members will be able to ask questions and participate in the meeting. In addition to the election of officers, the membership may also be considering amendments to the documents and other matters that require membership approval.

Some association's By-Laws require additional members meetings to be held throughout the year. These are usually quarterly or semi annual meetings, which are generally used to keep the membership apprised of the operations and management of the association. Other member's meetings that may be called from time to time would be: a special member's

meeting to consider a special assessment, an amendment to the documents, to expend funds over a certain amount as required by the documents, or as prescribed by the documents and by the state statutes. The By-Laws will indicate who may call the special meeting. In some cases, the membership may be able to call a special meeting of the membership by petitioning the membership and then presenting the petition to the Board of Directors, The Board of Directors will then be required to hold the meeting. The special members meeting may be for the purpose of reconsidering a budget, an amendment to the documents, a recall of a Board Member or for any other matter that may addressed in the documents. The documents may contain special procedures for the special meeting. The condominium and cooperative statutes provides for certain procedures to be followed, in order for the special meeting to be valid. In all cases, the special members meeting allows for the membership to be involved in the discussions and decision (voting) making process.

These special members meetings usually have limited agendas, as their sole purpose is stated and announced in the purpose of the meeting. Also, the meeting notice, agenda and proxy form will all be for

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the same purpose. Any other purpose, business or motion that come before the membership would not be valid, as they were not for the stated purpose of that special meeting. The following is a suggested list of materials and supplies that would be required for an annual members meeting:

Notice, Agenda, & Proof of Notice Proxies, Ballots, Envelopes
Alpha Sign-In Sheet
Minutes of Last Meeting
Copy of Documents
Copy of Last Financial Statement
Law Procedures on elections
Ballot Box
Signature & Corp. Resolution Card
Report of Officers & Committees
Materials for Minutes and Sign-Ins
Extra pencils, batteries and tapes

In anticipation of a membership meeting, check your association's By-Laws, review the state statutes concerning membership meetings. Also, meet with your association's attorney to review your agenda, notice and meeting procedures.

Any committee which will be participating and or helping to run the meeting should be formed and or informed of their specific duties. Begin to recruit volunteers to help with running the meeting now.

Begin your preparation now in order to insure for a well run annual members meeting.

Associated Property Management of the Palm Beaches, Inc. is a thirteen year old full service association management firm. APM serves more than 100 associations in Palm Beach County. If you have any questions or comments you may contact us at 400 South Dixie Highway, Suite 10, Lake Worth, Florida 33460 or you may call us at 561-588-7210 or you may email us at assocpropmgt@bellsouth.net

Ask The Attorney

By Louis Caplan, Esq.

Q. While on vacation, the Board of Directors of our condominium had a plumbing problem with the unit above me and they entered my unit to investigate the situation. Can the association enter any unit without my permission?

A. Normally, your condominium association governing documents will provide a provision whereby the association has access to the individual units and has the right to retain a key to the units. In addition, the Condominium Act provides at s. 718.111 (5), F.S., that the association has the irrevocable right of access to each unit during reasonable hours, when necessary for maintenance and repair or as necessary to prevent damage. Ideally, the association should give notice, but it is often necessary for the association to gain access on short or no notice in the event of a plumbing or fire emergency when the association must act quickly to prevent damage. Under these circumstances, the association would not be expected to wait until it has contacted an absent owner.

Q. Our Board of Directors has not been diligent in collecting past due maintenance assessments. We have some people who have not paid for more than two years. Can the association still go after these owners for these past due amounts?

A. Yes, the association can still go after these owners who are delinquent possibly in excess of two years. On the other hand, we

agree that if an association board waits in excess of two years to begin collections, they have not acted diligently. Certainly, any amount that has been owing for two years should be the subject of a collection action and if necessary turned over to the association attorney for collections and possibly a lien foreclosure action. Please note, when an association does not aggressively pursue collections, they are actually doing the delinquent owner a disservice. The owner then becomes deeper in debt, and it becomes more difficult to bring his assessment account current.

Louis Caplan is a Partner with the law firm of Sachs, Sax & Klein, P.A., whose practice includes the representation of Community Associations, including Homeowner Associations, Condominium Associations, and Country Clubs. Mr. Caplan often lectures on Community Association matters for both the Palm Beach County Bar Association and the Community Association Institute.

Mr. Caplan can be reached at 561-994-4499 or lc@sachs-sax-klein.com

REMINDERS!

1. Financial reporting requirements must be waived by Chapter 718 and 719 association members prior to January 2002.
2. Any waiver of reserves for Chapter 718 and 719 association members must be voted on and waived prior to the beginning of the new fiscal year.
3. If the documents so require, the amount of Directors for the coming year must be determined according to the by-laws prior to the first notice of meeting.
4. Any proposed amendments must be drafted, reviewed and proposed by the Board of Directors, prior to the members meeting or annual meeting.

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KEEP YOUR EYES ON YOUR LAWN

BY ALAN TANNER

Most commercial and residential properties in South Florida contain a large amount of turf and ornamental plantings due to current building and zoning codes that require a certain amount of grass and a variety of trees and shrubs. The condition of these plays a large part in the overall appearance of the property or community. Due to our sub-tropical climate we have many insects and diseases that can attack the grass and plants and make them visually unappealing and can actually cause the plant to die. We also have severe weather patterns that can either help or hinder your efforts to have a beautiful lawn. Knowing what to watch for can increase your chances of continuing to have beautiful surroundings. Sometimes it requires the help of a professional who can assist you in identifying and eradicating problems on your grounds. Most important, is an ongoing maintenance program designed to keep your lawn and plants growing strong and remaining insect and disease free.

During our summer months, chinch bugs tend to be our largest problem in the turf. Due to our previous months of drought, chinch bug populations are very large this year and are very prolific in South Florida. Look for circular damage patterns in the turf that have a tan to orange color in them. Keep in mind that chinch bugs attack the driest sections of the lawn and frequently begin along driveways, roadways, and against buildings. These areas tend to dry out quicker as a result of the sun reflecting off of concrete or asphalt. A thorough monthly inspection of your community can identify these insects before they cause damage to the turf that ends in costly re-sodding. Careful applications of insecticide will control their populations. Fungus diseases are also starting to become prevalent in recent weeks as a result of the large amounts of afternoon thunderstorms that we have been receiving. There are many types of fungus diseases that grow on plants as well as in the lawn itself. Fungus can show up very quickly and begin to damage plants almost overnight. Fungicides can be applied to stop the spread of these diseases. Take care to not over water your lawn especially when the possibility of fungus is present. Due to

current water restrictions, you should only be watering twice per week for approximately 1/2 hour per section. (Depending on the type of irrigation system that you have) Set your system to come on in the early morning hours (4-7 AM) and avoid having the systems running at night. This can help to prevent fungus growing in the grass or on your plants.

Fertilization is very important during this time of year. Due to low nutrient reserves and retention in our sandy soils, frequent fertilization becomes paramount in keeping a healthy lawn. Do not use fertilizers with high amounts of nitrogen during the hotter months as they will produce excessive growth and also require more irrigation. Use a low nitrogen, high minor element mix such as an 8-4-12 mixture on your lawn, which provides everything necessary for vigorous root growth and overall good appearance for the turf. A 10-4-12 blend is sufficient for most ornamental plantings and a wide variety of trees as well. Time your applications and vary your fertilization blends in response to the different seasons and best results are obtained with 3-4 applications per year.

A comprehensive spray program for turf and shrubs is a year round situation. The following is an ideal spray program for every month of the year which would lead to healthy growth of turf and shrubs.

SUGGESTED IDEAL SPRAY PROGRAM

Jan	Weed control and spot treat for insects
Feb	Fungus control and shrubbery spraying
Mar	Fertilization of grass and spot treat for insects
Apr	Fertilize shrubs and ant control
May	Blanket application for insects and disease
Jun	Spot control for insects
Jul	Ant baiting
Aug	Liquid fertilization of all grass.
Sep	Fertilize shrubs and spot treat for disease.

C/O ASSOCIATED PROPERTY MANAGEMENT
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- Oct** Weed control
Nov Fertilization of all grass and spot treat for insects.
Dec Blanket application to all shrubbery

The following is an overview of what a comprehensive spray program is for community associations in South Florida.

Alan Tanner is President of Tri-County Pest Control and Landscape located in Lake Worth, FL. Tri-County has been providing pest control and landscape services on the Gold Coast for over 12 years and specializes in HOA properties. You can reach him at 561-718-7504

USEFUL WEBSITES FOR YOUR ASSOCIATION

Florida Division of Emergency Management
850-413-9900 or www.floridadisaster.org
Palm Beach County Div. Of Emergency Mgt.
561-712-6400 or www.co.palm-beach.fl.us/eoc

LANDSCAPING & WEATHER NOTES

Over the next few weeks you will begin to see a tapering off of our seasonal rains. It is suggested that you fertilize shrubs, lawns and palms for the winter. Low nitrogen fertilizer is suggested for shrubs and trees. Grasses can use nutritional help too, as you may begin to see yellow & green streaks in the lawn. Slow release nitrogen & potassium fertilizer is recommended for palms and a 4-6-8 fertilizer for citrus.

New mulch is recommended too. It is a good time to begin planting annuals for colors. Stay alert to early freezes.

Though our drought conditions have eased, still follow the SFWMD restrictions for twice a week watering. Early morning watering is recommended. Otherwise, water plants and lawns at least two times a week in the dry season. 1/2 to 1 inch of water is required to penetrate at least 12 inches below the surface. Roots at this point are in the 12 to 18 inch deep range. Light watering only encourages roots to stay near the surface and will cause more problems during the dry season.