

All About Strata AGMs

Presented by Vancouver Island Strata Owners Association



What does the *Act* say?

- SPA40 (1) The strata corporation must hold annual general meetings except as provided under section 41.
- (2) An annual general meeting must be held no later than 2 months after the strata corporation's fiscal year end.

Is an AGM really necessary?

- SPA41 (1) The strata corporation does not have to hold an annual general meeting if, before the last date by which the meeting must be held, all eligible voters waive, in writing, the holding of the meeting and consent, in writing, to resolutions that
 - (a) approve the budget for the coming fiscal year, (b) elect a council by acclamation, and (c) deal with any other business.
- (2) If 2 or more persons share one vote with respect to a strata lot, all of them must consent to the waiver of the meeting and to the resolutions under subsection (1).

Council: how to prepare

- Choose a date – must be within 2 months of fiscal year end.
- Start with your bylaw for order of business - that generally forms the Agenda.
- Begin next year's budget planning about month 10 of your fiscal year; and finalize it after final figures are known.
- Get quotes for planned capital projects
- Write drafts of motions (more about that later)
- Solicit input from owners
- Identify potential council members

What the notice package must contain

- SPA46 (1) Subject to subsection (2), the council determines the agenda of an annual or special general meeting.
- (2) Persons holding at least 20% of the strata corporation's votes may, by written demand, propose a resolution or raise a matter specified in the demand.
- (3) A resolution or matter raised under subsection (2) must be included
- (a) in the notice given under section 45 (3) about the next annual or special general meeting of the strata corporation, and
- (b) on the agenda of that meeting.

What the notice package must contain

- (3) The notice of the annual or special general meeting must include a description of the matters that will be voted on at the meeting, including the proposed wording of any resolution requiring a 3/4 vote, 80% vote or unanimous vote.
- (4) If the meeting is an annual general meeting, the notice must include the budget and financial statement referred to in section 103.

What's on the agenda?

- SB28 The order of business at annual and special general meetings is as follows:
- (a) certify proxies and corporate representatives and issue voting cards;
- (b) determine that there is a quorum;
- (c) elect a person to chair the meeting, if necessary;
- (d) present to the meeting proof of notice of meeting or waiver of notice;
- (e) approve the agenda;
- (f) approve minutes from the last annual or special general meeting;

What's on the agenda?

- (g) deal with unfinished business;
- (h) receive reports of council activities and decisions since the previous annual general meeting, including reports of committees, if the meeting is an annual general meeting;
- (i) ratify any new rules made by the strata corporation under section 125 of the Act;
- (j) report on insurance coverage in accordance with section 154 of the Act, if the meeting is an annual general meeting;
- (k) approve the budget for the coming year in accordance with section 103 of the Act, if the meeting is an annual general meeting;
- (l) deal with new business, including any matters about which notice has been given under section 45 of the Act;
- (m) elect a council, if the meeting is an annual general meeting;
- n) terminate the meeting.

What actually happens at the meeting? Let's break it down:

- (a) *certify proxies and corporate representatives and issue voting cards*; there is usually a sign-in sheet for those attending to sign in, show proxy forms, and pickup voting cards
- (b) *determine that there is a quorum*; ensure there are enough attending to legally conduct business
- (c) *elect a person to chair the meeting, if necessary*; usually the council president chairs – not always

Let's break it down:

- (d) *present to the meeting proof of notice of meeting or waiver of notice*; a statement about when the Notice was sent and how it was sent
- (e) *approve the agenda*; this is a formality to approve the order of agenda, not an chance to add new items
- (f) *approve minutes from the last annual or special general meeting*; most stratas will attach these to the AGM package but it is not required

Let's break it down:

- (g) *deal with unfinished business*; report on progress of items from last AGM
- (h) *receive reports of council activities and decisions since the previous annual general meeting, including reports of committees*; strata may do verbal reports, or attach to AGM package, or hand out at meeting.
- (i) *ratify any new rules made by the strata corporation under section 125 of the Act*; simple majority vote

Let's break it down:

- (j) *report on insurance coverage in accordance with section 154 of the Act*, Handout (or included in package) a copy of the coverage summary. Remind owners of their deductible obligations.
- (k) *approve the budget for the coming year in accordance with section 103 of the Act*, Majority vote. (more details later)

Let's break it down:

- *(l) deal with new business, including any matters about which notice has been given under section 45 of the Act; This is the place to vote on new resolutions as circulated with the AGM package.*
- *(m) elect a council; Have ballots ready, list candidates already volunteering with room to write in nominees*
- *n) terminate the meeting.*

What about an information meeting?

- No prescribed notice period for information meetings – but be inclusive
- It's great way to get information out, and get many questions answered before the AGM.
- No binding votes can be taken
- Council might decide to amend a planned action, based on owners' input at an information meeting

How to write resolutions

- Do you need the strata's lawyer to write them?
- Can you copy wording from previous years or from another strata?
- Can your management company write the resolutions?
- When do you need the strata's lawyer to write them?

Resolution for a special levy

- SPA108 (3) The resolution to approve a special levy must set out all of the following:
 - (a) the purpose of the levy;
 - (b) the total amount of the levy;
 - (c) the method used to determine each strata lot's share of the levy;
 - (d) the amount of each strata lot's share of the levy;
 - (e) the date by which the levy is to be paid or, if the levy is payable in instalments, the dates by which the instalments are to be paid.
- (4.1) A strata corporation may, by bylaw or by a resolution approving a special levy, establish a rate of interest, not to exceed the rate set out in the regulations, to be paid if an owner is late in paying his or her strata lot's share of the special levy.

Bylaw amendment resolutions

SPA128 (1) Subject to section 197, amendments to bylaws must be approved at an annual or special general meeting,

(a) in the case of a strata plan composed entirely of residential strata lots, by a resolution passed by a 3/4 vote,

(b) in the case of a strata plan composed entirely of nonresidential strata lots, by a resolution passed by a 3/4 vote or as otherwise provided in the bylaws, or (c) in the case of a strata plan composed of both residential and nonresidential strata lots, by both a resolution passed by a 3/4 vote of the residential strata lots and a resolution passed by a 3/4 vote of the nonresidential strata lots, or as otherwise provided in the bylaws for the nonresidential strata lots.

(2) If an amendment to a bylaw is approved, an Amendment to Bylaws that sets out that amendment and is in the prescribed form must be filed in the land title office and, until that filing, the amendment has no effect. (3) [Repealed 2009-17-21.]

(4) The strata corporation must inform owners and tenants of any amendment to the bylaws as soon as feasible after the amendment is approved.

Giving Notice of the AGM

- SPA45 (1) ... the strata corporation must give at least 2 weeks' written notice of an annual or special general meeting to all of the following:
 - (a) every owner, whether or not a notice must also be sent to the owner's mortgagee or tenant;
 - (b) every mortgagee who has given the strata corporation a Mortgagee's Request for Notification under section 60;
 - (c) every tenant who has been assigned a landlord's right to vote under section 147 or 148, if the strata corporation has received notice of the assignment.

Is it two weeks or three weeks?

- Interpretation Act 25.2 (1) In this section, "week" means a period of 7 consecutive days.
- (2) Subject to subsection (3), the beginning or end of a period of one day or consecutive days or of one week or consecutive weeks, expressed in relation to a reference day, is to be determined as follows:
 - (a) if the reference day is before the period, by counting forward from and including the day after the reference day;
 - (b) if the reference day is after the period, by counting backward from and including the day before the reference day.
- (3) If a period described in subsection (2) is expressed as "clear" days or weeks or "at least" or "not less than" a number of days or weeks,
 - (a) the beginning or end of the period, as determined under subsection (2) (a), is one day later, and
 - (b) the beginning or end of the period, as determined under subsection (2) (b), is one day earlier.

Deemed vs Actual Notice

- There are two types of notice: deemed and actual.
- "Deemed" Notice
 - mailing to address provided by the person
 - leaving it under the strata lot door
 - leaving it with an adult in the strata lot
 - mailing it to the strata lot address
 - putting it in the strata lot mail box
 - faxing it to a fax number provided by the person
 - emailing it to an email address provided by the person for the purpose of receiving the notice, record or document
- "Actual" Notice
 - actually handing it to the person

Plain language please!

- 14 days' notice is required
- Don't count the day of delivery of the notice (add 1 day)
- Don't count the day of the meeting (add 1 day)
- Allow 4 days for "deemed delivery" (add 4 days)

Plain language please!

	Deemed Notice	Actual Notice
When delivery is initiated	Day 1	Day 1
When notice is given	Day 5, Notice is "deemed to be received" after 4 days	Day 1
When the notice period starts to run	Day 6, the 2 week period starts on this day	Day 2
When the notice period stops running	Day 19, the 2 week period ends on this day	Day 15
When AGM can be held	Day 20 or later	Day 16 or later

What if the strata gets it wrong?

- *Failure to give proper notice of meeting*
- SPA47 Failure to give proper notice of an annual or special general meeting to a person entitled to receive notice under section 45 does not invalidate a vote taken at the meeting as long as the strata corporation made a reasonable attempt to give the notice in accordance with that section.

Owners: Do you need to attend?

- Why wouldn't you attend?
- SPA49 (1) A strata corporation may, by bylaw, provide for attendance at an annual or special general meeting by telephone or any other method, if the method permits all persons participating in the meeting to communicate with each other during the meeting.
- (2) A person who attends a meeting as provided under subsection (1) is present in person at the meeting.

Who else can attend?

- SB26 (1) Tenants and occupants may attend annual and special general meetings, whether or not they are eligible to vote.
- (2) Persons who are not eligible to vote, including tenants and occupants, may participate in the discussion at the meeting, but only if permitted to do so by the chair of the meeting.
- (3) Persons who are not eligible to vote, including tenants and occupants, must leave the meeting if requested to do so by a resolution passed by a majority vote at the meeting.

Who can vote?

- SPA54 (1) The following persons may vote at an annual or special general meeting:
- (a) an owner, unless a tenant or mortgagee has the right to vote under paragraph (b) or (c);
- (b) a tenant who has been assigned a landlord's right to vote under section 147 or 148, unless a mortgagee has the right to vote under paragraph (c);
- (c) a mortgagee of a strata lot, but only in respect of insurance, maintenance, finance or other matters affecting the security for the mortgage and only if (i) the mortgage gives the mortgagee the right to vote, and (ii) at least 3 days before the meeting the mortgagee has given to the strata corporation, the owner and the tenant referred to in paragraph (b), if any, written notice of the mortgagee's intention to vote.

Number of votes per strata lot

- 53 (1) At an annual or special general meeting each strata lot has one vote unless different voting rights are set out in a Schedule of Voting Rights in the prescribed form in accordance with section 247, 248 or 264.
- (2) Despite subsection (1), a strata corporation may, by bylaw, provide that the vote for a strata lot may not be exercised, except on matters requiring an 80% vote or unanimous vote, if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).
- (3) If, in accordance with a bylaw passed under subsection (2), a vote for a strata lot may not be exercised, the strata lot's vote must not be considered for the purposes of determining a quorum in accordance with section 48 or for the purposes of sections 43 (1), 46 (2) and 51 (3).
- (4) Despite subsection (1), if there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may, if the bylaws so provide, break the tie by casting a second, deciding vote.

Proxies

- SPA56 (1) A person who may vote under section 54 or 55 may vote in person or by proxy.
- (2) A document appointing a proxy (a) must be in writing and be signed by the person appointing the proxy,
 - (b) may be either general or for a specific meeting or a specific resolution, and
 - (c) may be revoked at any time.
- (3) The following persons may be proxies: (a) only if permitted by regulation and subject to prescribed restrictions, an employee of the strata corporation; (b) only if permitted by regulation and subject to prescribed restrictions, a person who provides strata management services to the strata corporation; *(note there are no regulations to permit (a) or (b))*
 - (c) subject to the regulations, any other person.
- (4) A proxy stands in the place of the person appointing the proxy, and can do anything that person can do, including vote, propose and second motions and participate in the discussion, unless limited in the appointment document.

Understanding “quorum”

- SPA48 (1) Business must not be conducted at an annual or special general meeting unless a quorum is present.
- (2) Subject to the bylaws, a quorum for an annual or special general meeting is
 - (a) eligible voters holding 1/3 of the strata corporation's votes, present in person or by proxy, or
 - (b) if there are fewer than 4 strata lots or fewer than 4 owners, eligible voters holding 2/3 of the strata corporation's votes, present in person or by proxy.
- (3) Unless otherwise provided in the bylaws, if within 1/2 hour from the time appointed for an annual or special general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time but, if on the day to which the meeting is adjourned a quorum described in subsection (2) is not present within 1/2 hour from the time appointed for the meeting, the eligible voters present in person or by proxy constitute a quorum.

Voting at the AGM

- SB27 (1) At an annual or special general meeting, voting cards must be issued to eligible voters.
- (2) At an annual or special general meeting a vote is decided on a show of voting cards, unless an eligible voter requests a precise count.
- (3) If a precise count is requested, the chair must decide whether it will be by show of voting cards or by roll call, secret ballot or some other method
- (4) The outcome of each vote, including the number of votes for and against the resolution if a precise count is requested, must be announced by the chair and recorded in the minutes of the meeting.
- (5) If there is a tie vote at an annual or special general meeting, the president, or, if the president is absent or unable or unwilling to vote, the vice president, may break the tie by casting a second, deciding vote.

Voting – best practices

- The chair should introduce the motion, let attendees know what page it's on, and ask for a mover and seconder. Mover and seconder state their unit #.
- Usually a council member speaks first, in favour of the motion.
- Set a time limit per speaker. Ask speakers to avoid repetition. Ensure all who want to speak have a turn – keep a speaker's list. Once everyone has been heard once you might permit a second turn, or not.
- Control side conversations. Listen for attendees who are ready to vote: “calling the question”.
- Be ready for secret ballots if requested. (depends on your bylaws)
- Have counters/scrutineers ready. Count votes for *and* against; announce the counts and whether the motion has passed or failed.

What are the voting thresholds?

- SPA50 (1) At an annual or special general meeting, matters are decided by majority vote unless a different voting threshold is required or permitted by the Act or the regulations.
- SPA96 The strata corporation must not spend money from the contingency reserve fund unless the expenditure is (a) consistent with the purposes of the fund as set out in section 92 (b), and (b) approved or authorized as follows (i) the expenditure is first approved by a resolution passed by
 - (A) a majority vote at an annual or special general meeting if the expenditure is (I) necessary to obtain a depreciation report under section 94, or (II) related to the repair, maintenance or replacement, as recommended in the most current depreciation report obtained under section 94, of common property, common assets or the portions of a strata lot for which the strata corporation has taken responsibility under section 72 (3), or
 - (B) a 3/4 vote at an annual or special general meeting if the expenditure is not described in clause (A) (I) or (II); (ii) the expenditure is authorized under section 98.

Voting thresholds continued

- 108 (1) The strata corporation may raise money from the owners by means of a special levy.
- (2) The strata corporation must calculate each strata lot's share of a special levy
 - (a) in accordance with section 99, 100 or 195, in which case the levy must be approved by a resolution passed by a 3/4 vote at an annual or special general meeting, or
 - (b) in another way that establishes a fair division of expenses for that particular levy, in which case the levy must be approved by a resolution passed by a unanimous vote at an annual or special general meeting.

Plain language please!

- Approve budget: majority vote
- Approve CRF expenditures:
 - Item identified in Depreciation Report: majority vote
 - Item not identified in DR: $\frac{3}{4}$ vote
- Special Levy: $\frac{3}{4}$ vote
 - Project funded partly by levy and partly from CRF: $\frac{3}{4}$ vote
- Rarely – 80% or unanimous vote
- All other matters: majority vote

What amendments are possible?

- SPA50 (2) Despite section 45 (3), during an annual or special general meeting amendments may be made to the proposed wording of a resolution requiring a 3/4 vote if the amendments
 - (a) do not substantially change the resolution, and
 - (b) are approved by a 3/4 vote before the vote on the resolution.

The annual budget

- 103 (1) The strata corporation must prepare a budget for the coming fiscal year for approval by a resolution to be passed by a majority vote at each annual general meeting.
- (2) The proposed budget must be distributed with the notice of the annual general meeting under section 45 and must be accompanied by a financial statement.
- (3) The budget and financial statement
 - (a) must contain the information required by the regulations, and
 - (b) may be in the form set out in the regulations.
- (4) The proposed budget may be amended by a majority vote at the annual general meeting before the budget itself is put to a vote.

Budget requirements

- SPA Reg 6.6 (1) For the purposes of section 103 (3) of the Act, the budget must contain the following information for the fiscal year to which the budget relates:
 - (a) the opening balance in the operating fund and the contingency reserve fund;
 - (b) the estimated income from all sources other than strata fees, itemized by source;
 - (c) the estimated expenditures out of the operating fund, itemized by category
 - (d) the total of all contributions to the operating fund;
 - (e) the total of all contributions to the contingency reserve fund;
 - (f) each strata lot's monthly contribution to the operating fund;
 - (g) each strata lot's monthly contribution to the contingency reserve fund;
 - (h) the estimated balance in the operating fund at the end of the fiscal year;
 - (i) the estimated balance in the contingency reserve fund at the end of the fiscal year

Financial Statements

- 6.7 (1) For the purposes of section 103 (3) of the Act, the financial statement must contain the following information for the fiscal year to which the financial statement relates as of a day that is within the 2 month period before the date of the annual general meeting:
 - (a) the opening balance in the operating fund and the current balance;
 - (b) the opening balance in the contingency reserve fund and the current balance;
 - (c) the details of the strata corporation's income from all sources, except special levies;
 - (d) the details of expenditures out of the operating fund, including details of any unapproved expenditures under section 98 of the Act;
 - (e) the details of expenditures out of the contingency reserve fund, including details of any unapproved expenditures under section 98 of the Act;
 - (f) income and expenditures, if any, by special levy under section 108 of the Act.
- (2) Within 8 weeks after the end of its fiscal year, the strata corporation must prepare a financial statement updated to the end of the fiscal year.

Budget approved?

- Don't assume that all owners are aware of changes to their strata fees.
- SPA106 Within 2 weeks following the annual or special general meeting at which a budget is passed, the strata corporation must inform owners of any changes to their strata fees resulting from the new budget.
- What about retroactive or “makeup” strata fees?

Budget not approved?

- SPA104 (1) If a budget is not approved at an annual general meeting, the strata corporation must within 30 days, or such longer period as approved by a resolution passed by a 3/4 vote at the meeting, prepare a new budget and place it before a special general meeting for approval by a resolution passed by a majority vote.
- (2) If a fiscal year to which a budget relates ends before a new budget is approved, the owners must, until the new budget is approved, continue to pay to the strata corporation the same monthly strata fees that they were required to pay under the previous budget.
- (3) Until a new budget is approved, the strata corporation may spend money out of the operating fund only in accordance with section 98 or
 - (a) on the type of expenses that are set out in the previous budget and that usually occur once a year or more often than once a year, and
 - (b) up to the maximum amount set out in the previous budget for each category of expense.

Budget surplus

- SPA105 (1) Subject to section 14, contributions to the operating fund which are not required to meet operating expenses accruing during the fiscal year to which the budget relates must be dealt with in one or more of the following ways, unless the strata corporation determines otherwise by a resolution passed by a 3/4 vote at an annual or special general meeting:
 - (a) transferred into the contingency reserve fund;
 - (b) carried forward as part of the operating fund, as a surplus;
 - (c) used to reduce the total contribution to the next fiscal year's operating fund.
- (2) If operating expenses exceed the total contribution to the operating fund, the deficit must be eliminated during the next fiscal year.

Special Resolutions

- This is the *Condominium Act's* term for what the *Strata Property Act* calls a $\frac{3}{4}$ vote. – typically capital projects, special levies, or bylaw amendments
- Chair introduces the motion with a bit of background
- Need a mover and seconder to put the motion “on the floor” for discussion.
- Usually a council member will speak first and speak in favour of the motion.
- After the discussion gets repetitive, call for the “question”.

Council elections

- SPA25 At each annual general meeting the eligible voters who are present in person or by proxy at the meeting must elect a council.
- SPA28 (1) The only persons who may be council members are the following:
 - (a) owners; (b) individuals representing corporate owners; (c) tenants who, under section 147 or 148, have been assigned a landlord's right to stand for council.
- (2) Despite subsection (1), the strata corporation may, by a bylaw passed at an annual or special general meeting held after the first annual general meeting, allow classes of persons, other than those referred to in subsection (1), to be council members.
- (3) Despite this section, a strata corporation may, by bylaw, provide that no person may stand for council or continue to be on council with respect to a strata lot if the strata corporation is entitled to register a lien against that strata lot under section 116 (1).

Council elections

- SB10 (1) The term of office of a council member ends at the end of the annual general meeting at which the new council is elected.
- (2) A person whose term as council member is ending is eligible for reelection.
- SB27 (7) Despite anything in this section, an election of council or any other vote must be held by secret ballot, if the secret ballot is requested by an eligible voter.
- SPA50 (1) At an annual or special general meeting, matters are decided by majority vote unless a different voting threshold is required or permitted by the Act or the regulations.

How to take good minutes

Decide ahead of time – who will be vote counters?

Ask those moving and seconding motions to state their unit number.

- Secretary or designate (best practice: all council members) – on their copy of the AGM package, write down who moved and seconded each matter, and the results of the votes.
- If amendments were proposed, write down the exact wording; who moved and seconded the amendment, and the result of the vote.
- Limit comments to “after discussion, a vote was held”.
- No need to count abstentions. The votes “for” and “against” tell you if there were abstentions. If a vote total is below quorum, do a roll call to see who is still there.

Action plans for the new council

- First council meeting: elect officers (this is often held right after the AGM as a one-topic meeting)
- Draft the minutes – approve the draft for release
- From the minutes, create a list of projects authorized or actions required – i.e. send out notice of new strata fees, if any; file bylaws; get quotes on projects; form committees; act on directives from owners.

Questions?



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Thanks for coming!

