**Legal Background**

The *Condominium Act* does not describe the Secretary’s duties. It simply says (s. 27) that the Directors ”shall appoint or elect the secretary” in accordance with the by-laws.

By-Law 10 of CCC#377, which sets out the number and terms of office of the Directors, says nothing about the Secretary. So in practical terms, one of the Board may serve as Secretary, or the Directors may choose to appoint some-one who is not on the Board.

In the latter case, past Board practice has been to pass a resolution appointing that individual as an officer of the Board (in accordance with s.36(1) of the *Condominium Act* )

**CORE RESPONSIBILITIES**

1. **Attend Board Meetings**
* Usually held once a month; but special ad hoc meetings may be called in case of the need for urgent action by the Board.
* In normal times, meetings are held in person. The *Condominium Act* provides that no corporation business can be transacted “except at a meeting of directors at which a quorum of the board is present” (s. 32(1)
* However, as a result of COVID 19, E-meetings are currently sanctioned- as a temporary measure - under provincial Emergency regulations.
1. **Prepare DRAFT Board Meeting Agenda**

The Agenda typically has followed the format below. However, only *Business Arising* and *New Business* have been usually set out in detail before the meeting.

The draft agenda is usually circulated for input from the Board a week before the meeting.

1. Call to Order
2. Approval of Minutes of the last Meeting (as circulated)
3. Business Arising
4. Management Report
5. Financial Report
6. New Business
7. Next Meeting
8. Meeting Adjourned

***Board Practice to Date***

* The Business Arising section has been compiled by the Secretary from the Minutes of the last meeting – and then reviewed/confirmed by the Board
* The Property Manager has compiled and circulated his/her report shortly before the meeting
* The Treasurer, in consultation with the Property Manager, has usually provided notice of the key elements of his/her report shortly in advance of the meeting
* The New Business section has been compiled by the Secretary, on the basis of E-mail traffic between and to Board Members (always cc’d to the Secretary)
1. **Take Minutes**
* Document the date and time of the meeting, who attended and what was decided.
* Whilst it is not expected that every single small detail needs to be captured, the main gist of what was said and the reasoning behind any Board decisions need to be clearly identified.
* Most important: all decisions and agreed action items must be noted; and it is helpful to make sure to identify who is responsible for next steps

***See the recent advice prepared by Davidson Houle Allen LLP(Appendix 1 below)***

***Helpful Hint: Prepare an Advance DRAFT Set of Minutes***

One way to reduce the stress of trying to simultaneously follow what is being said and also record it, is to prepare a DRAFT document ahead of the meeting that includes all the agreed agenda items and also any notes that you might find helpful of what was said last time and/or the gist of things covered in E-mails to and between the Board. Preparing a sort of rolling draft between one meeting and the next, as and when E-mail discussion takes place, can enable you to improve accuracy on dates thing happened and what the issues were. This helps both you and the Board, since in a month a lot can happen!

1. **Circulate Draft Minutes for Review by the Board and Property Manager**
* However, hard you try, there will be some things omitted or that need correcting, so it is important to get your draft reviewed by the Board members present.
* Don’t be too discouraged as a new Secretary, if you seem to miss a lot at first. As you become more familiar with Board business and the history of past decisions, errors will not creep in as often

***Helpful Hint: Prepare as Soon as Possible after the Meeting***

When your memory is fresh and before Board members forget what they said!

 Helps improve accuracy.

1. **Revise into Final Minutes (Unredacted and Redacted) and File as Corporation Records**
* The filing of the Minutes, once they have been formally approved (usually at the next Board meeting) is a crucial requirement.
* In the case of CCC#377, our Management Company (CRG) holds all our Corporation records on our behalf.
* On the advice of our Management Company and lawyer, we have been in the habit of preparing **two** sets of Final Minutes: one unredacted and one redacted.
* Whilst owners have a right to request the Minutes of Board Meeting, The *Condominium Act* protects certain type of information from disclosure; and preparing a redacted version that is held on file could save the Corporation and its lawyer much time and effort in the event of a future record request.
* Broadly speaking, the type of information that is protected this way is anything that could identify specific employees or unit owners, or be related to litigation.

***See the recent advice prepared by Davidson Houle Allen LLP ( Appendix 2 below)***

**USEFUL REFERENCE SOURCES**

* *Condominium Act, 1998*  as amended
* *CCC#377 By-Laws*
* *CCC#377 Rules* (Approved Office Consolidation July 20 2020)
* *CCC#377 Annotated Version of Rules which includes background history*
* Past Board Minutes

*Condo Advisor* (offered by Gowling law firm) <http://condoadviser.ca>

The Gowling team run a useful advice column **Condo Law News,** which offers timely updates on key developments in condo law and court decisions, as they happen. Their site also stores many articles of general interest on issues of interest to Condo Boards. You can subscribe - at no cost - to ensure that you receive the columns as they are published.

# Appendix 1

# What Should Go In Board Minutes?

# Davidson Houle, Allen LLP. April 16 2019

There is no prescribed format, and no specific guideline, about the required content for board minutes. But, I think it’s clear that the minutes should contain the following:

* **the date of the meeting (and the start time of the meeting, if desired);**
* **the persons in attendance at the meeting;**
* **the resolutions (including mover, seconder, and decision taken in each case).**

Additional information in the minutes is essentially “optional.”

However, I add the following notes:

* + It probably makes sense to include background information as reasonably necessary to be able to understand the resolutions.
	+ Also, there is an argument that the minutes should include some comment about each item on the meeting **agenda**. [This is something to bear in mind when preparing the agenda for the meeting.] That said, the amount of detail (contained in any such comment) is generally **optional**.
	+ A verbatim “transcript” of a board meeting is generally not prepared, because this may discourage a fulsome discussion between the participants of the meeting. A recording of the meeting, only to assist the minute-taker when preparing the minutes (whereupon the recording is destroyed), is perfectly fine and commonly done. But in most cases, it would be wise to advise all participants of the recording (if not obvious to all participants).
	+ However, the board minutes can be a good way to create an “ongoing historical record” of the activities of the condominium corporation…which can also be a good point of reference (a good source of knowledge) for incoming board members.
	+ According to section 55(7) of the Condominium Act, the minutes (when certified by the corporation as a true copy) will stand as proof of the contents “in the absence of evidence to the contrary.” Therefore, condominium corporations should be very careful to ensure that any statements in the minutes are accurate…because the minutes may one day serve as important evidence (which may be to the advantage or disadvantage of the condominium corporation and/or the directors and officers!).
	+ Also, any time information is included in the minutes, it may create privacy, confidentiality, and related redacting issues for the corporation (if, and when, it comes time to disclose the minutes, for instance in response to a request for records). For this reason, many condominiums corporations may decide to keep two sets of minutes – one set that is “unredacted” and one set that is “redacted for private, privileged, and confidential matters under section 55(4) of the Condominium Act – suitable for review by owners.”
	+ Also, information in the minutes may be used to support a claim (against the condominium corporation and/or the directors or officers); but might also be used as supporting evidence in a claim made by the condominium corporation.

Here’s the point: **the information contained in board minutes can, in some cases, be helpful, and in other cases be harmful, to the directors, officers, and/or the condominium corporation**.

**Each board (and each minute-taker) will need to decide whether or not it makes sense to include certain “optional information” in the minutes**, bearing in mind the advantages and disadvantages of doing so noted above.

**Appendix 2** (Davidson Houle Allen LLP May 28 2020 )

**What is a Condominium’s Duty to Review and Redact Records?**

[However, a similar] requirement designed to protect certain information, including personal information, exists under section 55(4) and 55(6) of the *Condominium Act*. The CAT confirmed that these two sections work together to prevent the disclosure of certain information in the following ways:

* Records relating to the Corporation’s employees cannot be disclosed, except for employment contracts which can be disclosed (and which typically do not contain personal information about the employee);
* Records relating to actual, or contemplated, litigation or insurance investigations cannot be disclosed unless the board chooses to waive this right, in which case the records can be disclosed;
* Records relating to unit owners, cannot be disclosed unless the unit owner information is redacted (for example redacting unit owner information from board meeting minutes where the minutes must be disclosed); and
* The prescribed records set out at section 13.11(2) of the *General Regulation*to the *Condominium Act* cannot be disclosed, except in the circumstances listed in that section.

While the *Condominium Act* creates this duty to protect against the disclosure of certain information, the CAT confirmed that this does not mean every non-core document must be reviewed for possible redaction in order to meet this duty. Boards must use their judgement to assess whether the contents of a record will require it to be reviewed for redaction. And in some cases, the nature of the document will likely confirm that no redaction is required. But this will depend on the specific circumstances of each record request. For example, in this case, the CAT found that there was no reason to require a review, particularly a legal review charged back to the owner, of the following documents:

* Past Budgets (which had already been disclosed at AGMs);
* Contracts between the condominium and certain contractors (i.e. cleaners, property manager, security service, and contracts related to software packages used by the condominium);
* Employee’s contracts; and
* The condominium’s insurance policies.