

Budget Ratification: Understanding the Ghost of Budgets PAST When Preparing for the Future

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November 29, 2023



It's that time of year again. The holidays are upon us, and the end of the year is drawing near.

As we reflect on the past year, many of us begin to look forward and think, "What's next?" With the New Year right around the corner, community associations need to begin considering the PAST in order to prepare for the upcoming year. So, "What's next?" for community associations? The

answer: **budget ratification**. For a better understanding of what a community association is all about, please check out **Unwrapping the Riddle: What is a Community Association** .

Each year, community associations are faced with the task of preparing an annual operating budget for the upcoming year. The North Carolina Planned Community Act ("Chapter 47F") and the North Carolina Condominium Act ("Chapter 47C") both require the Board of Directors ("Board") to prepare, adopt, and submit a proposed annual budget for the coming year to the membership for ratification. Budget ratification requires following a precise process, and understanding the differences between budget ratification in a homeowners association versus a condominium association is crucial. But there is no need for any Bah, Humbug because this article summarizes the differences between community associations and provides a step-by-step approach for budget ratification.

Community Differences

First, the statutory budget ratification process found in Chapter 47C for condominium associations applies to all condominiums in North Carolina, regardless of when they were created. However, the process for planned communities found in Chapter 47F is not retroactive and only applies to planned communities established on or after January 1, 1999. Accordingly, planned communities established *before* January 1, 1999, need only follow the budget approval process found in their governing documents, if any. Accordingly, unless the governing documents say otherwise, planned communities created before January 1, 1999, do not have to send their budget to the membership for ratification, and the Board can approve the budget unilaterally.

Second, the notice requirements for budget ratification meetings differ between community types. Chapter 47F and Chapter 47C both require the Board to send a summary of the budget and set a date for a budget ratification meeting not less than ten nor more than 60 days after the proposed budget is distributed to the owners. However, Chapter 47F also requires that the notice of meeting include a statement that the budget

may be ratified without a quorum of the owners present at the meeting. Chapter 47C, governing condominium associations, does not require the Board to include such a statement in the meeting notice, even though no quorum is required for ratification in a condominium.

PAST, Present, Future

No matter the type of community association, following a step-by-step approach is the best way for Boards to successfully navigate the budget ratification process. The procedural requirements for budget ratification can be summarized in four steps. Just remember: don't forget the PAST when planning for the future.

- **Prepare.** The budget ratification process starts when the Board *prepares* an annual operating budget.
- **Adopt.** The Board then *adopts* the proposed budget based on the requirements set forth in the association's governing documents.
- **Send notice.** After adoption, the Board must *send notice* of the budget ratification meeting to all owners in the community. Most communities choose to make budget ratification part of the association's annual membership meeting. The notice must include the proposed budget or a summary of the proposed budget. For Chapter 47F communities, the meeting notice must also include a statement that "the budget may be ratified without a quorum."
- **Take Time.** The Board must take note of the specific *timing requirements* set forth in Chapter 47F and Chapter 47C. The meeting notice and budget summary must be sent to all owners within 30 days of the Board's adoption of the budget. Additionally, the budget ratification meeting must take place at least ten days after distribution of the budget summary and notice but no later than 60 days after the distribution of the summary and notice. For example, if the Board mailed or emailed the notice and summary on January 1st, the earliest the meeting could take place is January 11th, and the latest the meeting could take place is March 1st.

Looking Ahead

After tackling the PAST, the last step is holding the actual budget ratification meeting. A budget ratification meeting is a meeting of the owners of the association to consider ratification of the proposed budget that has been adopted by the Board. The Board presents the budget to the members, entertains any questions, and unless a motion to reject the budget is made, the budget is automatically ratified. Again, there is no requirement that a quorum be present in order for the budget to be ratified. The budget ratification process does *not* require an affirmative vote by the members to "approve" or "reject" the budget. At the meeting, the budget *is ratified* unless a majority of all the owners in the association (or a larger vote if required by the governing documents) reject the budget. In other words, the budget is automatically approved unless more than half of the owners in the ENTIRE association reject the budget, not just rejection by those owners in attendance at the budget ratification meeting.

Lastly, what happens if the owners reject the budget? In the event the proposed budget is rejected, the last budget ratified by the owners will be used until the owners ratify a later budget proposed by the Board.

Taking a page from Scrooge and reflecting on the PAST is helpful in preparing for the future. Make sure you understand the budget ratification process and your community association's governing documents. If you need help navigating budget ratification or other association matters, do not hesitate to reach out to our community associations team to help you as you carol along!

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