CHECKLIST · HAMILTON MIKES, P.A.

Major Project Oversight Checklist

Governing a Large Capital Project From Approval Through Close-Out

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Applies to: Condominiums · HOAs · Cooperatives

Association _____ Completed by _____ Date _____

A large capital project fails in governance long before it fails in the field. The board that gets sued is usually the one that never decided who could approve a change order, never confirmed the money was there before signing, or never determined whether the work needed an owner vote. This checklist covers the board's job, from the decision to proceed through final lien releases.

This is the governance layer. The contract terms themselves are covered by the Construction Contract Review Checklist. Use both. Items that apply to one chapter only are labeled, and the citation under an item shows where the requirement comes from.

1 The project team and who decides what

- [ ] Retain the engineer or architect of record before selecting a contractor, and make the specification the association's document rather than the contractor's.
  A project designed by the company that will build it has no independent check on scope or quantity.
- [ ] Appoint an owner's representative or project manager and write down what they may decide alone, what needs the board, and what needs the owners.
- [ ] Name one point of contact for the contractor, and tell directors in writing that no individual director may direct the contractor.
  A director giving field direction creates a change order claim the board never approved and cannot easily defeat.
- [ ] Decide whether the project needs a standing committee, and if so adopt a charter stating its authority and that its meetings follow the board meeting notice rules.
  § 718.112(2)(c); § 719.106(1)(c); § 720.303(2)

2 The decision log

- [ ] Open a project decision log on the day the board votes to proceed, and record in it, for every decision: the date, the meeting, the motion, the vote of each director, and the document the board was looking at.
- [ ] Record every recommendation the engineer made and what the board did with it, including recommendations the board declined and why.
  Declining a recommendation is defensible. Declining it with no record of the reasoning is not.
- [ ] Keep the log with the official records rather than on a director's personal device.
  § 718.111(12); § 719.104(2); § 720.303(4)

3 Funding confirmed before commitment

- [ ] Confirm the full funding source before the board votes to sign, not after: reserves, a special assessment, a loan or line of credit, insurance proceeds, or a combination, with the amount of each written down.
  Confirm with counsel that reserve funds may lawfully be spent on this work, and that any use of reserves for a purpose other than the one they were budgeted for has the owner approval your chapter requires.
- [ ] If a special assessment is the source, confirm the notice requirements before the meeting.
  14 days' notice, and for a condominium the notice must state the estimated cost and a description of the purpose — § 718.112(2)(c)3.; § 719.106(1)(c); § 720.303(2)(c)
- [ ] Confirm the special assessment funds are held and used only for the stated purpose.
  Spending special assessment money on something other than the noticed purpose is one of the fastest ways to a Division complaint and a personal claim against directors.
- [ ] If the association is borrowing, confirm the authority to borrow in the governing documents and any owner vote the documents or the statute require.
  For a condominium, a line of credit or loan to fund milestone or structural integrity reserve study capital work requires approval of a majority of the total voting interests — § 718.112(2)(f)2.c.(II)
- [ ] Confirm the budget includes a contingency, state the percentage, and state who may authorize spending from it.
- [ ] Do not sign the construction contract until the funding vote, the loan commitment or the assessment resolution is actually in hand.
  Signing first and funding second is how a board ends up with a contractor on site and no money to pay the second application.

4 Material alteration: is an owner vote required

- [ ] Determine early, in writing, whether the work is maintenance, repair and replacement, or a material alteration or substantial addition.
  This determination decides whether the board can proceed on its own vote. Make it before the contract, not after the owners object.
- [ ] Read the declaration first. If it prescribes a procedure for approving material alterations, that procedure controls.

- [ ] For a condominium, if the declaration does not specify a procedure, 75 percent of the total voting interests must approve before the material alteration or substantial addition is commenced.
  § 718.113(2)
- [ ] For a cooperative, if the documents do not specify a procedure, confirm the approval threshold before proceeding.
  Confirm this subsection with counsel before relying on it; the cooperative provision is worded differently from the condominium one.
  § 719.1055(2) (two-thirds of the total voting interests)
- [ ] For an HOA, there is no statutory material alteration vote. The declaration and the articles are the only source of the requirement, so read them rather than assuming Chapter 720 supplies a default.
  Boards that apply the condominium 75 percent rule to an HOA are applying a statute that does not exist for them, and boards that assume no vote is needed sometimes miss one the declaration does require.
- [ ] For a condominium, note that installation, maintenance, repair, replacement and operation of hurricane protection is not a material alteration or substantial addition.
  § 718.113(5)

5 Permits, code and the flood rule

- [ ] Confirm the contractor, not the association, pulls the permit in its own license, and obtain the permit number before work starts.
  The permit holder carries the permit holder's responsibility, so it should be the licensed contractor doing the work. Never let an owner or a director pull a permit for association work.
- [ ] Record the notice of commencement and post a certified copy at the site before work begins.
  § 713.13
- [ ] Determine whether any building is in a special flood hazard area, and whether the cost of the work triggers the 50 percent substantial improvement rule.
  Where the cost of improvement or repair equals or exceeds 50 percent of the market value of the structure, the local floodplain ordinance generally requires the whole building to be brought into compliance with current flood requirements, which can include elevating it. Phasing work across permits to stay under the threshold is a route to an enforcement action, not a solution.
- [ ] Ask the local building department in writing how it measures the 50 percent threshold and over what period it aggregates permits.
  Lee, Collier and Charlotte Counties and the municipalities within them do not all apply the cumulative period the same way.
- [ ] If the work follows a milestone inspection, confirm the phase two repair commencement requirement is met.
  Phase two repairs must commence within 365 days of the report — § 553.899

6 Money controls during the job

- [ ] Fix the payment approval chain in writing before the first application: who checks the work, who certifies it, who signs the check.
- [ ] Require the engineer or architect of record to certify each payment application against the schedule of values before any payment is released.
- [ ] Confirm the retainage percentage is actually being withheld on every application, and do not release it early as a favor.
- [ ] Check the notice to owner file before each payment and confirm you hold a release covering that period from every lienor on it.
  This is the control that prevents paying twice. It only works if someone does it before each check, not at the end.
  § 713.06(2); § 713.20(4)
- [ ] Set the change order approval thresholds in writing: the amount the owner's representative may approve, the amount needing board ratification at the next meeting, and the amount needing a board vote before the work proceeds.
- [ ] Require every change order to state its schedule impact as well as its cost.
  A contractor who takes the money and leaves the completion date open has been paid for a delay claim you have not yet received.

7 Reporting to owners

- [ ] Set a fixed reporting rhythm before work starts, and keep to it even in the weeks when there is nothing good to report.
- [ ] Report the same four numbers every time: original contract amount, approved change orders to date, amount paid to date, projected completion date.
- [ ] Give owners advance written notice before work reaches their building, unit or lot, with access requirements and expected duration.
- [ ] Post project documents to the association website or app where the association is required to maintain one.
  Condominiums with 25 or more units, § 718.111(12)(g); HOAs with 100 or more parcels, § 720.303(4)(b). Cooperatives have no posting obligation.

8 Inspection, certification and stop-work

- [ ] Require the engineer or architect of record to inspect at defined stages, not only at the end, and to report in writing each time.
- [ ] Require third-party testing where the specification calls for it, paid by the association so the testing agency answers to the association.
- [ ] Write the stop-work triggers into the contract and the board's own procedure, and identify who may invoke them.
- [ ] Treat these as stop-work triggers: work departing from the specification, a lapsed or cancelled insurance policy, an expired or suspended license, a failed inspection not corrected, a claim of lien recorded, or a safety condition on site.
  A stop-work right nobody is authorized to exercise is not a control. Name the person in the motion.
- [ ] Confirm the board takes a recorded vote before terminating or suspending a contractor, and that counsel reviews the notice before it is sent.

9 Close-out

- [ ] Walk the project with the engineer and the contractor, produce a written punch list with dates, and hold enough retainage to finish it.
- [ ] Obtain the contractor's final payment affidavit and the waiver and release upon final payment from the contractor and from every lienor of record before the final check is released.
  § 713.06(3)(d); § 713.20(5)

- [ ] Confirm no claim of lien is recorded against the property and that no notice of commencement remains open.
- [ ] Obtain as-built drawings, operations and maintenance manuals, and the assigned manufacturer warranties with their registration certificates.
- [ ] Calendar every warranty expiration date and schedule an inspection shortly before the longest one runs out.
  The last chance to have the contractor fix something at its own cost is a date on a calendar. Put it there at close-out.
- [ ] File the contract, change orders, payment applications, releases, certifications, as-builts and warranties in the official records, and update the reserve schedule and the structural integrity reserve study inputs to reflect the new component.
  § 718.111(12); § 719.104(2); § 720.303(4)

> Confirm the funding before the signature and the owner vote before the commencement. Those two sequencing mistakes, taken in the wrong order, account for most of the capital projects that end with a board in litigation with its own members.

Statutes and authorities referenced

- § 718.113(2) , Fla. Stat. (condominium material alterations and substantial additions)
- § 718.113(5) , Fla. Stat. (hurricane protection not a material alteration)
- § 719.1055(2) , Fla. Stat. (cooperative material alterations)
- § 718.112(2)(c)3. , § 719.106(1)(c) , § 720.303(2)(c) , Fla. Stat. (special assessment notice)
- § 718.112(2)(f)2.c. (II), Fla. Stat. (line of credit or loan for milestone and SIRS capital work)
- § 553.899 , Fla. Stat. (milestone inspections; phase two repair commencement)
- § 713.13 , Fla. Stat. (notice of commencement)
- § 713.06 , Fla. Stat. (notice to owner; final payment affidavit)
- § 713.20 , Fla. Stat. (waiver and release of lien)
- § 718.111(12)(g) , § 720.303(4)(b) , Fla. Stat. (website or app posting)
- § 718.111(12) , § 719.104(2) , § 720.303(4) , Fla. Stat. (official records)

Talk to association counsel

When the checklist turns up a question about what a statute or your documents require, ask association counsel before the board acts. **Hamilton Mikes, P.A.** represents condominium, HOA and cooperative associations, clubs and marinas throughout Southwest Florida. **239-594-7227 · HamiltonMikes.com**

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