

# Online community scheme meetings both legal and viable

With physical meetings becoming difficult to host during the Covid-19 lockdown restrictions, the community scheme property industry was forced to embrace digital solutions to ensure that meetings can continue. Online meetings have since become the norm and non-resident members can now attend from anywhere in the world, says Chantel van Heerden, national chairperson of the National Association of Managing Agents of South Africa (NAMA).



Source: [www.pexels.com](https://www.pexels.com)

With the industry forced to change the way it conducts community scheme meetings, electronic meetings are now seen as “normal” and more members are now requesting electronic meetings. But, says Van Heerden, setting up an electronic meeting, especially for bigger schemes, can be a challenge if the managing agent and trustees do not have the necessary tools to facilitate such a meeting.

## Legislation provides for meeting by other methods

Marina Conostas, director at BBM Law and a specialist on community scheme property law, says there have undeniably been challenges for the industry, particularly at the beginning of the first strict lockdown. With limitations on how many people could meet face to face and social distancing regulations, it became impossible to host the in-person meetings that owners were used to. Trustees and managing agents were initially flailing around, but soon it became evident that the legislation provided for a meeting by other methods.

“Management Rule 17(10) (a)(b) and (c) of the Sectional Titles Schemes Management Act 8 of 2011 makes provision for attendance at an annual or special general meeting by any other method if the method is accessible to all members and other persons entitled to attend the meeting, permits all persons participating in the meeting to communicate with each other during the meeting, and permits the chairperson to confirm, with reasonable certainty, the identity of the participants,” says Conostas.



## Benefits for owners, managing agents

She says as long as they comply with the above prerequisites, the meetings are legal and, as it turns out, extremely viable. “Virtual meetings essentially yield benefits for owners and managing agents. A virtual meeting is more convenient, less time consuming and, in my view, more productive. The negative sides are of course where technology fails and the personal contact between fellow owners is lost. Schemes must ensure that they do have the online tools which emanate from a reputable company. Very often major decisions are taken within a scheme that have massive financial implications. Trustees cannot afford to have resolutions invalidated by a court due to faulty voting platforms. We would advocate having dry run practice meetings, allowing experts to streamline in-meeting functionality, and sending out “how to” schedules for owners, taking them through the meeting step by step. As with all things, communication is key,” says Constas.



Danie Van der Merwe, director at WeconnectU

According to Danie Van der Merwe, director at WeconnectU which developed a meeting module called MeetingSpace to address the challenges of meeting online, moving meetings online is a huge step in the right direction for the whole industry. “For the industry to be successful, you need great people to want to work in it. Meetings, often after hours in sometimes dangerous areas, have always been the drawback for many of the best portfolio managers out there, leaving them with little to no family time and resulting in them leaving the industry. Taking meetings online allows them to now waste less time on the road, have more time with their families and feel more secure in the comfort of their own homes. This gives them a more sustainable work environment and they end up staying in the industry,” says Van der Merwe.

He says Covid-19 made most people hesitant to attend in-person meetings, often resulting in the quorum not being obtained and meetings then have to be re-convened. Although the re-convened meeting may ratify budgets and financials and make all the relevant decisions, lesser participation often leads to poorer decisions or no decisions at all on matters needing attention. “The

way meetings are run and how decisions are made and minuted are all prescribed by law. The moment you do not follow due process, decisions may be declared null and void, which creates confusion and frustration. Time is of the essence for all stakeholders, so we want to get it right the first time.

## Conferencing tool challenges

“We all know the conferencing tools like Zoom or MS Teams. These tools are good for video sharing and conducting community meetings. However, these tools unfortunately do not provide the full spectrum required to host legal community scheme meetings. The most common challenge is voting. Property managers are required to count votes on participation quotient value rather than just numbers, and to make it worse, the results must be announced at the meeting. This is a manual process and forces the property manager to keep and populate sheets to determine the voting results in value, forcing additional staff to attend the meeting to try and process this efficiently. There is significant room for errors.”

Van Heerden says online meetings or video conference meetings provide a viable alternative where members cannot attend a physical meeting. “Indeed, the ability to attend a meeting electronically has assisted some schemes in meeting quorum requirements where they struggled previously and allowed members to participate from a distance. While only a trustees’ resolution is required to run a meeting virtually, owners must be able to attend virtually. A growing trend is running of hybrid meetings, specifically arranged where virtual attendance of members is not possible,” concludes Van Heerden.

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