



The Regenesis Report



National Edition

Innovative Homeowner Association Management Strategies

Priceless

Regenesis means making new beginnings using eternal principles in innovative ways.

Regenesis believes that the goal of every homeowner association board should be to promote harmony by effective planning, communication and compassion.

The Regenesis Report provides resources and management tools for just that purpose. Every month, articles of common interest to homeowner associations nationwide are offered along with innovative strategies for addressing common problems.

Managing an HOA can be a lonely and frustrating task. Take heart. Help is on the way.



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Webs We Weave

“A spider’s engineering odyssey begins at a high point, from which it releases a single silken thread into the breeze. After the fine strands finds something to cling to, the spider moves across adding silk around the gossamer scaffold, which will serve as the support line. The minute architect then secures a second, slack line, end to end, just below the initial strand. Moving to the center of the lower thread, the spider descends, via a third strand, to a bottom attachment point completing a martini-glass shape; this serves as the framework for the web. Next, the remaining spokes are added. The spider then begins spinning the radial lines starting from the center. The finishing touch is the silk which is interlaced between the radial frame threads.” *Shervin Hess*

Like the spider’s web, homeowner association frameworks are intended to provide a system for efficient management of the HOA business. But many operate like a spider on LSD with random and ill conceived processes tied together by urgency or neglect. It’s not pretty.

In truth, managing an HOA is a highly complex undertaking. It involves the intricacies of sophisticated property management system tethered to an understanding of human behavior that would cause a seasoned diplomat’s head to spin. Yet many boards seem oblivious to this and even more surprised when their efforts are criticized by the members. “It’s a thankless job,” they’ll say.

Whether the members appreciate it or not should not be the primary objective. The greatest thanks there is effectively protecting and enhancing the HOA assets with thoughtful planning and execution. Take it as patting yourself on the back. When the board properly manages business, good things will happen. Costs will be contained, repairs will be done when needed, rule breakers will be smited when appropriate and residents will live in harmony. There is much cause for celebration here.

Part of weaving this mystical web is for the board to realize that it can’t be done alone. This one is sometimes hard to overcome because a pattern was set years ago by the first board which thought it could be done alone. Or early boards forced to do it due to an inadequate budget with no room for professional management and other experts needed to do it right. But once the current board is totally worn down or worn out, it will occur that maybe there is a better way...hire people that get paid to do it. When the hue and cry arises that it costs too much, the facts usually indicate otherwise. Costs for professional management often amount to \$20-\$30/month/unit. How much is *your* time worth?

And what about paying for experts like lawyers, reserve study professionals, engineers, etc.? Since boards rarely have this kind of inside talent, making informed decisions requires spending money for sage counsel and advice. Spending money this way usually saves money by better focusing goals and outcomes. So, include money in the budget for the experts and don’t be afraid to spend it.

An important part of the web is rules. Only add those that are really necessary. Include reasonable fines to make them enforceable and a right of appeal. Sample rules and policies are available to Gold Subscribers of www.Regenes.net for only \$99/year.

The saying goes, “Oh, what a tangled web we weave when we practice to deceive.” But when the board purposefully weaves together good management practices, the resulting web is a thing of truly lasting beauty. 🕸

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Ask the HOA Expert

Q I suspect our President of embezzlement. He is also acting as the secretary and treasurer and claims he has over half the owners' proxies so no one can stop him. Help!

A You have legitimate concerns and have the right to reasonable answers to those concerns. Make a written request for access to financial information (checking accounts, financial reports, etc.). If you are ignored or don't receive reasonable answers, you have the right to call a special owners meeting usually with a small percentage of owners requesting it to discuss the concerns. Also, convince the other owners to vote for you in the next election and ask them to give you their proxy if they aren't attending the annual meeting. Ask other concerned owners to run as well. Only if you displace this individual will you have chance for change.

Q Can an HOA offer its members the option to pay higher fees in lieu of participating in maintenance activities? We have always tried to keep our fees low by sharing many of those tasks. And is there a way to ensure that prospective buyers understand that our HOA involves a commitment to make regular contributions of time and effort?

A An underlying principle of owning property in an HOA is that the members get discounts through group buying power. But there is no obligation that any member has to do the work themselves. So, members cannot be surcharged for lack of participation. While it's nice that there are those that want to cut costs by doing the work, getting sustained cooperation and consistent results from all members is next to impossible.

Encourage volunteers by asking each member to complete a small but meaningful task rather than volunteering for long term commitment. By year end, many small projects can be completed and, when combined, represent an impressive accomplishment. Recognize those that participate in the newsletter and board and annual meetings. Give awards and

certificates. This will encourage others to step forward.

Q I would appreciate if you would answer a question on reserve studies. What balance should the study be shooting for at the end of the 30 year period?

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A There are different theories about funding reserves but the only fair way to do it is to follow a "fully funded" plan. A simple example: If a reserve component costs \$10,000 to repair/replace and it has a 10 year useful life, \$1000/year should be set aside in reserves each year to accumulate the \$10,000. If this is done for all reserve study components, the reserves will be fully funded in each year of the 30 year plan. And all HOA members along the 30 year timeline will pay a fair share of the reserve costs. Anything less and someone in the future will have to make up the shortfall.

Q We have a complete board turnover coming at the upcoming Annual Meeting. Some owners want to self-manage because our management company is not performing. Does this group, assuming they are elected, have the right to fire the manager and just take over with self-managing our 64

units? Does this require the vote of the entire membership?

A It would be unwise for an HOA of this size to self manage. Professional management is recommended for even small HOAs because of the 24/7 responsibility. Most volunteers like to take vacations, don't like to get nasty phone calls at home and are reluctant to enforce rules and collections on their neighbors.

While the issues with your current manager may be valid, that doesn't mean there aren't other solutions. Has the current board detailed the shortcomings and given the manager a reasonable opportunity to comply? This is only fair. Often boards expect things that aren't even included in the contract and then get angry or frustrated when they're not done. If the manager has been confronted and failed to comply, it's time to develop a Request for Proposal (RFP) which can be sent to qualified companies. A sample RFP is available at www.RegenesiS.net in the Manager Issues section to Gold Subscribers.

Finally, to properly manage and plan for major expenses, your HOA should have a professional reserve study performed. See www.RegenesiSReserves.com for details.

Q Our parking rules state residents must park two cars in their garage and guest parking is only for guests. Certain residents failed to comply and the board hired a parking patrol to enforce the rules which included towing repeat violators. It's working! Some residents, including some that have displaced cars due to garage storage, are challenging the parking policy. The board is considering renting 10 of the 100 guest spaces to residents that are properly using their garages for parking and have a third vehicle. Thoughts?

A Parking in many HOAs is very tight. But if there truly is a surplus, renting extra parking spaces is a common practice. The spaces should only be rented to residents and a rental agreement signed which requires auto insurance, no

stored or junk cars and other reasonable provisions. The rental fee should be market value, otherwise it looks like someone is getting a "sweetheart" deal. A one year prepaid term is recommended to reduce additional bookkeeping and management costs.

Q Our board president replaced sidewalks that he deemed needed replacing and then sent the affected homeowners the bills along with a letter stating that the sidewalks were an owner's responsibility according to the governing documents. Can he do that?

A The board has no authority to summarily replace something that an owner is responsible for without reasonable prior notice and right of appeal, unless there is an emergency (downed power line, sink hole, etc.). For legitimate safety concern like a tripping hazard, the board has the *duty* to advise an owner and take action if the owner does not.

However, from the facts you relate, the board president exceeded his authority and the owners have the right to dispute the charge.

Q Is it acceptable to take a delinquent owner to Small Claims Court?

A While state laws may vary, the board usually can use Small Claims Court to collect money. However, there are many practical reasons not to. The board typically has the right to place liens on owner property, garnish wages and other strong collection methods without going to Small Claims Court. If the Collection Policy is written correctly, collection and legal costs can be recovered from the debtor. Small Claims Court is limited to the amount that can be collected and may disallow other legitimate charges (like interest, late fees, attorney fees), the judge may rule in the defendant's favor or split the difference. And even if the HOA wins, there is still a judgment which may require an attorney to collect if the delinquent still refuses to pay it. So, there is simply no advantage to the HOA using Small Claims Court.

To protect the HOA's collection rights, it's advisable to work with an attorney

that specializes in HOA collections. Some collect their legal fees only when the balance is paid in full (HOA is paid first).

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Q What is the difference between a condo and a townhouse? Can one be both a condo and a townhouse?

A The term "townhouse" is an architectural term often used to describe side by side common wall units which may or may not be condominiums. The definition of a condominium is about how real estate is held. All condo owners share an undivided interest in all real estate. In non-condo HOAs, owners share an undivided interest in common real estate plus an individual interest in real estate below their unit or home.

Since the essence of a condominium is related to real estate and not the structure, a condo can be a single or multi-level unit, a house, commercial space or even an airplane hangar. The key legal difference between a townhouse and a condo is whether the owner owns land separately from commonly held land. You can't tell just by looking at it. You need to read the governing documents. This is extremely important when buying because it often affects maintenance and insurance responsibilities. Don't count on your real estate agent to know the difference.

Q Our Annual Meeting agenda is coordinated with the membership and suggested topics are placed on the agenda. However, at the Annual Meeting, members are allowed to make motions from the floor, get a second and vote. There is no thought given to the impact on the budget, management and execution. Is this approach correct?

A While the Annual Meeting is the proper place to hold discussions, making and

passing motions on the fly is inappropriate since absent owners are not able to weigh in and vote. Certain kinds of member motions may take a super majority or unanimous vote to pass which is rarely present at an Annual Meeting. All issues requiring a member vote must be noticed to the *entire* membership in advance of the meeting. The practice you describe should be stopped immediately.

Q Our board has been missing a secretary for months. I serve on the Architectural Control Committee and the board wants me to take the secretary's job. I don't want it since it is a lot of work if done properly. Can the president force me to take the job?

A It sounds like your HOA is overdue for professional management which can provide this service and many others. Barring that, the board could appoint or hire anyone to do the secretary's job. The board can't force anyone to do anything.

Q I've just completed my first year managing the largest condo association in the area. The property spent much of the last ten years undermaintained and what work was done was substandard at best.

Until recently, the majority of board members represented investors and many board decisions were made in the best interest of those investors rather than the HOA. For example, insurance claims were paid through the HOA's policy that should not have been.

Those investor board members have since been replaced by owner occupant directors but the investors are posturing to retake the board. They have been engaged in door to door campaigns and other aggressive tactics. Many of the current board members are so frustrated with the barrage of communication and additional work this group is causing that they are ready to throw in the towel.

I'm at a loss as to what I can or should do in this situation. My gut reaction is to suggest that all directors be required to sign a conflict of interest agreement.

This would help rein in some of the self-serving behavior. Thoughts?

A Investor owners have the right to serve on the board if they can get elected. The current board members need to understand if they don't encourage conscientious and non-conflicted candidates and general members to vote for them, candidates with not-so-hidden agendas will get elected and do things that will negatively impact the value of the units.

Signing a conflict of interest statement may be appropriate since it can be used to intercede when self serving board actions are being contemplated. You, as manager, need to be candid about what the board should and shouldn't be doing and the consequences. For example, filing inappropriate insurance claims against the HOA's policy could result in higher premiums or loss of the insurance altogether.

If a board member proposes something at a board meeting that conflicts with the governing documents, good business practice or common sense, say so in no uncertain terms. If the board votes in favor of it anyway, insist that the minutes reflect that the manager advised otherwise. This tactic may cause the board to recant its foolish ways.

The manager walks a fine line with changing boards. You should be as helpful and transparent as possible with the new board. If the hidden agenda folks guys take over again, you will have a choice to make: quit or try to make it work. 🗡️

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Resource Links
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Visionary Volunteers

Homeowner associations are notoriously bad about raising volunteers for the board and committees. But not for lack of trying. The call goes out and too often, no one answers. Hello? Anybody out there? I guess nobody really cares. But they *do*

care, at least some of them. It's not that they don't want to volunteer. The reasons for doing so are often just, well, too uninspiring. While "serving the community" and "protecting your interests" may seem motivation enough, where's the excitement, where's the glory in it all? Isn't it time to "punch up" the job?

Raising volunteers takes the "vision" thing. Board candidates should be sought out months before election time. The goal is to find people with the experience and ability to serve. Many good candidates fail to step forward because the job is not explained to them properly. There is a natural fear of the unknown, fear of being trapped in an open ended commitment. A huge part of wooing volunteers is defining it in terms that make it clear it's something to look forward to, not endless drudgery or worse. Painting a "vision" is everything. So what kinds of things will help set that vision?

Scheduled Meetings in Advance.

There is no reason that board meetings can't be scheduled a *year* in advance. Scheduling meetings far in advance sets deadlines for accomplishment. It identifies points in time when decisions will be made at predictable intervals rather than on the fly. Planning far in advance eliminates the excuse that someone is already booked. It also gives the members the impression that the board is steering the HOA ship instead of being keel-hauled behind it.

Getting Business Done.

Serious volunteers want to know that real business will take place, not just cheap talk. All meetings should have an "action" agenda. An Action Agenda calls for, as the title implies, decisions. Instead of "*Discuss* Landscape Contract", try "*Approve* Landscape Contract" which implies action. Use the same concept for all agenda items.

Distribute Agenda in Advance.

Many meetings waste time defining what the agenda items are. Rather than show up and take on anything that comes up, narrow the field *before* the meeting so business can actually get accomplished. This means eliminating or deferring less important items. The well defined agenda should include supporting information and recommendation for decisions. In other words, "The

committee recommends that the plan be adopted as presented." This approach points to decisions, not discussion. All of this should be distributed at least 3-7 days in advance. Keep supporting information as brief and to the point as possible. No one wants to wade through piles of files.

Time Limit Your Meetings.

Most would-be volunteers have full lives and endless meetings are a real turn-off. They usually happen because there is no agenda to begin with and discussion is allowed to meander aimlessly. Agree that meetings will not last longer than two hours and that all agenda items need to be covered during that time. Keep your promise. It's up to the Chair to move things along. If your meetings tend to drone on, use a kitchen timer that "dings!" when the time limit has run out on each agenda item.

Follow Meeting Protocol.

Roberts Rules came about for a very good reason: Unstructured meetings will often deteriorate into chaos if there are no rules to guide the discussion and decision making. An abbreviated version of Roberts Rules will generally suffice at HOA board meetings. Follow this Cardinal Rule: If at least two people aren't interested in discussing a topic, move on. If two do, one makes a motion and the other seconds the motion. Discussion should follow an alternating pro and con scenario. When the pros and cons start to repeat, vote on the motion and be done with it.

Open Meetings.

To eliminate suspicion and rumors, board meetings should be open to all owners for the purpose of auditing (that means "to listen", not participate.) Allow for an owner forum preceding the meeting to answer questions or allow members to make statements. Once the meeting starts, they should be welcome to stay but not interrupt business. To make that clear, have them sit *away* from the board meeting table.

The value of maintaining open meetings is to eliminate the "us and them" mentality that can crop up when meetings are closed. Few neighbors want to be at odds with their neighbors. It's important not to create an illusion of pecking order. If non-board members are welcome to the meetings, they'll get

a taste of what happens and could become potential volunteers.

Keep a Sense of Humor. To attract and hold volunteers, it's very important to keep business from becoming ponderous or confrontational. There are few topics in HOAs that are life or death. If someone gets overwrought or agitated, it's time to ratchet up the Mirthmeter. If a particular member makes a habit of being obnoxious, insist in private that they either leave it at home, not attend the meeting or step down off the board, as it applies.

Serious volunteers want to know that their time will be well spent. Woo them with a well defined mission and envision whirled peas, uh, more volunteers. 🌱

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Brave New World

"O brave new world that has such people in it!" These immortal words from Shakespeare's **The Tempest** aptly describe homeowner associations. Conflicting interests can lead to disputes that erupt at meetings. To control such outlandish behavior, HOA meetings are well served by using a parliamentary procedure such as *Robert's Rules of Order* which allow a presiding officer to turn a long and confrontational meeting into a short and painless one.

Parliamentary procedure is the code of rules and ethics for working together in groups. Without rules, there would be chaos. Parliamentary procedure is the means by which organizations make decisions. It is not synonymous with *Robert's Rules of Order*. There are several major parliamentary books including *Sturgis Standard Code of Parliamentary Procedure*. However, *Robert's Rules of Order* is by far the most widely used and is considered an authority. It includes sections on presiding, the duties of officers, running elections, making proper motions, and holding board and committee meetings.

The conduct of business in an assembly often varies by size. Annual meetings of homeowner associations are typically formal in procedure. Business conducted in a board of more than a dozen members follows the same formal procedure. Some characteristics of formal parliamentary procedure are as follows:

- Members must be recognized by the presiding officer before speaking;
- A motion to take action must precede any discussion of an issue;
- Motions must be seconded;
- Members may only speak to a specific issue twice;
- The presiding officer does not participate in discussion; and
- Formal votes are taken by voice or ballot.

Formal procedure in a meeting of fewer than a dozen may actually hinder business. Some recommendations from Roberts Rules for smaller groups include:

- Members are not required to obtain the floor and can make motions or speak while seated;
- Motions need not be seconded;
- There is no limit to the number of times a member can speak to a question
- Motions to close or limit debate generally should not be entertained (unless the group has adopted a rule to the contrary); and
- Subject to rule or custom, the chair usually can make motions and usually votes on all questions.

While smaller boards can operate more informally, there are times that more formal procedure may be warranted. If a particular issue is hotly contested or likely to subject the board to publicity or a lawsuit, more formal procedure can ensure that procedural safeguards have been observed.

A basic rule is no meeting should be called to order until a "quorum" is established. A quorum is the number of the members that must be present in order to transact any business. This number or percentage is typically found in the HOA's governing documents or state statute. In the absence of a provision regarding quorum, common law provides that a majority of members constitutes a quorum. Once a

quorum is present, the meeting and business may proceed. Quorum refers to the number of members present, not to the number of members voting. If a quorum is present, a vote is valid even though fewer than the quorum vote (unless there is a rule to the contrary).

What is the standard Order of Business? The order of business is the blueprint for meetings and provides a systematic plan for the orderly conduct of business. If the rules of procedure do not include a standard order of business, parliamentary law has established the following pattern after the Call to Order by the chair:

I. Reading and Approval of Minutes. If copies of the minutes are made available, the actual reading may be waived. Following any corrections or additions, the minutes should be approved. Approval of the minutes is usually handled by unanimous consent.

II. Reports of Officers and Standing Committees. The chair usually calls on only those members who have reports. A motion arising out of one of these reports is taken up immediately, since the object of the order of business is to give priority to business in the order listed.

III. Reports of Special Committees. Special committees do not have continual existence, but exist solely for the purposes of a specific project.

IV. Unfinished Business. Unfinished business (sometimes incorrectly referred to as "old business") refers to questions that have carried over from the previous meeting as a result of that meeting having adjourned without completing its order of business. The following items are considered under unfinished business:

- (a) The question that was pending when the previous meeting adjourned;
- (b) Any questions not reached at the previous meeting before adjournment;
- (c) Any questions postponed to the present meeting.

VI. New Business. Following any unfinished business, the chair asks, "Is there is any new business?" Members can introduce new items of business or move to take from the table any matter that is on the table.

Using basic parliamentary procedure provides a systematic way to get business done and allow members to be heard. If your board has not adopted and use something like what has just been described, you live in a Brave New World. Brush up your Shakespeare because you'll need it. Here's one for your Pet Policy: "Out, damn'd Spot! Out I say!"🐾

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Interview with God

I dreamed I had an interview with God. "So you would like to interview me?" God asked. "If you have the time," I said. God smiled. "My time is eternity." "What questions do you have in mind for me?"

"What surprised you most about mankind?"

God answered, "That they get bored with childhood. They rush to grow up and then long to be children again. They lose their health to make money and then lose their money to restore their health. That by thinking anxiously about the future, they forget the present, such that they live neither in the present or the future. That they live as if they will never die and die as if they have never lived.

God's hand took mine and we were silent for a while.

And then I asked, "As a parent, what are some of life's lessons you want your children to learn?"

God replied with a smile. "To learn that they cannot *make* anyone love them. What they *can* do is let themselves be loved.

And to learn that it is not good to compare themselves to others. To learn that a rich person is not the one that has the most but is one who needs the least. To learn that it takes only a few seconds to open profound wounds in people we love and it takes many years to heal them. To learn to forgive by

practicing forgiveness. To learn that there are persons who love them dearly but simply do not know how to express or show their feelings. To learn that two people can look at the same thing and see it differently. To learn that it is not always enough that they be forgiven by others but they must forgive themselves.

And to learn that I am here...always.🐾

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AAADD

Age Activated Attention Deficit Disorder: You may have this or know someone that has it. For example, one morning I decide to wash the car. I start toward the garage and notice the mail on the table. I'm still going to wash the car but have to first look through the mail. I lay the car keys down on the desk. I discard the junk mail and notice that the trash can is full.

I put the bills on my desk and take the trash out. But since I'm going to be near the mailbox anyway, I'll pay these bills first. Where's the checkbook? I only have one check left. My extra checks are in the desk. Oh, there's the Coke I was drinking. I'm going to look for those checks. But first, I have to put my Coke further away from the computer. Maybe I'll just put it in the fridge to keep it cold for a while.

I head toward the kitchen and a pot of flowers catches my eye. They need some water. I set the Coke on the counter and...there are my glasses! I've been looking for them all morning. I better put them away first. I fill the container with water and head for the flower pot.

I then notice that someone left the TV remote in the kitchen. I'll never think of look in the kitchen the next time I want to watch TV so I better put it back in the family room where it belongs. I splash some water into the flower pot. I throw the remote on the couch and

head back down the hall trying to remember what I was going to do.

At the end of the day, the car's not washed, the bills aren't paid, the Coke is sitting on the kitchen counter, the flowers are half watered, the check book still has only one check in it and I can't find my car keys. When I try to figure out why nothing got done today, I'm baffled because I was busy all day.🐾

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- 🐾 Malamute + Pointer: Moot Point, a dog that...well, it doesn't matter anyway.
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