



# The Regenesis Report



National Edition

Innovative Homeowner Association Management Strategies

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**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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## The Three Rs

Readin', ritin' and rithmatic used to cover what most needed to know, as long as they lived in the "holler". But homeowner associations have their own version of the Three Rs called Rules, Regulations and Resolutions. These are the policies and procedures that define HOA standards. They must comply with state and federal law. For example, the board cannot enact a rule that violates Fair Housing Act.

Rarely if ever are the Three Rs clearly or fully defined in the governing documents. That is by design to allow flexibility and customization. Amending bylaws is tedious and difficult. The Three Rs can usually be modified as needed by the board. The board may use either rules and regulations or resolutions to accomplish this goal. So what's the difference?

**Rules and Regulations** are used to address rules of conduct. Appropriate topics include:

- Quiet Hours
- Pets
- Parking
- Noise
- Restrictions (use of clubhouse, pool rules)
- Limitations on guest use.

When adopting new or revised rules, it's wise for the board to solicit owner input for a greater degree of compliance. Any proposed rule or regulation must comply with the governing documents. For example, if the governing documents state that guest parking may only be used by guests, a board rule cannot change that. That requires an amendment voted upon by the members.

**Resolutions** are the preferred method of establishing procedures for the homeowner association. Resolutions come in two types: policy and administrative.

- **Policy Resolutions** define acceptable community standards. An example of a policy resolution: Many governing documents are unclear with regard to

homeowner association versus owner maintenance responsibilities. Who repairs a water supply line after it enters an owner's unit? Who repairs damage from a flood originating in an upper unit? There are many variations on this theme that could be answered in a policy resolution that defines each item according to who is responsible. This particular resolution directly impacts homeowner insurance and owner responsibilities. Other significant policy resolutions deal with money collection, architectural guidelines and enforcement procedures.

- **Administrative Resolutions** define procedural guidelines, like how to run board and homeowner meetings.

**Mechanics of a Resolution.** The resolution should first cite the relevant provisions of the governing documents and any applicable state statute, especially those sections which give the homeowner association authority to establish policies. Following the authority section are the details of the resolution. It is highly recommended to circulate proposed resolutions to the membership for a minimum 30 day period for comment before the board votes on it. Once approved, it should be dated and signed by the board president and the secretary.

About amending the governing documents. The Three Rs can be enacted by the board but amending the governing documents must be approved by the members by the percentage indicated in the governing documents. Getting this vote is often difficult so amendments should not be undertaken lightly. However, if the documents are unwieldy or in violation of the law in some respect, amending may be prescribed. Always consult with an attorney knowledgeable in homeowner association law.

Rules, regulations and resolutions help provide a clear and systematic way to deal with routine issues. Once enacted, they need to be enforced consistently and apply to all members, including the board.☀

## Ask the HOA Expert

**Q** Our governing documents are vague about how to allocate expenses among the unit owners. The board decided to base it on unit square footage.

**A** If the governing documents don't specifically state otherwise, equal allocation of expenses is the default formula. The board has no authority to change the allocation formula. Only the members themselves have the power to change the allocation formula. And in some states, fees cannot be changed without a 100% agreement of the members and mortgagees so don't waste your time trying.

**Q** Can a board member bid on a project to clean the gutters or make small building repairs? We are having trouble finding qualified people to do the little things that need to be done. The present management company say that a board member can not be paid for work.

**A** Cleaning gutters is not the board's job so the issue of payment does not apply. What does apply is the issue of conflict of interest. If a board member wants to perform work for the HOA, he should be properly licensed and insured to do it. If the remaining directors agree that they want to hire this person, he should step off the board to avoid an obvious conflict of interest. Do one or the other but not both.

**Q** I'm confused about what to include in meeting minutes. I always record motions and votes but am uncertain about including details of discussions.

**A** Details of discussions should not be included in the minutes. The minutes should only include details of reports and actions (motions and votes). Discussions should be left out.

**Q** Our property manager distributes a board packet at our monthly meetings that includes the agenda plus financial reports, rules violations, contract bids and other related materials. I'm the board president and emailed a list of agenda items to the manager several

weeks before the meeting but most of the items were omitted from the agenda. Obviously, the manager can provide input and items that need to be presented, but shouldn't the board have the final say?

**A** The manager works for the board and the board definitely should approve the agenda prior to distribution. The board president is usually the person that provides the information to the manager. The agenda, of course, needs to conform to the time allotted for the meeting and lower priority items may need to be postponed to a future meeting.

**Q** Our annual HOA meeting is coming up. We have been provided with last year's annual meeting minutes. Upon review, I have found that the minutes had been substantially doctored by the developer who revised, omitted and added things to paint a rosier picture. What should be done about this?

**A** Typically, annual meeting minutes are approved a year after they are written. If you have personal knowledge or a copy of draft minutes that vary substantially from what you just received, you have every right to demand that the minutes be corrected. Part of every annual meeting concerns reviewing and approving minutes. You should raise your specific concerns at that time.

**Q** When our manager was requested to do an inspection, the board was informed that he had already exceeded the monthly manager time allotted for our HOA. There's nothing in our management agreement that discusses time allotment.

**A** No HOA management agreement provides for unlimited services for a set fee. They are generally based on providing routine services and the average time it takes to accomplish them. Even though there is not a specific number of hours quoted, that is the reality on how management fees are determined.

If the company is consistently running way over the initial time estimate, either it will raise its fee or quit because it's not making any money. The board needs to be judicious in use of manager time. The manager, in turn, should be candid with the board when manager time is being overused or abused. 🚩

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## Meetings by Design

Meetings are the venues wherein homeowner association business decisions are made. Since these meetings are usually infrequent, the importance of the decisions made cannot be understated. However, some HOAs are decision challenged because:

- The meetings rarely begin on time and often run late.
- Discussions are endless and often inconclusive.
- Issues decided at a previous meeting continue to be revisited.
- Disagreements frequently turn ugly.
- Meetings end when members are exhausted, not because they have completed the business at hand.

Many boards manage to conduct their business with a minimum of fuss and a measure of efficiency. These meetings don't happen by chance; they happen by design, and that design begins with an agenda.

If you don't have a destination in mind, any path will do. If a meeting lacks an



## The Reviews Say it All

"This practical yet insightful book covers the myriad of topics that board members must juggle, providing concrete solutions that can be implemented immediately." *Lori Rodgers - Bert Rodgers School*

"This book gives the property management industry an insight on what HOAs expect from us...how we should be constantly on our toes if we want to retain the management deal. It's a real estate management template for success." *Nestor Correa - Netscore REsource Management*

"This is a must-read book for homeowner association boards, officers, management companies and homeowners." *Paul Yarman*

**Trade HOA Stress For Success** should be required reading for all HOA board members. I plan to make sure that a copy of it is distributed to all new members!"

**Trade HOA Stress for Success** is available for purchase at [www.Amazon.com](http://www.Amazon.com) in hardcopy or Kindle versions.

agenda, it will go anywhere and everywhere and end up going nowhere. The agenda provides a road map for the meeting, identifying the issues to be discussed and establishing the order in which business will be transacted.

Knowing what is on the agenda allows board members to begin formulating their views before the meeting begins. It helps, of course, if board members actually review the agenda and any accompanying information in advance. But it takes more than advance preparation and an agenda to produce a successful meeting; boards also need a set of rules to guide their discussions.

Meetings don't have to be rigid or overly formal, but they do have to be orderly. Some boards use a simplified version of Robert's Rules of Order which includes such concepts like:

1. When a topic is brought up, a formal motion is required before it is discussed. This will ensure that more than one person thinks the issue is worth discussing.
2. Only one person is recognized to speak at a time by the chair.
3. Standards of civility (no personal attacks or interrupting).

4. A time limit for the meeting and for each speaker on each issue. Otherwise, boards end up spending too much time on relatively minor issues and not enough time on more significant ones. If a majority of the board members think a topic requires more time, they can always vote to extend the discussion.

An agenda, advance preparation and rules of order provide the foundation for an effective meeting, like the tracks on which a train runs. But like a train, a meeting needs a steady hand on the throttle to keep it moving on track. Conducting both a train and a meeting require a certain amount of skill. The person in charge needs to control with a firm but not a heavy hand. In HOA meetings, this means giving all board members a chance to express their views, but also requiring them to stick to the topic and the time limits.

Some owners think they have an absolute right to participate in board meetings and some boards think it is best to hold their meetings behind closed doors. Both are wrong. Many states have specific requirements for most board meetings to be open to members (to audit not participate). Some have exceptions for "executive session", or a closed door session, which may exclude members which

include:

1. Employment issues
2. Contract negotiations
3. Consultation with counsel or review of information provided by counsel.
4. Constitutionally or legally protected topics (such as medical records and attorney-client privileged information)
5. Privacy issues

If a board discussion item does not fall under one of these exceptions, it must be discussed at an open board meeting.

As far as member participation in board meetings, state laws vary. However, regardless of state statute, it's good policy to set aside time for an open forum so members can ask questions and express their views.

Homeowner associations are required to hold annual meetings, but many governing documents are silent on how often the board must meet. The board is generally free to meet as often as it chooses. The size and complexity of the community and the personal commitments of board members will typically dictate the meeting schedule. Another consideration is that managers typically charge for their time to attend

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board meetings. Since it's important for the manager to be present at board meetings, the board needs to weigh the cost and benefit of more or fewer meetings.

When properly organized, smaller HOAs can usually suffice with quarterly board meetings while larger ones may need bi-monthly or monthly meetings. The more the meetings, the more important it is to have those meetings organized and efficiently executed. Volunteer time can only be stretched so far.

What happens after board meetings can be almost as important as what happens during the meetings. Some board members take votes against their proposals personally rather than of the suggestions they have made. They sometimes take their disappointment and anger outside of the meeting room, complaining publicly about the decision and even encouraging owners to overturn it. This behavior undermines the decision-making process, exacerbates tension, and erodes trust. As long as the board action is legal and in compliance with the governing documents, board members should

accept that "majority rules" applies to votes they don't like as well as to those with which they agree.

All board decisions won't be unanimous, nor should they be. Honest differences of opinion are healthy, encouraging an exchange of ideas that improves the decision-making process and contributes to the successful meetings boards want to have. While board meetings won't always produce good decisions, they will almost certainly reduce the number of bad ones. To produce the likelihood of more good decisions, design your meetings for success.

*Excerpts from an article by [www.HindmanSanchez.com](http://www.HindmanSanchez.com) For more on effective meetings, see [www.Regenesis.net](http://www.Regenesis.net) *

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## Mining Committees

Committees are a frequently untapped treasure available to the HOA board. Besides benefitting the board by spreading the work around, committees are an excellent training ground for future board members. Folks that may be reluctant or too timid to step up to a board position often feel right at home on a committee with limited or focused responsibilities.

Committees come in all shapes, sizes and functions and may be temporary or long term, as the need dictates. They are only limited by the board's imagination. A committee can assume a variety of roles, such as:

Research & Development. Complex tasks can be assigned to a special committee which can research the task and advise various courses of action to the board. This includes large renovation projects, proposed amendments to the governing documents and local zoning or crime issues.

Task Execution. Committees like Rules Enforcement and Architectural

Restriction can hand out citations and review appeals.

**Maintenance Oversight.** Committees like Landscape/Grounds and Pool oversee the contractor's performance and improve the quality of service.

**Cost Control.** A Maintenance Committee can prescreen requests from owners to ensure they are indeed the HOA's responsibility and, if so, prioritize them and group them for better cost efficiency. The Budget Committee refines costs based on study of the past and anticipated future expenses.

**Socialization.** An oft overlooked function is planning social events to help neighbors meet neighbors. The events don't necessarily need to be party oriented. The Annual Meeting can become the Social Event of the Year with food and entertainment. Spring Planting Parties don't have to be all work. Reward the volunteers with catered food, beverages and T-shirts. The Social Committee can help build real community and lasting friendships.

**Security.** Turn that nosey neighbor into the Neighborhood Watch Chair who can monitor suspicious activity or recommend better security techniques.

To facilitate committees, the board should provide the proper resources. Some need funding but most just need clear marching orders and limits of authority. The board should never abrogate its final authority over HOA matters to a committee. That means committee power should always be limited and if a committee is making judgment calls, like Rules Enforcement, there should always be the right of appeal to the board.

All committees need a plan of action and goals. Part of the plan should include reporting to the board at regularly scheduled meetings. That report should include recommendations for board approval. These reports provide a good way for the board to assess the ongoing need or effectiveness of a committee. If little is being done, it might be time to retire a committee or find a new chair.

Some committees need to meet regularly, some sporadically and others rarely, if at all. It all has to do with the goals laid out by the board. The board should select each committee chair carefully as someone who has the time for the job and inclination for leadership.

Here's a novel idea: Allow renters to join committees. Many want to be good neighbors and to serve. At least ask. You might be surprised at the response and it might encourage owners to step up as well.

One of the best ways to promote committees is by praise and recognition. It is the currency of care in HOAs which brings a huge return. Recognizing effort and superior performance is #1 on every Job Satisfaction Survey. It works the same way in an HOA. Thank you notes, accolades in the newsletter, plaques and Certificates of Merit go a long way.

Mining your committee options will produce a wealth of treasure for the HOA. Committees lead to better information, greater harmony, new friendships, enhanced trust, involved neighbors and less work for the board...all good and no bad. There be gold in them thar hills. Grab your picks and shovels and start digging! 🗺️

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### **Picture Perfect Reserves**

A reserve study identifies a homeowner association's future repairs and replacements like a snapshot in time. Imagine that you could picture the buildings and grounds as they would be in five, ten, even thirty years. A reserve study acts just like that by estimating the useful life of the common elements and the cost to replace them in the future based on current cost adjusted by inflation.

A reserve study uses a component inventory analysis of the HOA's

common elements having useful lives of between 2 and 30 years to project scheduling coupled with a funding plan. Those components consist of the obvious, like roofing, painting, paving, fencing and the not-so-obvious like treework, landscape renovation and inspections (elevator, fire sprinklers and alarms, tripping hazards). Even the smallest HOAs have at least 15 items that should be included. Large HOAs can have *hundreds*. For a list, go to the Reserve Planning section of [www.Regenesis.net](http://www.Regenesis.net).

Common elements deteriorate over time and as do the underlying assumptions of the reserve study. Reserve studies can be affected by new labor-saving techniques, building designs and materials that reduce projected costs or extend useful lives. As these changes take place, so should your reserve study. Annual review and update of the reserve study confirm that the schedule and costs are still accurate. And it's not always bad news that affects the review. Age, condition and rate of deterioration can be positively impacted by preventive maintenance implemented by the association which increases useful lives. Changes in area inflation and the actual interest earned from invested reserves need to be revised as well. The good news is the annual review is a snap compared to the initial reserve study which requires significant field work to compile data.

Now that you're focused on reserves, it's time to load the film and start shooting. Snapshot by snapshot, the results will develop picture perfect. 🗺️

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### **HOA Meeting Basics**

HOA board meetings are designed to transact essential business. They should be carefully choreographed to that end rather than a rambling discussion. Members should be welcome and encouraged to attend and observe. To that end, provide a Member Forum at the beginning of the meeting

for owner comments, questions and complaints (It's the American way).

Here are the meeting basics:

**Motions & Voting.** Business matters are considered when a motion is made, and seconded. Each motion should offer the opportunity for discussion prior to a vote. Votes, when taken, involve board members only.

**Meeting Agenda.** There may be an agenda format prescribed in your governing documents. If so, use it. If not, use an agenda like:

**Call to Order** - President says, "The meeting is called to order."

**Minutes** - Secretary reads the Minutes of the last meeting. A motion to approve the minutes as read or amended should be passed.

**Review Financial Report.** Most recent month Balance Sheet, Income & Expense Report and collection activity.

**Officer's Reports** - President, Treasurer, etc.

**Committee Reports** - First come reports from "standing" or permanent committees; then from "ad hoc," or special committees.

**Unfinished Business** - Business left over from previous meetings.

**New Business** - Introduction of new topics. If the topic is complex and requires research, it should be assigned to a committee who will report recommendations to the board at a future meeting.

**Adjournment** - The meeting ends by a vote or by general consent.

**Timed Agenda.** To keep meetings on track, using a timed agenda is helpful. Two hours or less should be the goal of most meetings since concentration and productivity begins to fade. So, when composing the agenda, put actual time limits on each item, like Owner Forum (15 minutes), Minutes (5 minutes), Treasurer's Report (10 minutes) and so on. Timing will help move business along and remind all present that time is a valuable commodity.

**The Regenesi Report**

**Action Agenda.** Meetings should be action driven. To that end, all agenda items should be framed with a "review and approve" context to them. While discussion may be part of the plan, it is not the goal. Every item brought up at the meeting should have a motion and second. So, if a director states, "I'd like to talk about a parking policy on commercial vehicles", the president's response should be, "Do I hear a motion and second to establish a commercial vehicle parking policy?" If both aren't forthcoming, time to move on to other business. Impromptu motions should usually be handled at a future meeting if they require research and study. The president should ask the proposer to present a proposal at the next meeting for the board's consideration.

All members have the responsibility to serve the HOA in some way, whether it be on the board or committee. If you've recently been elected, congratulations! Welcome to the board and thanks for stepping up! 🌟

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### **Recruiting Directors**

From time to time, it is necessary or desirable to recruit new directors. It may be due to a vacancy or an upcoming election. Often volunteers are reluctant to commit until they fully understand the scope of the job and time commitment. Here is a sample solicitation letter that outlines director duties:

To All Members of Nottacare Condominium,

At the Annual Meeting, two positions for director of the board will be voted on. Anyone that is a owner in good standing (current in HOA payments and no outstanding violations) is eligible to run in this election.

**Overview of Director Duties.** The board has the authority to direct business including maintenance and financial oversight, rules enforcement and architectural design approval. The board has the authority to hire and oversee the professional management company.

The board meets four times a year for two hours to review business and to make decisions and enact policy. Between those meetings, there may be an occasion special meeting to deal with an urgent matter that can't wait for a regularly scheduled board meeting. The President has the authority to act on behalf of the board between meetings as long as the matter is authorized by the governing documents or in line with the approved budget.

Serving on the board gives you direct impact and influence on how HOA business is handled. While a management, financial or construction background is helpful, no special training is required other than the willingness and availability to serve. The office of director carries a term of three years.

All members have an obligation to serve in some capacity. We hope you will consider running for the board. You may be nominated by another owner or by yourself. If you are interested in being nominated, please email that desire and your contact information to [info@nottacare.org](mailto:info@nottacare.org) or mail to Nottacare Condominium, 123 Easy St, Anytown USA by no later than April 1st. Please contact me if you have any questions.

*Ima Daboss*

President - Nottacare Condominium 🌟

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**April 2018**

## Building Credibility

A major component to achieving success at trials concerning homeowner association issues involves gaining credibility with the judge and jury. While there are many actions that the HOA's attorney can make at trial, the board gains its highest credibility *before* the lawsuit is even filed. Adhere to the following best business practices before trial and credibility will likely soar.

**Follow the Governing Documents.** Failing to follow the HOA's governing documents is a sure fire way to lose credibility. The governing documents, rules, regulations, policies and procedures establish the guidelines and expectations for the whole community. If the board fails to follow them, it will appear unreliable and not credible.

**Document Your Actions.** If an action is taken by the board or manager, document the action in writing. This can be in the meeting minutes, a letter sent to the homeowner, or in a note to the file outlining the facts and action taken or not taken. Certainly there will be testimony about this action at trial, but often testimony alone is not enough to build credibility. If the action is documented, the board can use the documentation at trial to substantiate its story. Documentation carries much better weight than "he said, she said".

**Maintain the High Road.** When documenting the board's actions, remember that written document may be used at trial. Thus, the board should not record it's in kind reaction to rude or abusive behavior even when provoked. Simply note the rude behavior and move on with the reason for the board's position.

**Be Consistent.** Follow the governing documents consistently. For example, if one homeowner is allowed a front porch swing, do not deny another the same request. It will come across as selective enforcement of the rules.

**Correct Mistakes.** If a mistake is made in the course of dealing with a homeowner, admit it and move on. Attempting to explain the mistake away often leads to a story that is difficult to tell and unbelievable.

The actions the board takes now will determine its credibility at trial. While a good lawyer can massage certain issues, the facts are what they are. Following these five steps will not only help at trial, but will often help keep the board from getting there in the first place.

*By Brian E. Martin, Esq. Published by [HindmanSanchez.P.C.](http://HindmanSanchez.P.C.)*

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## Let Your Light Shine

The light turned yellow and the driver stopped short of the crosswalk even though he could have beaten the red light by accelerating through the intersection.

The tailgating woman was furious and honked her horn, screaming in frustration, as she missed her chance to get through the intersection, dropped her cell phone and spilled her coffee.

As she was still in mid-rant, she heard a tap on her window and looked up into the face of a very serious police officer. The officer ordered her to exit her car with her hands up. He took her to the police station where she was searched, fingerprinted, photographed and placed in a holding cell.

After a couple of hours, a policeman approached the cell and opened the door. She was escorted back to the booking desk where the arresting officer was waiting with her personal effects.

He said, "I'm very sorry for this mistake. You see, I pulled up behind your car while you were blowing your horn, flipping off the guy in front of you and cussing a blue streak at him. I noticed the "What Would Jesus Do"

bumper sticker, the "Follow Me to Sunday-School" bumper sticker and the chrome-plated Christian fish emblem on the trunk. So naturally, I assumed you had stolen the car."

"Let your light shine before others, so that they may see your good works and give glory to your Father in heaven." The Bible

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## \$4 Tool Set

Now, you might ask, "How do I get one of those complete home tool sets for under \$4?" An excellent question.

Go to one of those really cheap discount stores where they sell plastic furniture in colors visible from the planet Neptune and where they have a food section specializing in cardboard cartons full of Raisinets and malted milk balls manufactured during the Nixon administration.

In either the hardware or housewares department, you'll find an item imported from an obscure Oriental country and described as "Nine Tools in One", consisting of a little handle with interchangeable ends representing inscrutable Oriental notions of tools that Americans might use around the home. Buy it.

This is the kind of tool set professionals use. Not only is it inexpensive, but it also has a great safety feature not found in the so-called quality tools sets: The handle will actually break right off if you accidentally hit yourself or anything else, or expose it to direct sunlight.

*By Dave Barry, "The Taming of the Screw"*