



# The Regenesi Report



Portland Edition

Innovative Homeowner Association Management Strategies

Priceless

**Regenesi** means making new beginnings using eternal principles in innovative ways.

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

**The Regenesi 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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## Wooing 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. It's often blamed on apathy. 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 vague or uninspiring. While "serving the community" and "protecting your own 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 planning and vision. As far as planning, 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; not "fear" fear but fear of being trapped in an open ended commitment that's going nowhere. 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. Painting a "vision" is everything. So what kinds of things will help set that vision?

**Schedule Meetings Far in Advance.** For successful people, knowing what the future holds is *exciting*. There is no reason that all 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 are going to be made. It allows decision making to be focused at predictable intervals rather than on the fly. And planning far in advance eliminates the excuse that someone is already booked. It also produces a subtle calming effect on the other owners who sense that someone really is steering the association ship.

**Getting Business Done** Serious volunteers want to know that real business will take place, not just cheap talk. All meetings should have a well defined "action" agenda. An Action Agenda calls for, as the title implies, decisions. Instead of "*Discuss* Landscape Contract", try "*Approve* Landscape Contract" which implies

decision making. Use the same concept for all agenda items when possible.

**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 three days in advance (a week if the topics are complex). Keep the 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. 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. Bring a timer along if necessary that "dings!" when the preset 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 to discuss and the other seconds the motion. Discussion should follow an alternating pro and

con argument. 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 and committee 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 their questions or allow them 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. Guests, of course, should be allowed to speak to specific meeting agenda items that involve them or they asked to be put there.

The value of maintaining open meetings is to eliminate the “us and them” (owners vs. board members) mentality that can crop up when meetings are closed. Few neighbors want to be at odds with other neighbors. It’s important not to create an illusion of pecking order. If non-board member owners 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 Mirthometer. If a particular owner or board 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, limit the time to get it done and protect the good mood of the woo-ees. 🌱

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The Regenesis Report

## Ask the HOA Expert

**Q** Our governing documents indicate that a majority of owners must be represented at the annual meeting either in person or by proxy to constitute a quorum. State statute indicates 30% is allowable. Which one do we follow?

**A** Governing documents can be more or less strict than state statutes. The statutes are used as defaults when there is nothing in the governing documents that address a particular issue. The governing documents prevail.

**Q** Our bylaws state that the board shall consist of not less than three directors. We currently only have two directors. Several members have submitted their names to fill the vacancy but the President always rejects the names as not being qualified candidates. Can he do that?

**A** All HOA members in good standing are entitled to serve on the board and may apply to fill a vacancy. If there are multiple candidates for one vacancy, the remaining directors must choose one but it is not the President’s prerogative to decide who is qualified and who is not.

**Q** Our board recently decided to increase the number of directors from three to five. Is that legal?

**A** The governing documents dictate how many directors there are. To change that number requires an appropriate vote of the members. The board does not have the authority to do this on its own. However, if the governing documents state something like “the board consists of three to five directors”, the increase can be done by the board.

**Q** Our board recently fined a resident for parking a junk car on the property. He countered by stating the board failed to enforce many rules so had no authority to enforce parking regulations. True?

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**A** This kind of defense is used from time to time as rationale for rule breaking. If his point is that others are allowed to park junk cars, the board does have a problem. If a rule applies to one, it should apply to all. But if his point is that other rules are being violated so it’s okay for him to do it too, his argument is bogus.

The board is not compelled to seek out violations, only to notify violators when they are discovered. A good response to this bogus defense is, “We’d be happy to notify the rule violators if you provide us with specific details. However, you are still in violation of parking regulations and all penalties apply until you comply.”

**Q** Our governing documents are extremely vague and we have ongoing arguments between the members and the board as to interpretation. How can we avoid this?

**A** Governing documents are intentionally left vague so that the HOA can customize them based on the owner mix, local custom, property value impact and other “lifestyle” issues. The board is generally authorized to formulate these policies but must be careful to judge objectively and not weigh in with personal prejudice.

So, the policy process should include member input. The goal should not be to control the lifestyles of the members as much as facilitate the lifestyle trends that are most common to the members. To that end, the board should take time in enacting new policies and consider the ramifications carefully.

Board policies cannot contradict the governing documents but may expand on their principles. If they do, the members must vote to amend them so that the policy is legal. 🌱

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## Filing HOA Insurance Claims

In the event of a claim, both the owners affected by the damage and the homeowner association have their own obligations to file a claim in a timely manner. Within the insurance contract is the insured's obligation to notify the insurance carrier "promptly", so it can do its own investigation.


### What are the claim obligations for each party?

**Owner:** Every owner who sustains damage (regardless of who is negligent) needs to notify the Board or manager immediately. The owner also needs reputable mitigation and reconstruction contractors involved in the process as soon as possible. An estimate of damages will help the Board determine if they need to file a claim on the association's policy. Each owner should reach out to their own HO6 agent for filing their own claim.

**Board/Manager:** Some HOAs have management companies. However, many of the management agreements don't include managing insurance claims. When a claim occurs in an HOA, it's important to define a point of contact for the claim. The point of contact would be responsible for gathering the loss details and damages, along with managing the communication between all parties involved. The best point of contact could be a board member or the manager. However, the manager may levy additional cost for the work involved. If damages appear to be higher than the HOA's deductible, the board will need to decide if a claim should be filed.

**Insurance Agent:** Multiple agents could be involved. The owner needs to contact their HO6 insurance agent to file a claim for their unit or to cover the HOA's deductible. The HOA should always ask the agent for guidance with a claim. Claims can get sidetracked because of a misunderstanding and if a claim is not filed in a timely manner, it may create costly delays.

Claims reporting is more important than ever because of estimated repair costs and what the insurance carrier is

obligated to cover. Labor and material prices have increased drastically which increases damage estimates that insurance carriers don't always agree to. A claim filed late does not allow the insurance company an opportunity to investigate and negotiate these costs. If the carrier and contractor can't come to an agreed cost, this puts owners and the HOA at risk for having to pay the invoice out-of-pocket. Understanding the claims process and staying on top of it helps reduce this risk. *From American Benefits Insurance (ABI)* 

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### Manager Myth-Takes

Homeowner associations hire managers for two basic reasons: to carry out board policies and to manage the homeowner association's business affairs. Sometimes, however, the manager's role is misunderstood which could bring the manager into conflict with the board or members.

What are the most common myths?

**Manager is Available 24/7.** HOA managers generally manage many accounts and must divide their schedule among them. While the management company usually provides emergency response 24/7, the manager's time is carefully allotted between clients to maximize efficiency and cost effectiveness.

**Manager is Responsible for Contractor Performance.** The manager does not have direct control over the contractors. It's up to the contractor to provide agreed upon services in a timely manner. When the contractor fails, it's up to the manager to enforce provisions of the contract by whatever means necessary including withholding payment or legal action.

**Manager Should Anticipate Maintenance.** There is a perception that the manager should catch maintenance problems before they happen. In reality, the Management

Agreement typically calls for periodic property inspections which are supplemented by maintenance requests from the board or homeowners and feedback from maintenance contractors. To control management costs, identifying maintenance problems is a team effort.

**Manager Works for the Owners.** The management company enters into a written agreement with the board of directors which authorizes the manager to run HOA business in accordance with the governing documents, approved budget and additional direction provided by the board or board president. Owners have no contractual authority and the manager should not take direction directly from an owner.

**Manager Takes Direction from Directors.** Managers act under the direction of the entire board of directors or the board president, who generally has authority to speak for the board between board meetings on many, but not all, issues.

**Manager is a Referee.** Homeowners should not expect managers to arbitrate disputes with their neighbors. Unless the dispute involves a violation of HOA rules or policies, the manager should not be involved.

**Manager is an Owner Advocate.** Venting frustrations at the manager about a board action or inaction may make a homeowner feel better, but it's up to the homeowner to make the case directly to the Board. The manager is not hired to be an advocate.

**Manager is Responsible for Delinquencies.** The manager is responsible to follow the HOA's Collection Policy or as directed by the board. Demanding payment doesn't ensure getting it but the manager is responsible to keep up the pressure by following the Collection Policy which, hopefully, provides for escalating penalties for non-payment (late fees, legal fees, restriction from amenities, curtailing voting rights, etc.).

The manager's list of duties is long and encompasses many categories of



management including Financial, Maintenance and Administration. The manager is a hired contractor that works under direct supervision of the board and according to conditions of the Management Agreement. The job is complex and each day presents a new series of challenges. De"myth"ifying the job tells you what the manager is not. 🗿

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## Planning for Perfection

A Reserve Plan (also called Reserve Study) is an essential part of running a homeowner association. It provides the board with a systematic way to schedule the repair and replacement of HOA assets and a fair way to distribute the costs of those events to all the members who benefit from them over the thirty year time line. A properly funded Reserve Plan eliminates the need of special assessments which are unfair to those that have to pay them. And with adequate funding, maintenance gets done when it needs to be done instead of piecemeal or deferred.

There are just too many advantages to reserve planning to ignore. The board that follows a reserve plan is succeeding in a fundamental charge: to protect and maintain the HOA's assets which have a direct correlation to the members' home/unit values. Conversely, the board that does not have or follow such a plan is guilty of negligence and failing in its fiduciary duty. The implications are clear and significant and the wise board chooses the high road.

Thirty years is a long time and things can happen that are impossible to predict. Inflation moves up and down as does return on invested reserves. Construction costs can be higher or lower based on competition, the state of the real estate market and the price of oil Iraq (talk about unpredictable!).

One of the biggest wild cards in this thirty year projection is how well preventive maintenance is done. Preventive maintenance is comprised of those things that, if left undone, have huge impact on a component's useful life. For example, if a roof is not kept clean of moss, or small seam separations repaired, the normal useful life could easily be cut in half. Siding that is not inspected, repaired and caulked on a regular basis can fail years sooner than it should. Failure to perform regular and adequate preventive maintenance can undermine the financial prognostications.

How well the board invests reserve funds also have enormous impact on the funding model. Improving the rate of return an average of only 1 to 2 % over the thirty year period can reduce owner contributions by thousands of dollars (sometimes tens or hundreds of thousands of dollars).

The message is clear: A Reserve Plan is an essential planning tool for all HOAs but to be truly useful, must be tweaked and refined over time. It's like tending a vineyard. Left untended, the fruit (value) will gradually disappear.

The annual budget review is the logical time to assess the condition of the Reserve Plan. A judgment should be made on the life and cost assumptions of each component included in the Plan. Do they still hold true or is there need for some revision? These judgments should be made by an objective and knowledgeable source like a Professional Reserve Analyst (PRA) member of the Association of Professional Reserve Analysts. See [www.apra-usa.com](http://www.apra-usa.com)

If the reserve fund Percent Funded is below the ideal of 100%, implement a funding strategy to increase that level to the 100% goal.

As the saying goes, "Change is inevitable (except from vending machines)" and this is particularly true about Reserve Plans. If your HOA has no Reserve Plan, arrange to have one performed as soon as possible. If you have one, hurray! Now, get out your clippers and start pruning. An annual

update will produce great fruit.

For more, see [www.Regenesi.s.net](http://www.Regenesi.s.net)  
"Reserve Study Service" 🗿

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## Quelling the Quarrel

"Quarrel" has been defined as "the minimum number of people required to hold an argument". One of the many challenges facing homeowner associations is resolving disputes between neighbors. Noise, parking, garbage, pets, trees, fences and other territorial based conflicts can erupt any time. Most conflicts result from false assumptions and, according to the prison warden in the movie "Cool Hand Luke", a failure to communicate. Neighbors, wanting to avoid confrontation, stew over issues until their emotional pot boils over, usually scalding innocent bystanders. What now?

Conflict is a natural part of human relationships. Self interest is a top priority while others interests are usually somewhere down the list (WAY down). People become embroiled because interests or values are challenged. Here are a few suggestions for quelling the quarrel:

**Know What's What** The board wasn't elected to babysit or police neighbor squabbles. Some issues are association, some are not. Don't take on personality conflict issues. People that can't get along often look for others (you) to blame. Don't get involved unless it affects the harmony of the community.

**Let Them Deal With It** If the issue is a personality conflict, suggest they discuss and resolve it like adults. If they won't, let it go. Don't encourage immature behavior.

**Clarify the Issue** If the issue impacts the whole community, clarify it. What

seems to be isn't always what is. Ask each party what they think "it" is.

**Facilitating Discussion** If the association's interests are involved, here are several tips for facilitating the discussion:

- >Schedule a convenient time to talk
- >Agree on a neutral place for the meeting.
- >Stick the facts. Steer clear of "He said, she said".
- >Avoid blaming, insults and exaggerations which make it difficult to consider other viewpoints.
- >Listen, even if you disagree, to better focus on the issues.
- >Defuse hostility. Let them know you understand they are angry or upset. Explore what's behind the emotion.
- >Direct the conversation toward solutions.

Question their assertions:

- >Too many/much/little/few. Compared to what?
- >You never... What would happen if we did?
- >We've tried that already... What was the outcome?
- >The only way is... Yes, that's one option. Any others?
- >It will never work... What *would* work?

Good conflict resolution focuses on needs, not positions. It is indeed possible to quell the quarrel. Harmonizing your HOA should be a top priority. 🌱

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### Comparing to Others

In the old game show, Let's Make a Deal, host Monty Hall tempted audience members to trade moderate cash winnings for the opportunity to take home a much bigger prize, like a new car, by taking a risk on Doors #1, 2, or 3.

But all decisions were final and those

doors were equally likely to reveal worthless booby prizes like a goat, 100 pounds of baking soda, or a stack of old shoes. These ridiculously-outfitted contestants gambled and often lost because they had to take the whole deal or no deal at all.

This is the image I keep in mind when thinking someone else has it better than I do. When I find myself coveting aspects of another person's life, I ask myself this question: "Would I take the whole package, with no possibility of refunds or exchanges?"

You've heard the Teddy Roosevelt saying that "comparison is the thief of joy." And boy is it ever. It blinds us to the great things in our own lives while irrationally glorifying those of others. But comparison is also one of the most childish instincts we have because it ignores the stark reality that each of us is an indivisible bouillabaisse of strengths and foibles.

We think: "I'll take their money, but not their marriage," or "I'll take his six-pack abs, but not his low I.Q." Sorry, but it doesn't work like that. As Bret Michaels taught us, you don't get the rose without the thorn. The more time I spend in conversation with very accomplished people, the more I am convinced that extrinsic success is just one factor in a multivariate equation of life. They possess all the outward signs of achievement, but don't seem to be much happier overall than the average person.

"Why does she always get the big piece of cake?" Comparison is not only a childish tendency, it's not fair to you because you're grading yourself against a fictional scoreboard. If you can take a step back and evaluate your life non-emotionally, you might realize that you're doing okay. A lot of folks out there, including 18-year-old you, might be pretty impressed with what you've managed to pull off.

So ask yourself, "What assumptions am I making about this other person's life that-on the surface-looks so much better than my own?" You'll probably find it's not as peachy as you might think. And for the parts you still

admire, ask, "How did that person achieve what she achieved, and what can I learn from it?"

Be kind to yourself. When you think you want what someone else has, remember that it's an all-or-nothing deal. It might look like a shiny new car but it's equally likely to be 100 pounds of baking soda. *By Paul Ollinger* 🌱

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### Peace in an HOA

The holiday season is upon us, and a traditional wish is for peace and goodwill. Let's not only extend this wish to family and friends, but pursue "peace on earth and goodwill toward all" including one's HOA neighbors.

Peace within HOAs is a wonderful wish indeed and greatly needed. HOA lawsuits deepen division, are costly, and rarely resolve the root problem.

Successful lawsuits do not bring HOAs peace or improve their governance. Peace and goodwill happen when volunteers bring commitment and a healthy service-oriented attitude. If a board is bad, elect a new board, because a judge cannot force a board (or a homeowner) to change. A judge only decides who wins the battle, not the war. So, lawsuits should be the very last resort after all other measures have failed.

Here are six ways to help spread peace and goodwill throughout the year.

**1. Check Member Attitude.** Do you refer to the HOA as "they"? Because the association is you. Are you informed and participating on committees or working groups? Do you take the time to become informed before announcing your opinions on board decisions?

Being part of an HOA means that by purchase one joins a group of owners. This involves exchanging some

independence for the shared benefits of HOA living.

**2. Check Director Attitude.** Is your attitude of service or one of control? Members are not employees or stockholders – they are neighbors. An understanding that one is a volunteer serving the community is less likely to foster conflict. Do you listen or simply tolerate other points of view? Have you developed an environment in which directors can vote against the majority without being perceived as disloyal? Teamwork is not necessarily unanimity.

**3. Check Your Actions.** Before “going legal,” consider these questions.

Have you talked? Sometimes sending a board representative to discuss a problem can resolve problems before they get out of hand.

Is a lawyer letter really necessary? When attorneys join the discussion it escalates its intensity and it is harder to de-escalate. Before asking the HOA attorney to send off that “nasty-gram,” consider sending a letter from the board or manager requesting cooperation.

**4. Check Your Assumptions.** Avoid assuming your neighbor is a bad person. They simply might not understand their owner right and responsibilities. Try giving people a chance to be reasonable and they might be.

For example, many condominium owners do not know exclusive use areas are still common area and subject to HOA controls. It isn't their fault that nobody told them otherwise. Good boards, managers and lawyers should start by informing violators before assuming they don't care, because maybe they just don't know.

**5. Learn Internal Dispute Resolution (IDR).** HOAs should have some dispute resolution policies in which board representatives meet with homeowners to try to resolve disputes. If everyone really tries and understands their responsibilities, that should resolve most disputes.

**6. Become Educated.** Encourage your

neighbors to do the same. Area Community Associations Institute chapters provide educational seminars and membership costs very little. See [www.caionline.org](http://www.caionline.org).

This holiday season, I wish you peace – Peace in your heart and in your HOA.

*By Kelly G. Richardson Esq. ☸*

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### High Cost of Healthcare

A woman brought a very limp parrot into a veterinary office. As she laid her pet on the examination table, the vet pulled out his stethoscope and listened to the bird's chest. After a moment or two, the vet shook his head sadly and said, "I'm so sorry, Polly has passed away."

The distressed owner wailed, "Are you sure? I mean, you haven't done any testing on him or anything. He might just be in a coma or something."

The vet rolled his eyes and left the room returning a few moments later with a beautiful black dog. As the bird's owner looked on amazement, the dog stood on his hind legs, put his front paws on the examination table and sniffed the dead parrot from top to bottom. He then looked at the vet with sad eyes and shook his head.

"As I said", the vet continued, "Polly is dead." "Nooooooo" wailed the distraught woman. "Can't you try another test?"

The vet returned a few moments later with a cat. The cat jumped up and also sniffed delicately at the bird. The cat sat back, shook its head, meowed and ran out of the room.

The vet looked at the woman and said, "I'm sorry, your parrot is most definitely 100% certifiably dead." He then turned to his computer, hit a few keys and produced a bill which he handed to the woman. Still in shock,

she took the bill and cried, "\$500? Just to tell me my bird is dead?"

The vet shrugged. "If you'd taken my word for it the bill would only have been \$20. But with the Lab Report and the Cat Scan..." ☸

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### Writing Gooder

1. Avoid alliteration. Always.
2. Prepositions are not words to end sentences with.
3. Avoid cliches like the plague. They're old hat.
4. Employ the vernacular.
5. Eschew ampersands & abbrev., etc.
6. Parenthetical remarks (however relevant) are unnecessary.
7. It is wrong to ever split an infinitive.
8. Contractions aren't necessary.
9. Foreign words and phrases are not apropos.
10. One should never generalize.
11. Comparisons are as bad as cliches.
12. Don't be redundant and use more words than necessary.
13. Be more or less specific.
14. Understatement is always best.
15. Exaggeration is a billion times worse than understatement.
16. One-word sentences? Eliminate.
17. Analogies in writing are like feathers on a snake.
18. The passive voice is to be avoided.
19. Go around the barn at high noon to avoid colloquialisms.
20. Even if a mixed metaphor sings, it should be derailed. ☸



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