



The RegenesiS Report



Portland 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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Essence of Minutes

Homeowner association should keep good historical records because to know where one is going it's necessary to know where one has been. One of those crucial records are the minutes kept at Board, Special, Committee and Annual Meetings. Minutes document decisions made during a meeting and provide a public record of actions taken.

Minutes should reflect what was **done**, not what was **said**. There is a saying that "Minutes are minutes, not seconds or hours." In other words, they should say enough but not too little and not too much. Normally that means that an entire meeting's business should fit on one or two type written pages. If yours are running much longer than that, start editing.

As far as content, all minutes should include the following information:

1. Name of the homeowner association.
2. Kind of meeting (board, annual or special)
3. Date, time, and place of the meeting.
4. Names of members present.
5. Verify that quorum was established
6. Whether minutes of the previous meetings were approved as read or as corrected.
7. Exact wording of each motion adopted including the name of the person making the motion, and whether the motion was adopted, failed or withdrawn. If the vote was split, the names of those dissenting should also be shown.
8. The date, time and place of the next meeting.
9. Time of adjournment.
10. The name and position of the recorder.

Board and Annual Meeting minutes should be distributed in DRAFT form within a week of the meeting. This is necessary to inform the members of events that may come to pass before the next meeting. After the minutes have been approved, the secretary should write *Approved* with the date at the bottom.

Committee meeting minutes are normally distributed to only the board members since it's the board that approves the committee's recommendations.

Tips for taking minutes:

1. Use the meeting agenda as an outline.
2. Obtain a copy of all reports given and then summarize them. Reports can be attached to the minutes and referred to.
3. Minutes should be written soon after the meeting, preferably within 24 hours, to improve accuracy.
4. Emphasize (highlight, underline, or capitalize) headings to focus the reader's attention.
5. Attach the agenda for the next meeting or list items that will be on the agenda that need special thought in preparation for the meeting.
6. Go over the minutes with the chairperson to ensure accuracy.
7. Distribute the minutes to all board or committee members as appropriate a week or two before the next meeting.

Good minutes are essential for summarizing business decisions and providing an historical record for actions taken. Essentially, minutes are the essence of HOA operations.

For a sample set of minutes, see www.RegenesiS.net Meetings 

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Ask the HOA Expert

Q I'm confused about insurance policies that are based in "claims made" versus "per occurrence".

A A Claims Made policy only covers claims during the period the coverage is actually in force. A Per Occurrence policy covers a claim even after the coverage is no longer in force, subject to your state's statute of limitations which varies from state to state.

If you plan to stay with a particular insurance company forever (or they don't cancel you), a Claims Made policy will work because coverage is always in force. But what if a claim is filed the day after a Claims Made policy expires or doesn't renew for whatever reason? Unless the premium difference is significant, a Per Occurrence policy is the way to go.

Q We were given notice by our insurance carrier that they would no longer be providing mold and fungus protection. If we can't get anyone to cover mold and fungus, how are we going to protect the HOA from lawsuits?

A Mold and fungus are now excluded from many HOA insurance policies because the courts have handed out substantial awards against HOAs related to health problems mold cause. The HOA can prevent lawsuits by paying close attention to mold remediation. Mold is not that hard to detect. In 99% of the cases, smell alone indicates its presence. Locating the mold source is a resident's responsibility as well as the HOA's. Often it's in an accessible space like the attic or crawlspace.

Once informed of the problem, the HOA should take corrective action as soon as possible so negligence can't be claimed. Hire only licensed contractors trained in mold abatement. Mention the mold issue in your newsletters and request residents to call if a moldy, musty smell is detected. Mold is a health hazard that should be treated seriously. If the HOA does treat it

seriously, there likely will be no legal issues to contend with.

Q Our board president was laid off recently. She does a lot around the complex like meeting with vendors and cleaning up trash. She has been lobbying to get paid for her work. Is that okay?

A Unless your governing documents are different than most, board members may not be compensated for work done on behalf of the HOA. Moreover, the president would have a huge conflict of interest since it's the president that oversees contractors and employees. If she resigns from the board, that will eliminate that particular problem but there is another practical consideration: Hiring a neighbor is a formula for disaster. If performance doesn't live up to expectations, she would have to be fired and likely be resentful. It's not worth risking an already fragile relationship.

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Q Our board has allowed unit owners to enclose patios, add bay windows, greenhouse rooms, skylights and roofs to cover new rooms. The rationale was that such improvements increase the value of all units.

A What you describe constitutes expansion into or modification of the common area. The board has no authority to expand owner use of common area. Any redefinition or reconfiguration of common area must be approved by an appropriate majority of **owners** which may be 100%. However, what is done is done. The board should deny further such encroachments into common area.

Whenever the board grants a **legal** modification, like carpeting an existing

patio, the approval should be done in writing and include the condition that all maintenance and repairs are the owner's responsibility as well as any damage caused to common area resulting from those modifications.

Q Can the board create or change bylaws without member approval? Ours has been doing this regularly.

A The board is authorized to enact rules and policies that are in keeping with the governing documents. The board may not enact a policy that contradicts the governing documents. If the board proposes to amend or add to the bylaws, it usually requires a "super" majority (2/3 to 3/4) of the members to approve it and may take 100% depending on the subject matter (like changing the allocation of homeowner fees). Bylaws should never be amended without the assistance of an attorney who specializes in homeowner association law in your state.

Q We have an ongoing problem with units that sell and close without clearing past due balances, violations or liens. How can we make sure the homeowner association is contacted by the closing agent?

A This is a common problem. Most closing agents know which properties belong in HOAs and are supposed to contact the HOA for this information. But there is often no reliable contact information or it gets overlooked. If the HOA has a properly filed lien, the title insurance company will pick it up and require payment prior to closing. If there is no lien, there is no reliable way to ensure payment other than the seller's honesty. Of course, that doesn't mean the new owner is off the hook for debts owed by the former owner. Title is taken subject to all rights and obligations and if the seller leaves a bill owing, the HOA can demand payment from the new owner.

Q One of our units is managed by a rental management company. The renters have a barking dog,

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items stored outside the house, a son who blasts music, etc. What can the HOA do about this situation?

A The HOA only has legal authority over the property owner. The property owner is responsible for the renter's actions. Start notifying and fining the owner and corrective action usually soon follows.🔒

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Effective Collections

Collection of money is essential for maintaining a strong homeowners association. If some don't pay, guess who gets to? (Time's up! You. There is no government bail out for HOAs). Failure to pay assessments puts an unfair burden on those who do pay and impacts the ability to properly maintain the structures. Delinquencies are financial dryrot and must be arrested early to prevent extreme damage.

There are several elements to a good collection policy:

Accurate Bookkeeping. Failing to track payments undermines the association's right and ability to collect delinquencies. It's extremely important that payments are accurately and promptly recorded.

Late Payment Policies. Without a late payment penalty, association fees sink down the stack of payment priorities. The trick is to make the penalty severe enough to keep it on the top of the bill pile. A strong collection policy encourages timely payment, discourages late payment and allows payment plans for financially distressed owners who legitimately need more time (especially with special assessments which are unfair to begin with). Late charges must be high enough to promote action plus uniformly and strictly imposed.

Timely Enforcement. Written

delinquency notices should be sent according to schedule (regardless of what an owner may promise by phone) to maintain the association's legal rights. This means sending, for example, a Late Notice to all delinquents on the 10th and a Ten Day Notice to Pay after another 30 days have passed. The Ten Day Notice should clearly state that after 10 days, collection will be placed in the attorney's hands and additional attorney charges added. (Your governing documents may dictate different deadlines.)

The longer that the HOA waits, the more difficult collections get. Failure to process delinquencies promptly gives the impression that the policy is meaningless or that enforcement depends on "who you are". Also, if an owner is truly in financial trouble, the chances of mortgage foreclosure or bankruptcy increases daily and can seriously reduce the recovery of assessments.

Accurate Information. When a collection is turned over to the attorney, complete information is very important. The attorney needs the name of the owner of record (name on the title), owner's mailing address if different than the unit address, and a complete and accurate breakdown of all charges and credits from the last date that the account was paid in full to the present. Failure to provide complete and accurate information causes unnecessary delay, additional expense and may affect recovery.

Efficient Collection Services. Your attorney should immediately review the new file to ensure all necessary information is included and to check for inaccuracies. The title insurance company should be consulted to confirm the owner of record and to reveal any existing liens, taxes, mortgages, mortgage foreclosures, divorces, estate probate, bankruptcy or other matters that affect the title. After reviewing the title information, a "Notice and Demand" letter is sent to the owner of record and the delinquent owner has a statutory number of days from the date mailed (usually 30) to pay the balance in full. The charges

include the title search and attorney fees.

After receiving the letter, many owners call the attorney to discuss the debt. Sometimes this reveals an error in the association's records. Usually, however, the association has a valid debt that the owner must pay.

If the owner fails to make payment by the deadline, the HOA has the right to place a lien on the property to secure the debt. It may also have the right to suspend privileges like access to the pool and voting. There may also be the right to terminate HOA provided utilities. Foreclosure may be an option of last resort, however, each state has procedures on if, when and how that is done. These options should be discussed in detail with the attorney.

Each stage of a good collection policy contributes to the final success. Combining accurate bookkeeping, late payment policies, timely action and efficient legal services set the stage for quicker payment, more money and fewer delinquencies. It's harvest time.🔒

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10 Meeting Myths

Any idea how many homeowner association meetings are conducted each year? 100,000? 250,000? The Community Associations Institute estimates there are more than 350,000 annual membership meetings of homeowner and condominium associations, 2.8 million board meetings, and a million committee meetings. That's a lot of meetings.

If your meetings are organized, properly run and stay on track, consider yourself lucky. If not, it's likely your board is spending time on things it shouldn't or isn't doing things it should.

There are several reasons why you might be having troubles. Let's dispel

some common meeting myths and explore what it takes to run a good one.

Myth #1: Parliamentary Procedure Doesn't Matter. Many HOAs dictate in their governing documents that a certain parliamentary book will be followed when transacting business. For that matter, many states now have statutes requiring that community association board and annual meetings follow specific rules or even Robert's Rules during meetings. Ignoring or incorrectly applying these procedures can lead to embarrassment, hard feelings, and even lawsuits.

Myth #2: Any Robert's Rules Will Do. There are lots of books with "Robert's Rules" in the title. However, most of these books are earlier editions of Robert's or knock-offs. There's only one official Robert's Rules. The current book is Robert's Rules of Order Newly Revised (12th Edition). If you are supposed to follow the "latest edition" of Robert's, this is the book you need.

Myth #3: Rules Are the Same for All Meetings. Rules aren't one size fits all. Problems are common when large meetings behave too informally or small meetings behave too formally. Rules, like clothes, should fit. They should suit the organization they are meant to serve.

Most parliamentary manuals provide that board meetings and membership meetings are conducted differently. Large meetings must be fairly formal. However, formality can hinder business in smaller bodies. As a result, Robert's recommends less formal rules for small boards and committees, such as no seconds to motions, no limits on debate and the chair can debate and vote.

Smaller boards that dislike this informality may wish to follow more formal procedures. Even informal boards may choose to be more formal on important or controversial matters, just to make sure things are handled absolutely correctly.

Myth #4: Seconds Always Matter. In a larger body, such as an annual membership meeting, a motion with a

second implies that at least two people want to discuss the motion. On the other hand, if there is no second, only one person of the entire group is interested. In this case, there should be no further action on the proposal. However, after any debate on an issue, the lack of a second is irrelevant. Despite the important part seconds play for large groups, they aren't required for less formal smaller boards or on motions from committees.

Myth #5: Debate and a Formal Vote Are Required. Many noncontroversial matters can be resolved without debate through "general" or "unanimous" consent. Using this method, the presiding officer might ask, "Is there any objection to ending debate?" If no one objects, you're done. Debate is closed. If a member objects, the matter is resolved with a motion and vote. Unanimous consent allows an assembly to move quickly through noncontested issues.

Myth #6: The Maker of a Motion Gets to Speak First and Last. The maker of a motion has the right to speak first to a proposal. After speaking, the maker has no more rights to speak than other members. In fact, the maker cannot speak a second time unless everyone else who wishes to speak to the issue has had a chance.

Myth #7: "Old Business." "Old Business" is not a parliamentary term. The correct term is "Unfinished Business" and makes clear the term refers to specific items carried over from the previous meeting. A presiding officer never needs to ask, "Is there any unfinished business?" The officer simply states the question on the first item ("There is one item of unfinished business"). Annual meetings generally have no unfinished business.

Myth #8: Yelling Out "Question!" Stops Debate. The motion to close debate (calling the "Previous Question") is often mishandled by stopping debate anytime someone shouts "Question!" from the back of the room. First, shouting anything from anywhere in the room is bad form. For the chair to act, a member must be recognized by the chair and the motion

brought forward. The motion to close debate is like any other motion. The Previous Question requires a second and a two-thirds vote. Only the assembly decides when to end debate.

Myth #9: "Lay on the Table" Kills Sticky Issues. "Lay on the Table" is often misused to sweep difficult issues under the rug. Robert's provides that the motion is out of order if the intent is to kill or avoid dealing with a measure. Properly used, the motion temporarily delays a matter when some other urgent issue has arisen, such as an emergency or an important guest who is to speak to the group. Once the urgent matter is over, the group can resume the tabled matter. Because the motion to Table is undebatable and only requires a majority vote, it should not be used to get rid of a topic.

Myth #10: The Chair Rules the Meeting. The chair is the servant of the assembly, not its master. Put another way, the chair can only get away with what the assembly allows. If the rules of the assembly are being violated, any member can raise a "Point of Order." Once the chair rules on the Point of Order, a member can Appeal from the decision of the chair. If seconded, the Appeal takes the parliamentary question away from the chair and gives it to the assembly. The assembly is the ultimate decider of all procedural issues.

Those who live in or work with homeowner associations should learn at least the basics of parliamentary procedure. The benefits of a well-run meeting go beyond legal concerns. Proper procedure can turn long, confrontational meetings into short, painless ones. Eliminating these myths will bring your meetings more in line with proper procedure and result in shorter, more effective meetings.

Jim Slaughter - Certified Professional Parliamentarian 

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The Traveling Drip

Building leaks can be maddening when water makes its way from the outside in. It can drip through the ceiling, a light fixture or window frame. The water is usually fairly easy to clean up but unless the point of entry can be found and fixed, the drip, drip, drip goes on and on and on.

Water likes to travel like a hobo riding the rails: It jumps on and jumps off unpredictably. This is particularly true in common wall housing that share roofs, walls, ceilings and floors. Water can sneak in above one unit and leak mysteriously in a totally different one a great distance away, confounding both the occupants and those charged with the repair. To make matters worse, the leak often only happens during a storm and after hours at time and a half rate. ARGHHHHH!

So what are some of the sources of these vexing drips and what can be done about them?

Roof Defects, Ponding or Flashing.

The roof is the first place to suspect for leaks. When the rain stops, inspect the roof looking for missing shingles, lifted seams, unusual ponding. Leaks often begin around flashing or where two roofs join, particularly if one was added on later. Leaf clogs can back water up beyond the valley flashing and penetrate the roof. This can also happen if the valley is too narrow for the amount of water running down it.

It is fairly common for water to leak around chimneys, especially on the uproof side. Check to see if flashing there is intact. Also check for "kick-out" flashing where vertical walls meet the roof and gutters. Kick-out flashing is designed to push water away from a vertical wall into the gutter. If it's missing, water will run down the wall and find a point of entry. It also is a major source of dryrot in rainy locales.

If the leak is coming down a wall from the ceiling, start looking up. Go into the attic space with a flashlight and backtrack from the spot above the ceiling toward the roof. Check both sides of rafters because water may run

down them to the wall. Look carefully around all vent pipes going through the roof and around the chimney, if you have one. You can sometimes narrow the search by running a hose over the suspect area to see if the leak resumes.

Wind Driven Moisture. When rain and snow rides the wind, strange things happen. With enough lateral force, moisture can be driven up through roof vents. If the moisture happens to be snow, temperature may have to moderate before the snow melts and begins to drip. If wind driven moisture is common, a different style of vent may be needed. Wind can also drive moisture into openings in the siding, trim, doors and windows. Inspect these areas to determine if there are points of entry. Recaulk and/or flash as necessary.

Ice Dams. When snow builds up on the roof, ice dams can form as the snow melts, back water up under shingles and cause leaks. Ice dams need to be removed to relieve the ponding. Products like Grace Ice & Water Shield under the lowest 3'-6" drip edge of a pitched roof help prevent leaks from ice dam backups.

Siding & Trim Flashing & Caulking.

Caulking should be redone with every paint cycle and beefed up every year, especially around windows and doors. Use high grade flexible caulking with a warranty as long as the paint cycle to prevent premature failure. Of course, make sure it's applied it properly. Siding and trim locations often lack metal flashing on the top edge which often leads to leaks, particularly if the building has minimal roof overhang to deflect rain. Caulking in those locations is no substitute for proper flashing. If it's absent, make it so.

Rain Gutter Overflows. Undersized gutters will often overflow during high volume rainstorms which could prompt siding or window related leaks. If such storms are frequent, consider supersizing your gutter system. Clogging is usually the cause of overflows. Make sure offending trees are cut back to reduce gutter debris and provide more frequent gutter cleaning, especially to hotspots that are prone to

clogging. Experiment with various products like Gutter Helmet or Gutter Guard that claim to help prevent clogs by deflecting leaves, needles and other tree debris.

As you sleuth the Case of the Traveling Drip, remember that the enemy is elusive and persistent. Roofing contractors are pretty good at identifying the source and making corrections but it may take some trial and error, especially if the roof has multiple levels and transitions. With patience and persistence, you can send this freeloader packing. 🗑️

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Signs of Our Time

In election years, political debates are not just limited to the candidates. Debates can arise within homeowner associations over restrictions on signage that may limit an owner's ability to place signs within the community.

A homeowner association can prohibit the posting of signs of any kind, including political signs, in the common areas. If the HOA is going to restrict signs, it should implement a specific policy which should include:

- Unauthorized signs posted on the common areas are subject to immediate removal without notice
- Removed signs will be stored for 30 days, prior to permanent disposal of the sign
- Reasonable efforts will be made to notify the sign owner concerning its removal and where it may be retrieved.
- Removal of an unauthorized sign is a separate remedy from imposing a fine for posting a sign in the common areas
- Fine schedule for posting unauthorized signs

What about posting signs in the window of homes or units? Some

HOAs restrict all signs within the community with the exception of “for sale” or “for rent” signs. But many make an exception and permit political signs during an election.

It's not uncommon for owners to complain that the HOA is infringing on their free speech rights. However, since homeowner associations are private entities, they may impose more stringent regulations than those found in public forums and may impose sign restrictions. If the HOA wants to control the type and kind of sign on the property, it's important to have a clear policy that includes:

- Type of allowable signs (For Sale, For Rent, Garage Sale, etc.)
- Size limit (like, not to exceed 18" x 24")
- Number of signs allowed per home/unit
- How long the sign can be posted prior to and after the election like, “Signs may be posted 60 days prior to an election and must be removed within 7 days after the election.”
- Location of signs like, “Signs may only be placed in a window or may be allowed in the front yard of a lot, or signs must be setback a certain distance from the street or the lot line.”
- Sign Material (like, hardboard on metal post)
- Safety considerations (for example, signs cannot block the view of drivers approaching an intersection)
- Consequences for violating the rule (fines, removal of sign, etc)

Curb appeal is a major consideration in market value and communities festooned with signs look cluttered and shabby. Drawing the line on signs is a reasonable course of action for homeowner associations. Line out a good policy on signs today. 🗳️

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Problem Prospering

“It is in the whole process of meeting and solving problems that gives life meaning. Problems are the cutting edge that distinguishes between success and failure. Problems call forth our courage and our wisdom; indeed, they create our courage and our wisdom. It is only because of problems that we grow mentally and spiritually. It is through the pain of confronting and resolving problems that we learn. As Benjamin Franklin said, “things that hurt, instruct.”

Fearing the pain involved, almost all of us attempt to avoid problems. We procrastinate, forget them, pretend they do not exist. We even take drugs to assist us in ignoring them, so that by deadening ourselves to the pain we can forget the problems that cause the pain...This tendency to avoid problems and the emotional suffering inherent in them is the primary basis for all human mental illness.” (*The Road Less Traveled* by Scott Peck, M.D.)

The tragedy is that the substitute itself ultimately becomes more painful than the legitimate suffering it was trying to avoid. And the avoidance of legitimate suffering means we also avoid the growth that problems demand of us.

Do you have a problem? Several dozen? If you listen to the voices around you, you'll search for an escape route. If you make that choice, you'll miss an opportunity to stretch and grow. Meet your problems head on and watch your life gain meaning and prosperity.

From "Growing Strong in the Seasons of Life" by Charles R. Swindoll 🗳️

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Work History

My first job was working in an orange juice factory, but I got canned because I couldn't concentrate. Then I worked as a lumberjack, but I just couldn't hack it, so they gave me the ax.

After that, I tried to be a tailor, but I just wasn't suited for it. The job was only sew sew anyhow. Next I tried working in a muffler factory, but that was too exhausting.

I then went to barber school but I just couldn't cut it. So I attempted to be a deli worker, but any way I sliced it, I couldn't cut the mustard. Actually, my best job was being a musician, but eventually I found it wasn't note worthy. So I studied to become a doctor, but as it turns out, I had no patients.

Next was a job in a shoe factory. I tried real hard, but I just didn't fit in and felt like a heel. Following that, I became a professional fisherman, but discovered that I couldn't live on my net income.

I thought about becoming a witch and tried that for a spell but all my work just went up in smoke. Then, I managed to get a good job working for a pool maintenance company, but the work was just too draining.

I had a part time job at Starbucks, but I had to quit because it was always the same old grind. After years of trying to find steady work, I got a job as a historian. It was fine until I realized there was no future in it.

Know where I can find a good job? 🗳️

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