



The Regenesis Report



Seattle 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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Peaceful Coexistence

While conflict is inevitable in homeowner associations, we do have choices about how we are going to deal with it. When handled in a constructive manner conflict can be a catalyst for new awareness, understanding, creative solutions, and enhanced relationships.

However, when conflict occurs we don't always deal with it in the most constructive way or we sometimes don't deal with it at all. Conflicts rarely get better with time. Here are some suggestions for how to deal with conflict the next time it arises.

Speak Directly. Talk directly with the person with whom you have the problem unless there is a threat of violence. Meet face to face, or talk over the phone, to explain your concern in a positive, respectful manner. Direct conversation is much more effective than sending an anonymous letter, banging on the wall, or complaining to your friends and neighbors.

Plan What You Will Say. Think about what you want to say in advance. You will want to talk about the problem as you see it and how it affects you. You want to help the other person understand that a problem exists and invite them to help you find a solution that you can both live with.

Choose a Good Time. Choose to talk with your neighbor when there will be enough time for a thorough discussion. Consider a time when you think the other person will be most receptive. A quiet place where you won't be easily disturbed can make it easier to talk and listen.

Speak Openly and Honestly. Have a positive attitude about working together to find solutions. Using unfriendly language or blaming the other person for everything makes it harder for him or her to hear you and understand your concerns. Remain open to hear a different perspective than your own, seeking to understand before being understood.

When you talk:

Focus on Giving Information. Discuss your concern with a focus on your feelings regarding the situation and how it affects you, not delivering a message.

Listen. Give the other person a chance to explain their view, describe their own concerns, and share their own feelings. Relax and try to understand how the person feels about the situation. Summarize what you hear and ask questions to clarify your understanding of their view of the problem. Understanding the other person's perspective does not mean that you are agreeing with them. However, in order to find a solution you must have a complete picture of the problem.

Talk it Through. Once you start, get all the issues and feelings out in the open. Don't ignore the part that seems too "difficult" or "minor". Your resolution will be durable if everyone's issues and needs are considered and addressed.

Consider Possible Options. Brainstorm some solutions that might remedy the problem. Be creative in thinking up solutions but don't critique them until you have run out of ideas. Discuss the solutions that you both think might work. Two or more people cooperating to find a creative solution are much more effective than one person demanding that the other make a change.

Be Clear and Specific About a Solution. Play it SMART (Specific, Measurable, Achievable, Realistic and Timely). For example, "Beginning tomorrow, I will bring my dog in at 9:30. If I forget, please call me to remind me."

Follow Through. Agree on when and how you will check in with each other to make sure that your agreement is working, and then do it. Communicate immediately about any changes, or if your solutions are not having the desired result. Congratulate yourselves on working together to resolve the problem. 🌱

Ask the HOA Expert

Q How many inspections a year should our HOA manager make?

A She should make at least quarterly inspections or many as the board is willing to pay for. Each inspection should include building, landscape and rule violation review. Of course, the board could appoint a Rules Committee, Maintenance Committee and Landscape Committee to provide this service and save the expense of the manager doing it. This makes a certain amount of sense because the committee members presumably live on site and could catch violations and problems sooner.

Q Should the manager make a special inspection after a major storm?

A Yes, or this function could be done by the Maintenance or Landscape Committee.

Q We have a major roofing and siding project planned next year. Should the manager provide the specifications for bidding?

A Specifications should be supplied to every contractor bidding a big project to ensure that all are bidding the same work. Without specifications, the board will be focusing on the cheapest bid instead of a quality outcome. There is an expression in the contracting business: "The profit is in the change orders." In other words, bidders will offer a low price to get the contract and then submit change orders/costs to actually get the work done right.

Your manager is not qualified to provide specifications for large and/or complex projects. Independent consultants should be hired to provide the specifications and to do progress inspections on the work to ensure quality.

Q How often should our reserve study provider do a site inspection update of the reserve study?

A Site inspection updates should be performed at least every three years to verify that the components are aging as predicted and, if not, to adjust the repair schedule accordingly.

Q How often should our reserve study be updated? Can't we simply review the original study every year and follow the schedule and funding recommendations?

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A Annual updates are required to keep the report accurate. Two factors in particular, rate of inflation and earnings on invested reserves, have huge impacts on the 30 year projections. Adjusting costs and useful lives when indicated also impact funding needs. Also, the Starting Balance will change every year, sometimes dramatically. If annual updates are not done, the original plan will meander aimlessly guided by inaccurate assumptions.

While the board is generally not required to hire a reserve study professional, doing reserve studies requires an expertise that few HOA members have, like construction cost estimating. HOA members also have a conflict of interest when it comes to funding reserves adequately while a professional will provide an objective

recommendation based on actual building and landscape needs to maintain the property in its best condition. Professional Reserve Analysts (PRA) members of **Association of Professional Reserve Analysts** have the skills to provide an accurate report and recommendations that the board needs to make informed decisions.

Q How often should the manager inform the board of issues or complaints?

A The manager should have the authority to handle most issues except when they are deemed "exceptions to the rule" or not approved by the budget. The goal is to allow the manager to make most decisions and let the board members live a normal life. At board meetings, the manager should give a Manager's Report of significant issues or works in progress he has dealt with since the last board meeting.

Q Which accounting method is preferred for HOAs, the Cash Method or the Accrual Method? Currently, we use the Cash Method and it seems to distort the actual financial situation. We're showing a profit when, in fact, we've lost money.

A Accountants recommend the Accrual Method because it shows a more timely and accurate picture of income and expenses. With Accrual accounting, income is posted when the goods are delivered or services rendered; expenses are posted when the bill is incurred. But few folks handle their checkbooks like this. With the Cash Method, income is posted when received and expenses are posted when paid. But this method can cause income and expenses to fall outside the budget time frame to which they apply (monthly, quarterly or yearly).

While the Accrual Method is the most accurate way to track finances, it is more labor intensive since more transactions need to be recorded. For example, income must be reported when earned *and* when it is received. The good news is that computers and software have simplified the accrual

accounting process. In the final analysis, the board needs to adopt an accounting method which it can understand and deal with. Those that have used the Cash Method forever will have a difficult time changing.

Q We have our annual meeting approaching and want to vet potential board candidates. What are the duties of a board appointed Nominating Committee?

A The Nominating Committee is appointed by the board to identify candidates for election. The committee is usually charged with these tasks:

1. To verify that candidates are in good standing with the HOA (no outstanding delinquencies or rule violations).
2. To inquire whether a candidate has special training or expertise (accounting, engineering, project management) which would be useful to the board.
3. To verify that the candidate is aware of the meeting schedule and able to attend all board meetings.
4. To provide candidates an overview of the director duties.

While the Nominating Committee may recommend certain candidates, all members in good standing are entitled to run for the board and should be included in all meeting notices, proxies and ballots.

Q Some HOA websites and newsletters include a service directory which are recommendations of members. The board has been advised by our lawyer to refrain from posting such lists. I feel the service of these lists overpowers the possibility of legal risk.

A The fact that the board posts member recommendations does not constitute an endorsement by the HOA. But to satisfy the lawyer, the board can simply add a disclaimer to that effect.

Q Our governing documents are over 20 years old and outdated. What process should we use to bring them up to date?

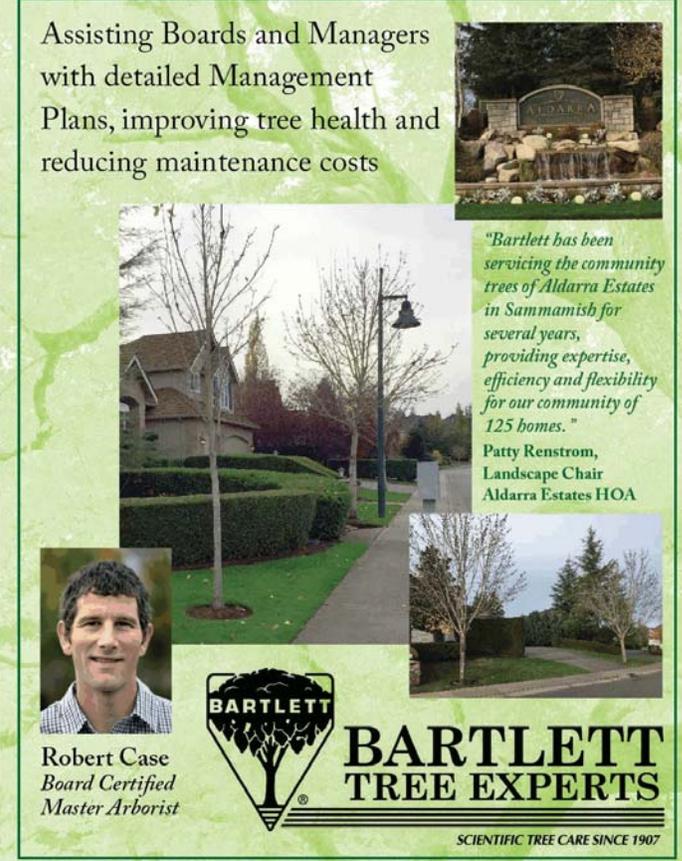
A You should always use a knowledgeable HOA attorney when amending documents to ensure they comply with proper form, current statutes and get properly recorded. Amendments to the governing documents require an appropriate vote (as defined by the governing documents) of the members which varies sometimes depending on the type of amendment. In other words, some amendments may require a larger or smaller number of "yes" votes. If you plan many or sweeping changes, break out the individual amendments and vote on them individually.

Q Do you have information regarding the Americans with Disability Act and its affect on HOAs?

A In general, HOAs are required to provide "reasonable accommodations" to persons with verified (doctor's letter) disabilities. That means the board needs to allow necessary installations like ramps to a unit or reassign HOA controlled parking spaces to disabled residents for easier access to their unit. The HOA is not required to pay for special installations and can require reasonable quality standards.

That said, if a majority of members have disabilities (like senior residents who can't climb stairs), it is certainly permissible to have the HOA pay for and maintain commonly used ramps, handrails and other installations which many would use. 🌳

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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

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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!"

Excerpts from an article by attorney Jim Slaughter. 🗡️

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Protecting Aesthetics

Architectural review is a vital part of maintaining the property values within homeowner associations. Many HOAs have architectural restrictions which protect views, maintain a uniform architectural and design profile or prevent owners from allowing their homes to deteriorate. From a practical perspective, this process is often administered by an Architectural Review Committee or "ARC" which is appointed by the board of directors.

Where does the board get the authority to control architectural design? The authority of an HOA board and Architectural Review Committee to review plans prior to construction can typically be found in the HOA's governing documents. A common provision might say the following:

"No building, addition, fence or other structure shall be built or altered on any lot within the XYZ Homeowners Association until plans have been

submitted and been approved in writing by the Architectural Review Committee appointed by the board."

In addition to the governing documents, many HOAs adopt architectural standards, rules or restrictions designed to help streamline the review and approval process. These standards may provide specific guidelines about what sorts of structures will be approved. For example, there may be limitations on height, roof/paint color or building setback requirements. Other rules are procedural, outlining the process for submitting plans, obtaining a hearing with the committee, or appealing an adverse decision to the board.

Why is it important to observe the governing documents, standards, rules and restrictions carefully?

Architectural Review can become a contentious issue and some aggrieved owners turn to the court system to resolve architectural review disputes. Lawsuits often arise in two contexts:

1. An owner receives an adverse decision preventing him from building his dream home.
2. A neighbor is unhappy with the structure going in and seeks to have construction halted. Some neighbors have sought to have structures torn down for being in violation of the governing documents.

Litigation is unpleasant, costly and time consuming so the more proactive the board and ARC is to get compliance *before* construction, the easier it will be to avoid litigation.

What can the board do to prevent the disputes and resolve them quickly?

1. Establish clear rules. Many governing documents relating to architectural review are ambiguous. For example: "No home built in the XYZ Homeowner Association shall block the ocean view of any other home within XYZ." This provision is inherently ambiguous. What does it mean to "block" the view? Does this mean entirely eclipse any view of the ocean? Or does it mean block the ocean view in even the slightest manner? Provisions like this one can lead to lawsuits. HOA boards can adopt rules or guidelines that clarify or interpret vague Architectural Review provisions and prevent these disputes.

2. Enforce rules fairly and uniformly. Once the board has a clear set of rules in place, they must be enforced uniformly. Members are often more angry about "selective enforcement" than they are about having their plans denied. These owners may argue that the HOA denied their plans based on a set of rules that other neighbors violated without penalty. Selective enforcement undermines the Board's authority.

3. Get expert counsel. If a dispute develops, contact an attorney or other specialists who has experience resolving architectural review disputes. If the board is served with a lawsuit, contact your attorney and insurance carrier immediately so that you can protect the HOA's rights.

Controlling the look of property within a homeowner association is one of the board's greatest responsibilities. Protect values by protecting aesthetics.

Article by Jason Grosz of Vial Fotheringham LLC. For more on architectural and design standards, see www.Regenesis.net 🗡️

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Rules Enforcement Policy

A rules enforcement policy is needed to ensure compliance with the rules and regulations found in the governing documents and those enacted by the board. This sample resolution can be modified to conform with state and federal statutes and governing documents. Before implementing, it should be reviewed by an attorney specializing in homeowner association law.

Nottacare Condominium Policy Resolution #___

Rules Enforcement

WHEREAS Section ___ of the Nottacare Condominium bylaws grants the Board of Directors with the power to enforce rules found in the governing

documents or duly enacted by the Board,

LET IT BE RESOLVED THAT the following rules enforcement procedures will be followed:

1. The Board of Directors (or Property Manager) is authorized to enforce the rules as outlined in the Rules and Regulations.

2. Rule violations are to be reported to the Board of Directors (or Property Manager) in writing and signed by the complainant. The complaint will be investigated as soon as possible.

3. If the report of violation is accurate, written notice will be sent to the violating member. (If violation is by a renter, notice will be sent to the unit owner.) The first notice of the violation will be regarded as a warning, unless otherwise stipulated in the Nottacare Rules.

4. If the violation continues for more than 10 days or is cured but repeated within 30 days, a Notice of Violation will be issued to the violating member and a fine will be levied against the member as follows until the violation is cured:

Parking	\$ ____ /day
Pet	\$ ____ /day
Architectural	\$ ____ /day
Rules	\$ ____ /day

The Violation Fine shall be subject to the Nottacare Collection Policy if unpaid.

Appeal Process. Any member receiving a Rules Violation Notice may submit a written appeal to the Board of Directors. The member will be given an opportunity for a hearing within 30 days and no enforcement fee will be imposed until after the hearing.

[Dated] [Signed]_____
President - Board of Directors 🗳️

The Board Secretary

Of all homeowner association board offices, the most under recognized is that of secretary. But when the secretary job is performed to its fullest potential, it is enormously important. The secretary's work memorializes the business of the HOA and serves as a road map for continuity. As the saying goes, to know where you're going, it's important to know where you've been. Good record keeping also serves as a vital aspect of risk management. Litigation can develop years after an event and having well organized and complete records can make the difference between winning and losing.

Here are the pieces of a secretary's job well done:

1. Recording and circulating accurate minutes for all meetings whether board, executive session, special, annual or committee. Minutes record the actions taken and demonstrate that the proper process was followed.

2. Announcing Meetings. Giving proper and timely notice of meetings is essential to fulfill the board's fiduciary duty of keeping the members informed and HOA business transparent.

3. Preparing Agendas. Every meeting should have a preset agenda so the meeting doesn't meander or get commandeered by a squeaky wheel. Distributing the agenda and related material ahead of time with instructions to review in advance so the meeting can move smoothly and produce shorter meetings.

4. Maintaining HOA Records. Keeping files and information current, organized, safe and accessible is crucial to the continuity of the HOA. Digital backups now allow easy, cheap and remote duplication of records.

5. Witnessing signatures on financial, board resolutions, governing document amendments and legal amendments.

6. Maintaining accurate and current contact information for board members, committee members,

officers and general members. There is nothing as fundamental to getting business done as an accurate contact list for billing or notifications.

7. Distributing and retrieving proxies for member meetings. With many HOAs falling short of required quorums at meetings, having the adequate number of proxies makes the difference between having a legal meeting or not.

8. Filing Forms. This includes employment forms, corporate documents, annual reports and other official filings.

9. Managing Correspondence. Secretaries can be invaluable in corresponding with the manager, board members, committees and responding to information inquiries. That correspondence should include proper tone, form, grammar and spelling.

10. Producing the HOA's Newsletter. Newsletters should convey need to know information, rules and news.

11. Managing and/or providing content for the HOA's website. As the internet now makes it easy to record and keep records in a non-paper format, the secretary can maintain virtual information that critical information is not lost and accessible 24/7 by the board, manager and members. There is the huge bonus of instantaneous and cheap communication that can save thousands or dollars each year in paper, postage and handling costs. So, the secretary can have a significant and beneficial impact on the budget by drastically lowering communication costs.

As board jobs go, the secretary's may be the most mundane and labor intensive yet most valuable of all. It is a job for a detailed oriented person with a knack for organization. If your secretary is performing this work well, provide the recognition for a job well done. 🗳️

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Peace of Pi

The world has spun out of control. Mayhem in the financial markets. The stock market is bouncing up and down like a yo-yo. Threat of nuclear war. It makes you wonder: where am I going and why am I in this handbasket?

The Greeks invented a mathematical formula we know as Pi to describe the ratio of the circumference and diameter of a circle. This ratio results in a number with infinite digits, a number without end. In a world bent on defining the undefinable, like the nature of life, the scope of the universe and truth itself, Pi stands laughing defiantly. "I am what I am" Pi asserts. "I'm without end and there is nothing you can do to contain me."

There's something serendipitous (discovering something that one was not looking for) about Pi. It can be described but not quantified. Pi is a mathematical constant yet no one knows *exactly* what it is since it has no boundaries. Yet we believe it's true because it works.

The fact is that much of what we claim to "know" is unknowable. The universe and all it contains is controlled by forces we can't possibly understand. Some try to wrap it in mathematical equations but most don't try because trying to understand their own personal "universe" is beyond their comprehension. Why go looking for more trouble? And as if the universe wasn't intimidating enough, the reality that each of us is comprised of trillions of atoms, each a universe unto itself, provides no peace. Whether we look outwardly or inwardly, the mystery only grows.

When a pervasive sense of confusion or despair creeps into your life, know that all this mystery is no mystery to God who created it all. He not only has unraveled it, He controls it all the time from the dawn of time until the end without end. Learn the peace of Pi. Be still and know Him that knows all. 🌲



Davebarrisms

Not all chemicals are bad. Without chemicals such as hydrogen and oxygen, for example, there would be no way to make water, a vital ingredient in beer.

People who want to share their religious views with you almost never want you to share yours with them.

Puns are little plays on words that a certain breed of person loves to spring on you and then look at you in a certain self-satisfied way to indicate that he thinks that you must think that he is by far the cleverest person on Earth now that Benjamin Franklin is dead.

Sharks are as tough as those football fans who take their shirts off during games in Chicago in January, only more intelligent.

Software: These programs give instruction to the CPU, which processes billions of tiny facts called bytes, and within a fraction of a second it sends you an error message that requires you to call the customer-support hot line and be placed on hold for approximately the life-span of a caribou.

Some archeologists believe that Stonehenge - the mysterious arrangement of enormous elongated

stones in England - is actually a crude effort by the Druids to build a computing device.

Stuffwise, we are not a lean operation. We're the kind of people who, if we were deciding what absolute minimum essential items we'd need to carry in our backpacks for the final, treacherous ascent to the summit of Mount Everest, would take along aquarium filters, just in case.

Talking about golf is boring. Playing golf can be interesting, but not the part where you try to hit the little ball; only the part where you drive the cart.

Technically, Windows is an "operating system" which means that it supplies your computer with the basic commands that it needs to suddenly, with no warning whatsoever, stop operating.

Thanks to my solid academic training, today I can write hundreds of words on virtually any topic without possessing a shred of information, which is how I got a good job in journalism.

The Democrats seem to be basically nicer people, but they have demonstrated time and again that they have the management skills of celery.

The Internet is a giant international network of intelligent, informed computer enthusiasts, by which I mean, "people without lives." We don't care. We have each other.

The Internet is the most important single development in the history of human communication since the invention of call waiting.

The primary function of the government is - and here I am quoting directly from the U.S. Constitution - "to spew out paper."

It is a good idea to "shop around" before you settle on a doctor. Ask about the condition of his Mercedes. Ask about the competence of his mechanic. Don't be shy! After all, you're paying for it.

It is a scientific fact that your body will not absorb cholesterol if you take it from another person's plate. 🌲

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