

# Board Member Handbook For Association Volunteers

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# What is a Board of Directors?

A COA/HOA board of directors is composed of homeowners who were elected by the greater community to represent them. Just like members of congress, the board will decide on important issues on behalf of the community. They host board meetings that homeowners are free to attend, where they discuss important neighborhood issues, finances and more. The primary role of a director is to ensure that the HOA fulfills its core duties, which we'll elaborate on below.

## President

A successful president has, or quickly develops, strong leadership and organization skills. He or she is elected by members to lead the community and help direct the board through tough situations.

The president's main responsibilities include, but may not be limited to:

- **Know the rules:** The president should become familiar with the covenants, conditions, and restrictions (CC&Rs) and other governing documents of the association. Also, making sure the board has adequate insurance in case of being sued is crucial.
- **Lead board meetings:** First, the president should work with the secretary to create meeting agendas. This means making sure that vital issues don't get left off the list. The president may ask for items a few weeks before the meeting to make sure all imperative items are addressed. During meetings, tough decisions might need to be made. The president should ensure that every board member gets to say his or her piece before a final decision.
- **Lead membership meetings:** The yearly member meeting may be overwhelming for any president because of the amount of people who wish to speak. No single member should be allowed too much time to speak.

- **Oversee projects:** It is crucial that the president knows what going on in the association. This may mean meeting with vendors and keeping in touch with the property manager.

In most associations, it is the president who has the power to sign documents on behalf of the board such as amendments and contracts. However, the president should make sure that he or she has board approval before committing the association to any decisions.

The president should not be hesitant about calling for volunteers. Most people don't have extra time to volunteer, but that should not stop the president from asking individuals to help. Many homeowners would be willing to volunteer for a short-term or one-time-only project.

## Secretary

It is the secretary's reasonability to keep things organized. Without a meticulous and dedicated secretary, records will not be properly maintained, and homeowners may not be kept informed of what is happening in the association. This might lead to angry homeowners who believe that the association is simply doing nothing.

The secretary's main responsibilities include, but may not be limited to:

- **Keep the community in the loop:** The secretary should keep homeowners informed via website or newsletter. Homeowners need to know where their association dues are going and what repairs and updates are being done in the community. Also, the secretary oversees giving notice to homeowners about upcoming meetings. Giving notice of the when and where, as well as what will be discussed, is required in most board governing documents.
- **Create meeting agendas:** With help from the president, the secretary should list agenda items to be discussed and the amount of time

allotted for each item. Before each board meeting, the agenda should be distributed to board members for review. The secretary may also oversee keeping time at the meeting, so no items run over their time allotment.

- **Keep records:** During board meetings, a secretary should take the minutes. The minutes should state who attended the meeting and decisions that were made.

The secretary oversees storing the records in a public place. Homeowners are allowed to request to view association records at any time, so the secretary may wish to make the documents available online to save time and effort later.

## Treasurer

It is the board's fiduciary responsibility to make sure the financial records are kept up to date and the budgeting is accurate. The treasurer oversees overseeing the finances even if the association is professionally managed.

The treasurer's main responsibilities include, but may not be limited to:

- **Keep the books:** Keeping accurate records on where the association's funds are being spent is imperative, so homeowners know where their money is going. Also, without accurate records, the board may overspend.
- **Audit expenses:** Some states require an association to do a financial review, which usually means a standard audit. The treasurer should collect all the documents and hire a certified public accountant if needed.
- **Inform the board:** The treasurer should keep the board informed on how dues collections are going and how much money is left to spend.

# Policy Resolutions

It has often been said that homeowners' associations have their own version of the "Three R's": Rules, Regulations, and Resolutions. Often, the policies of a particular HOA lie at the heart of conflicts and contention experienced by homeowners, Boards, and managers alike. Resolutions are the most formal way, aside from modifying the recorded documents, that an association can enact procedures for governance.

According to the Community Associations Institute (CAI), a resolution is a formalization of a Board decision. It follows a set format and is formally adopted by the Board. While there are several types of resolutions, including general resolutions, administrative resolutions, and special resolutions, policy resolutions have the most potential to impact homeowners. Policy resolutions directly affect the rights and responsibilities of each homeowner within the HOA. Some examples include the following:

- Resolutions regarding the use of individual lots. Restricting the right of an owner to run a business out of the home, for example.
- Resolutions regarding the appearance of individual lots. Architectural guidelines or standards of appearance.
- Resolutions setting forth rule enforcement procedures. For example, the number of warnings owners receive, or when a fine is to be assessed.

Anyone who has read through the governing documents of an HOA (Articles, Covenants, and Bylaws) will probably note that they are general in nature. Although the covenants lay out the obligations of the HOA and the homeowner, and the bylaws lay out regulations for administration, specific policies and procedures would not normally be found in either one. This is not an oversight. Governing documents are designed so that the HOA can create customized policies that meet the needs of that community at any given time. The covenants usually give the Board of Directors the right to create rules and regulations, including policy resolutions, and to revisit these rules if

they find that they no longer fit the community's needs. A resolution is needed when the governing documents are unclear on a specific issue.

Why a resolution, and not just another rule? Boards may find it easier to simply adopt rules via a motion at a meeting, but there are several benefits of using the formal resolution process. The process is systematic and thorough. It requires that the governing documents be reviewed, and it can protect homeowners and the association from rules that are seen as arbitrary and may be difficult or impossible to enforce. Policy resolutions are carefully crafted and well thought out, and Boards are encouraged to seek homeowner input prior to enacting a policy resolution. Formal resolutions are consistent in format and wording, and provide an official, documented record of the rules.

Resolutions follow a standardized format and use specific wording. According to CAI resolutions should include each of the following four sections:

- **Authority.** This section details the Board's authority to enact the resolution. Most often this authority comes directly from the covenants or bylaws. For example, "WHEREAS, Article X of the covenants gives the Board of Directors the power to adopt rules and regulations..." The complete authority would be quoted directly from the documents.
- **Purpose.** This section expresses the reason for adopting the policy. For example, "WHEREAS, there is a need adopt a specific pet policy..."
- **Scope and Intent.** This section details who the rule will apply to, for what period the rule will remain, the extent of the rule, what the penalties are, and other specific ramifications. There may be several paragraphs in the resolution that address the scope and intent, each beginning with "WHEREAS..."
- **Specifications.** The first three sections of the resolution provide a basis for the specifications. The specifications tell those affected by the rule what they are to do. Put simply, specifications are the rules themselves. This section states something like "NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors hereby adopts the following pet policy..." It will go on to state all the specific rules.

Resolutions can usually be adopted by a vote of the Board of Directors without homeowner consent. However, a conscientious Board would be well advised to seek the opinion of homeowners through open meetings or surveys, and perhaps create an ad hoc committee to provide recommendations. Some governing documents may provide that a certain percentage of the homeowners must vote to adopt the resolution, so Boards should check their community's individual documents carefully before seeking to adopt any resolution. After a resolution is adopted, each member of the community should be made aware (most often through a mailing), and a copy of the policy should be placed in the community's book of resolutions. If any exist, handbooks or welcome packages should be updated to reflect the new policy.

Resolutions may be viewed as an alternative to amending the governing documents, but only in a certain sense. It is important to note that a resolution cannot conflict with the governing documents. For example, if the covenants state that each household may have no more than two domestic animals, the Board could not enact a pet policy that allows more than that. Additionally, under no circumstances can a resolution violate a civil statute or law. For example, a policy resolution could not be at odds with the federal Fair Housing Act, and in North Carolina could not contradict the Planned Community Act (for communities developed after 1999). If a Board is seeking to adopt a rule that conflicts with the governing documents, then those documents must be amended. This is often a difficult, and possibly expensive, process. An overwhelmingly large percentage of the community must usually approve such changes, and an attorney's expertise is necessary.

The success and usefulness of any policy depends greatly upon its need, its acceptance by homeowners, and its enforceability. By using the resolution process, Boards can maintain an air of transparency, fairness, and consistency in their rule-making procedures. By identifying the need for a rule, seeking homeowner input, and using the specific resolution format, the Board can maintain its level of trust and its viability in the eyes of homeowners.



# Emergency Powers of the Board

During a declared state of emergency, many state's laws give association governing boards special powers and duties to protect the association and to begin the clean-up process. When a disaster strikes, the board may need to act immediately to protect the property and the association residents. During an emergency, the board may be able to:

- Give short notice for board and member meeting. Notice of meetings may not be able to be given in your association's typical form. Instead, the board may give notice through printed publication, mail, or internet.
- Sign contracts for the removal of debris.
- Give executive officer authority to non-directors.
- Charge special assessments to association members without member vote.
- Begin vital repairs such as the removal of wet drywall, which may cause further damage if not fixed immediately.
- Prohibit association members from returning to their homes based on the advice of officials or professionals.
- Borrow money using association assets as collateral without the approval of association members.

# HOA Minutes: Clearing up the Confusion

We receive many questions about taking proper minutes. It's time to clear up the confusion.

Many HOA board members believe that taking minutes is the same writing a transcript of the entire meeting. I've got good news for all you hardworking secretaries; this is not true!

Your HOA's minutes should be brief and include only the facts. Statements made by members should not be included in the minutes because a member may be (or claim to be) misquoted which can lead to tension among board members. A transcript recorded by the secretary (unless done with an audio or video recorder) is often inaccurate and can be used against the association in a courtroom.

Listed below is what should and should not be included in your HOA's minutes.

## **Minutes should include:**

- The legal name of the association
- Details of the meeting (date, time, and location)
- Names of officials present
- Attendance of the meeting and if a quorum was reached
- Decisions made and how each director voted
- Issues to be discussed/voted on in the next meeting
- The time a date of the next meeting
- Time of adjournment
- An affidavit (if required)
- Secretary's signature

## **Minutes should not include:**

- Discussions that led to a decision
- Statements made by members

Remember to keep all the records in a minutes book. The secretary should oversee keeping the book safe and passing it on to the next secretary. It is also recommended that a digital copy of the minutes is kept and included on your HOA's website.

## “Excuses, Excuses”

An excuse has been defined as “the skin of a reason stuffed with a lie”. In the process of preparing over 30,000 Reserve Studies for Associations across the country over a period of 28 years, there are two board member sentiments we hear most frequently expressed: “We can’t afford the Reserve Funding Plan” and “We’ll worry about that next year”. But no matter how many times a board member may repeat these sentences, it doesn’t mean they’re true and it doesn’t mean they’re wise.

### **“We can’t afford the Reserve Funding Plan.”**

Most of us are accustomed to living within our own financial constraints, where there are some things, we can afford and some things (like that red Ferrari!) that we can’t. So, we are regularly making choices about where we spend our limited cash. But there are two logical flaws to this concept of “affording” when it’s applied to reserve contributions. First, common area repair and replacement expenses don’t disappear if the Reserves are underfunded. The claim that you can’t afford the Reserve Funding Plan this year only creates more Reserve obligations in the future. In addition, delayed contributions generally result in delayed Reserve projects, creating deferred maintenance. Many of those deferred Reserve projects get more expensive when delayed. Delaying doesn’t usually save you any money.

The second flaw is that Boards don’t really have a choice in the matter. board members are both empowered and obligated to operate the Association according to state law and their own Governing Documents. Throughout the United States, Boards are empowered to set a budget to collect “adequate” funds from the owners to maintain the physical assets of the Association.

Deciding to not budget for the needs of the Association exposes board members to personal liability. Owners or future owners might be inclined to file a lawsuit against the Board because the Special Assessment that was levied against them is a deficit catch-up strategy for all the years the Reserve contributions were artificially low.

The reality is that underfunding reserves is nationwide problem. More and more prospective buyers are becoming aware of this issue. In the State of California, the Department of Real Estate took the unprecedented step in September 2012 of issuing a Consumer Warning of the special assessments and declining home values due to underfunding Reserves. Read it yourself by Googling "California DRE underfunded homeowners associations".

**"We'll deal with that next year."**

The problem with this next excuse is that Reserve obligations are not future events. Reserve obligations arise from very predictable, ongoing deterioration that occurs every day, every week, and every month. The cost of that ongoing deterioration can be easily calculated, which forms the basis for an association's Reserve contributions. Those repair & replacement costs are as real as any other "bill" the association faces. Cultivating a culture of not paying your own bills is not only fiscally irresponsible, but inherently unfair.

Let me explain: Is it fair to be forced to pay for a new roof to replace one that someone else "used up"? The unwitting victims of Special Assessments or bank loans likely are paying far more than their fair share of that component's cost. Those current owners are being forced to "pay the bills" of prior owners who underpaid their fair share of the Association's ongoing cost of deterioration.

**So, what to do?**

*"It is the greatest of all mistakes to do nothing because you can only do a little. Do what you can."*

*Sydney Smith*

It may be a hard pill to swallow, but Boards need to stop making excuses or kicking the problem down the road. You can do the wise thing. You can address your current situation by following the Funding Plan– it's one of the key results of a Reserve Study. Then begin to make steps of progress. Not only will you then fulfill your role and responsibility as a board member and protect yourself from liability but being able to afford timely repairs and replacements will maximize property values and go a long way to help overall homeowner satisfaction.

## Five Traits of a Successful Community

Whether you are a planned community, condominium or mixed-use association, all communities share five traits for success. These five characteristics, when employed together, allow a community to operate at its highest level of efficiency and efficacy, benefiting everyone involved – the board, homeowner, and management.

### **1. A Functioning Board of Directors**

Because all five characteristics are affected by board actions and decisions, an effective board is set as the priority. The most critical component of an effective board is knowledge. Board members must have a working knowledge of their community's governing documents if they are to make informed decisions during meetings. The board meeting is not a "discussion forum" or "planning session"; it is a business meeting. It is imperative that board meetings are efficient and productive. Most of the official business is conducted during the board meeting. It is also an opportunity for homeowners to see their board in action. A disorganized meeting can create a negative perception of a board's efficacy. A board meeting does not need to be long or arduous to be productive. Just as much work can be accomplished in shorter meetings, especially when board members are prepared and ready to make decisions. Encourage shorter members by creating and sticking to a timed agenda and limiting owner participation to a reasonable and respectful amount of time. An organized, shorter meeting

may also be a great recruiting tool for new volunteers and help boards retain current members. The key is for every board member to do his or her homework, reading the meeting material ahead of time and asking questions before the day of the meeting.

## **2. A Relationship Between the Board and Management**

The board is the ultimate decision-making authority, and the managing agent is the indispensable vehicle they utilize to implement and facilitate their vision. By understanding and leveraging the nature of this relationship, communities are well on their way to success. The managing agent serves as a repository of industry-related experience and information. As such, he or she is a professional service provider that brings stability and continuity to the community and affects all aspects of the community's operations. The instrument that establishes the contractual relationship between the board and the management company is the management agreement. Most misunderstandings between a board and the manager occur because one, both or neither party fully understand the terms of the agreement. Boards and management should review the management agreement to ensure both are always on the same page. For examples, a common point of contention with boards and managers may be expenditures the manager can make without board approval. The five typical community expenditures – budgetary, unexpected operational, emergency, reserve, and discretionary expenditures – should be addressed within the management agreement.

## **3. Communication Between All Parties**

The number one complaint received from owners is that the association does not adequately communicate with residents. Communication and transparency are essential for a successful community. Without it, people may feel left in the dark, which can cause discord among board members and homeowners, and the management company.

## **4. Financial Integrity**

The first thing new boards must learn is their fiduciary duty, a term often thrown around, and all too often misunderstood and misapplied. Fiduciary duty means that the board has an ethical and legal obligation to make decisions in the best interests of the entire association. Board members should never use their position to take advantage of the association and they must act reasonably in all their decision-making processes. The Business Judgment Rule, defined by *Smith v. Van Gorkom Del.* (1985) as “a presumption that in making a business decision, the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company”, is cited as a useful tool for board members to use when making community decisions. Fiduciary duty also encompasses the necessity for an acceptable working budget; preparing for, attending, and participating in board and annual meetings; fairly and uniformly enforcing the governing documents; avoiding conflicts of interests; being a role model to the community’s residents; and promoting an understanding and acceptance of the reserve accounts among the members.

## **5. Community Governance**

Finally, a successful community is effectively governed. A community association’s governing documents are structured to be a representative form of government but governing by polls is the greater good of the community.

# The Association Budget Process

The responsibility for preparation of the association budget usually rests with the board of directors. These powers are usually stated in the association governing documents, and state laws. Most state laws governing non-profit corporations also address the issue of the board’s powers to approve the budget. Large associations may delegate the responsibility to a budget committee to develop and recommend a proposed budget. The board may invite homeowner input through the budget committee or at the homeowner

forum which is typically at the beginning of board meetings. In the end, it is the board that has the power to develop and adopt the budget.

In summary:

- The board adopts the budget.
- A budget summary and notice of a ratification meeting is sent to the membership.
- The budget ratification meeting is held. There is no requirement for a quorum.
- The budget is ratified unless a majority of the entire membership votes to reject the budget.
- If the budget is rejected, the most recent approved budget remains in effect.

## Directors and Officers Insurance 101

Directors and Officers Liability Coverage provides financial protection for the directors and officers of your homeowner association in the event they are sued in conjunction with the performance of their duties as they relate to the association.

As an officer or director of your homeowner association, you indeed put your personal bank account on the line every time you make a decision or vote on a motion.

Why? Because you could be sued by someone who claims your decision caused him or her harm. A jury could agree and award damages you would have to pay. Personally. And even if you win the lawsuit, you could lose money. Because win or lose, you'll probably have to pay a bundle for legal defense costs.

Back your decisions with quality insurance coverage.



What to look for in a policy:

- Coverage on a claims-made basis
- Insures past, present, and future directors, officers, trustees, and committee members
- Includes “entity” coverage to protect your organization for liability arising from its wrongful acts

Your good name and personal assets are both hard won and deserve the most vigorous defense possible. Make sure your policy has the best coverage possible.

# Robert's Rules of Order Cheat Sheet

## WHAT ARE ROBERT'S RULES OF ORDER?

Generally speaking, RONR is a set of strictly defined procedures that can be applied to many meeting situations. The premise is that a chairperson allows everyone to voice their opinions, and everyone is seen, heard, and considered.

## TYPES OF MOTIONS

1. Main Motion: Introduce a new item
2. Subsidiary Motion: Change or affect how to handle a main motion (vote on this before main motion)
3. Privileged Motion: Urgent or important matter unrelated to pending business
4. Incidental Motion: Questions procedure of other motions (must consider before the other motion)
5. Motion to Table: Kills a motion
6. Motion to Postpone: Delays a vote (can reopen debate on the main motion)

## EVERY MOTION HAS 6 STEPS

1. Motion: A member rises or raises a hand to signal the chairperson.
2. Second: Another member seconds the motion.
3. Restate motion: The chairperson restates the motion.
4. Debate: The members debate the motion.
5. Vote: The chairperson restates the motion, and then first asks for affirmative votes, and then negative votes.
6. Announce the vote: The chairperson announces the result of the vote and any instructions.

TIP! If the board is in obvious agreement, the chairperson may save time by stating, "If there is no objection, we will adopt the motion to..." Then wait for any objections. Then say, "Hearing no objections, (state the motion) is

adopted.” And then state any instructions. If a member objects, first ask for debate, then vote and then announce the vote.

### REQUESTING POINTS

Certain situations need attention during the meeting, but they don't require a motion, second, debate or voting. It's permissible to state a point during a meeting where the chairperson needs to handle a situation right away. Board members can declare a Point of Order, Point of Information, Point of Inquiry or Point of Personal Privilege.

- Point of Order: Draws attention to a breach of rules, improper procedure, breaching of established practices, etc.
- Point of Information: A member may need to bring up an additional point or additional information (in the form of a nondebatable statement) so that the other members can make fully informed votes.
- Point of Inquiry: A member may use Point of Inquiry to ask for clarification in a report to make better voting decisions.
- Point of Personal Privilege: A member may use Point of Personal Privilege to address the physical comfort of the setting such as temperature or noise. Members may also use it to address the accuracy of published reports or the accuracy of a member's conduct.

\* A member may make a Motion to Reconsider something that was already disposed; however, the reconsidered motion may not be subsequently reconsidered. A Motion to Reconsider must be made during the same meeting and can extend to a meeting that lasts for more than one day.

## MAKING MOVES

Action	What to Say	Can I Interrupt Speaker?	Need a Second?	Can be Debated?	Can be Amended?	Votes Needed
Introduce main motion	"I move to..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move to amend the motion by..." {Add or strike words or both}	No	Yes	Yes	Yes	Majority
Move item to committee	"I move that we refer the matter to committee."	No	Yes	Yes	No	Majority
Postpone item	"I move to postpone the matter until..."	No	Yes	Yes	No	Majority
End debate	"I move the previous question."	No	Yes	Yes	No	Majority
Object to procedure	"Point of order."	Yes	No	No	No	Chair decision
Recess the meeting	"I move that we recess until..."	No	Yes	No	No	Majority
Adjourn the meeting	"I move to adjourn the meeting."	No	Yes	No	No	Majority
Request information	"Point of information."	Yes	No	No	No	Majority
Overrule the chair's ruling	"I move to overrule the chair's ruling."	Yes	Yes	Yes	No	Majority
Extend the allotted time	"I move to extend the time by ___ minutes."	No	Yes	No	Yes	2/3 vote
Enforce the rules or point out incorrect procedure	"Point of order."	Yes	No	No	No	No vote
Table a motion	"I move to table."	No	Yes	No	No	Majority

# Board Member Agreement to Serve

## Agreement to Serve On the Board of Directors

I agree to serve on the board of directors for \_\_\_\_\_  
("Association"), and I also agree to be guided by the following principles:

- To attend and participate in all meetings and communications to the best of my ability to be present.
- To respect parliamentary procedure at all meetings; to refrain from speaking out of turn; and to participate in a business-like manner.
- To maintain confidentiality with respect to the board's executive session meetings, including any related discussions or other communications.
- To accept the board's decisions even if I disagree, because I understand there may not be unanimous support for every action taken by the board.
- To promote the goals and interests of the Association in a constructive manner, and not to create unnecessary conflict among the homeowners.
- To disclose to the board on the meeting minutes any financial conflicts of interests.
- To do my best to ensure that the Association's finances are well managed.
- To uniformly enforce the covenants and other governing documents.
- To place the best interests of the Association above my personal interests; the interests of a particular homeowner; or the interests of a faction of homeowners.
- To resign from the Board if I find I can no longer maintain this agreement to serve.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_