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COMMUNITY MOMENTS

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Director of Association Management - Central Texas

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PRESIDENT'S LETTER

Happy fall everyone! The temperature has significantly dropped in Texas and I don't know about you, but I am grateful for the break from the heat.

Today I want to talk about budgets. As association board members, this time is critical for your community to get the 2018 budgets approved. It is imperative to get these through the process so your community members can get accurate coupons/statements printed and mailed in time for the new year. We are here as your partner to help facilitate and guide you through this process so if you feel like you are hitting some road blocks, please feel free to reach out to the management team and we will happily help in any way we can.

I hope all of you are having a great fall season so far and I am excited for finishing 2017 strong!



Chris Ayoub
President, RealManage

EMPLOYEE SPOTLIGHT

Wendy Mueller, PCAM®

DIRECTOR OF ASSOCIATION MANAGEMENT - CENTRAL TEXAS

At RealManage, we take immense pride in the caliber of team members we recruit. We understand that in order to serve as trusted advisors for our client communities, we need to employ the absolute best and brightest. We are lucky to have found Wendy Mueller to serve as a key leader on our team.

Wendy joined our team in 2016 with over 25 years of industry experience and serves as a Director of Association Management for RealManage's Central Texas region. She supervises a team of community association managers, assistant community association managers, and site monitors, serving a large portfolio of communities spanning a geography from Temple to San Marcos. Wendy's enthusiasm and phenomenal leadership get results. She has a happy team and satisfied clients, resulting in zero turnover in clients and employees under her care. Additionally, two members of her team received huge honors this year from the Austin Chapter of the Community Association Institute, winning Portfolio Manager of the Year and Assistant Manager of the Year awards.

Wendy is making a significant impact at RealManage. She exemplifies our core values of personal relationships, respect, integrity, selflessness, and continuous improvement. Her commitment to excellence serves as an example to us all. Wendy's expertise is a true asset to her team and communities, but it is her passion for the industry that makes her invaluable to them.



Written by **Ben Kirby**
Vice President of Operations

BOARD SPOTLIGHT

Estes Park Board of Directors

Estes Park is a beautiful Townhome association community with 157 homes that are located in an immaculate setting within Naperville, Illinois.

Board members, **Wayne Myers** - President, **Laura Varsek** - Secretary, and **Judy Coleman** - Treasurer, exemplify how communication and common goals are for the betterment of an association. Wayne, Laura, and Judy, are always eager to conduct association business in a professional and timely manner. They cultivate a solid relationship with the management team and the homeowners within their community.

While serving on the Estes Park Board of Directors, they have been able to replace all the roofs and exterior lights over the past two years, all while maintaining minimal increases to assessments. Estes Park has been able to hold a competitive assessment rate within the Naperville area all while enhancing the property. They take active measures to beautify their pond and shoreline within the community. This board is working towards siding replacement within the next five years which will only further enhance the property value.

Wayne, Laura, and Judy, not only share the same passion for the Estes Park community, they each have a strong love for their dogs. Wayne's Boston Terrier recently passed but he has since welcomed a new addition in which he committed to a six hour driving trip to adopt his new furry family member. Laura has a pretty little pug, while Judy has twice the fun with two lovable pups.

Written by **Daneen Reinke**
Senior Vice President, IL



4 Tips For Successful HOA Board Meetings

When your board gets together, you want to be sure that you accomplish everything on the agenda and that as many voices are heard as possible. Whether you're just getting started in your HOA or you're concerned that your meetings aren't as productive as you'd like, these tips will help you have successful HOA board meetings, increasing your productivity and making it easier for you to meet your goals as a homeowners association.

TIP 1: PREPARE AHEAD OF TIME

You cannot rush into a meeting, sit down around a table or in a handful of chairs, and simply hope that things will happen the way they need to. Instead, take the time to prepare ahead of time for your meeting. Ask several key questions:

- *What needs to happen during the meeting?*
- *If you have a presentation to make or something that needs to be said, how will you say it? Take the time to put your thoughts together clearly so that you can focus on presenting them during the meeting.*
- *Who needs to be present in order for the meeting to be successful? If the majority of the board does not show up or you're missing someone with key decision-making power, how will you proceed?*
- *What questions may arise as a result of items presented during the meeting? How many of them can you answer ahead of time?*

By thinking through the meeting in advance you will be more in control during the meeting itself--not to mention better prepared to handle any challenges that might come up during the meeting.

TIP 2: CREATE AN AGENDA

When you sit down at the meeting, does everyone know what's expected to happen? Take the time to create an agenda that details everything that you'd like to accomplish during the meeting. Refer to that agenda for items such as what issues your need to cover and who has the floor next. It can also be helpful to refer back to the agenda if you're struggling to get things done during the meeting.

TIP 3: GET HOMEOWNER PARTICIPATION

The entire point of your HOA board is to represent the homeowners--which can be difficult if you don't have homeowner participation! Encourage homeowners to attend board meetings and the board should vote on issues that have significance to them. In order to increase attendance, offer:

- *Plenty of information about where and when the meeting will take place, preferably far enough in advance that homeowners have time to make plans.*
- *Incentives to show up: food and drink are often a great draw, as are prize drawings or other small incentives for attendance.*
- *Information about important concerns that will be brought up during the meeting.*

TIP 4: STAY ON TIME

Set specific start and ending times for your meetings, and stick to them. Be respectful of board members' time as well as the time of homeowners who have shown up for the meeting. If there is an agenda in place, make sure that you move through it in a timely manner and cover all the issues that you've promised to discuss--even if that means you have to table the issue and come back to it at another time, especially if you're talking in circles especially if discussions are unproductive and you are unable to reach a resolution. Sticking to specific starting and ending times will make it more likely that members and homeowners will show up for your HOA board meeting as well as making it more likely that you will accomplish your goals at each meeting.

Holding a successful HOA board meeting will help give members more confidence in what the board can accomplish, offer incentives for board members to show up on time for each meeting, and make your community a better place to live. By following these four key

HOA Board Meeting Minutes - A Brief Overview

Although by no means glamorous, HOA board meeting minutes are an all-important piece of the HOA puzzle. You will want to master every aspect of them in order to help run your HOA smoothly. In this post we look at who's responsible for the minutes; how to prepare them; what to include and (as importantly) exclude; what to do with them when they are done; and the importance of rulebooks and state-specific exceptions.

Who's Responsible?

Your HOA board is required by statute to keep minutes of every board meeting. The HOA board secretary, who is typically the board chair in small HOAs, is responsible for taking the minutes. However, they may delegate the duty to another, who will then serve the role of assistant secretary. In that case, the official secretary will still need to sign the minutes, and the minutes should take note of the change. In some instances, homeowner associations may elect to have the HOA management company take the minutes.

Preparation

The HOA meeting agenda will give you a good sense of the motions, proposals and other key actions and activities that are to come. Accordingly, you can use the agenda as an outline for your minutes before fleshing out the precise wording of each action-item as the meeting progresses.

To help prepare the minutes, in some cases the secretary can also use technology to record open meetings (although not executive sessions).

What Specifically To Include

The Initial Paragraph

According to Robert's Rules of Order Newly Revised (the definitive resource for parliamentary procedure in the U.S.), the minutes' initial paragraph of the minutes should include basic contextual information: date, time, location, organization name and type of meeting. It should also include a list of notable individuals present—namely, directors and invited guests, referring to them by both name and title. It is also important to note whether the association's lawyer is present, as the attorney-client privilege will extend to certain communications referred to in the minutes. The first paragraph should also cover whether the last meeting's minutes were read at the meeting, and whether or not they were approved.

The Middle Paragraphs

According to Robert's Rules, subsequent paragraphs—with the exception of the last—should each cover one motion, action or decision. The main content is often motions. Here the final, agreed-upon wording of each motion is of critical importance. The minutes should also take note of the directors' votes on each motion. Other important actions and activities to note (but not necessarily fully document) include the treasurer's report, committee reports and the contributions of guest speakers.

The Final Paragraph

According to Robert's Rules states the last paragraph needs merely to state the time at which the board adjourned the meeting.

Attachments

The secretary can attach various documents to the minutes, but only with HOA board approval.

What NOT To Include

Not only for brevity's sake but also for legal reasons it is important to stick to recording actions and events while excluding commentary and opinions (other than votes). Equally important, and for the same reasons, it is important to exclude letters and any other correspondence. The general advice given in Robert's Rules is that the minutes should serve as a record only of the final form of the key actions.

After The Meeting

By most statutes, the association must distribute or otherwise make the minutes available to association members within 30 days of the open meeting. If not provided, the board could risk penalties. Moreover, the board needs to keep the minutes accessible to members going forward and post an annual notice of their members' right to review open meeting minutes.

Caveats

Always consult Robert's Rules for a more detailed treatment. Also, it is best practice to always check with your state's laws governing HOA meeting minutes, as you may find an exception to one or more of the general guidelines reviewed here.

Making Minutes

It is a lot to take in. Yet when it comes to HOA meeting minutes, you cannot just wing it. So remember these key points: always have the secretary (often the board chair) or designated assistant secretary take down the minutes; use the HOA meeting agenda, and in some cases a literal recording, to help prepare; follow Robert's Rules' with an initial paragraph that covers the context, a set of action-based middle paragraphs, and a final paragraph with the adjournment time; exclude commentary and opinion; make the minutes (and the rights associated with them) readily available afterward; and consult with Robert's Rules and your state's regulations for greater details and important exceptions. With this time-tested approach, you should be well on your way to mastering your minutes.

The HOA Document Hierarchy

When you discover a glaring conflict between two of your HOA's governing documents, there's no need to despair. There is a ready-made solution waiting in the wings: a document hierarchy, typically imposed by the state, that orders your governing documents by authority. The governing-document hierarchy almost universally begins with the original HOA community plat or map at the top and the latest rules and regulations at the bottom. In many cases, you can use this hierarchy to quickly resolve conflicts between governing documents at different levels in the hierarchy. However, in some cases, you may find conflicts between the governing documents and federal, state and local laws, which require other solutions outlined below. As a last resort, there is always the option of amending your governing documents with a partial rewrite, which requires a special procedure.

Although it is important to check your state laws to discover how your state specifically handles the hierarchy, the general pattern tends to look like the following, although the official language will not include "legislative law" in the hierarchy:

- 1. *Legislative law (federal > state > local)*
- 2. *HOA plat/map*
- 3. *Declaration*
- 4. *Articles of incorporation*
- 5. *Bylaws*
- 6. *Rules and regulations*

The laws of the land hold sway over the original HOA plat/map, which in turn holds sway over the HOA's declaration of its existence, and so on.

APPEALS TO THE HIERARCHY

The beauty of the HOA document hierarchy is that you can often resolve conflicts between two HOA rules simply by reminding others, or yourself, that the two rules belong to two documents at different levels in the hierarchy. The one that belongs to a document higher up on the hierarchy holds sway. End of debate.

COLLISIONS WITH LEGISLATIVE LAW

While it is no surprise that federal law holds sway to supersedes state law, and state law over local law, it is not so clear that legislative law, as a whole, always holds sway over HOA governing documents, despite appearances in the extended hierarchy. This is true because the U.S. Constitution prevents states from passing laws that impair previously valid contracts. A rule of thumb to resolve such conflicts that arise between new, state-level legislation and pre-existing HOA rules (comprising a contract) is that if the new state law is merely procedural, then it superedes the HOA rule. However, if it goes beyond stipulating how an HOA should enact or enforce a given rule and dictates a material change to an HOA rule itself, then the new state law may find itself in conflict with the federal law stated above and ultimately be unenforceable.

To sidestep the entire issue, many governing documents contain stipulations, known as "Kaufman" language, explicitly stating that any new state laws that come to pass will automatically amend the HOA governing document at hand to incorporate the legislative change.

IMPROVING YOUR DOCUMENTS

Sometimes the best solution to a conflict in your governing documents is neither to appeal to the hierarchy, or to include "Kaufman" language, but to rewrite a poorly worded or otherwise problematic statement or provision itself. However, you will need to follow a precise, perhaps even lengthy procedure in order for your amendment to be valid including consulting with your association legal counsel. You will generally find the rules for amending governing documents within the documents themselves, which will include an approval phase.

HELP FROM THE HIERARCHY

An HOA's document hierarchy provides a ready-made solution for resolving conflicts between two governing documents. Typically imposed by the state and reflecting precedence and degree of generality, the hierarchy gives each governing document a certain level of authority. Whether explicitly stated or not, the hierarchy always begins with the laws of the land (constitutional/federal, state and local), followed by the original HOA community plat or map, the HOA's declaration, the articles of incorporation, the HOA's bylaws, and finally the latest rules and regulations. In many cases, resolving conflicts between two governing documents is as simple as deferring to the one at the highest level in the document hierarchy. However, in some cases, you may find conflicts between your governing documents and the legislative law, which may require "Kaufman" language or an amendment to your governing documents. And remember, it is best practice to consult with your association's legal counsel for matters pertaining amending association documents.

Factors Driving the Hierarchy

PRECEDENCE

You can see the order of temporal precedence in the list above. Often as a matter of logical necessity, the plat is drafted and recorded before the declaration; the declaration before the articles of incorporation; the articles of incorporation before the bylaws; and the bylaws before the rules and regulations. Therefore, knowing which document was drafted and recorded first will often tell you which has the most authority.

GENERILITY

The governing documents toward the top of the hierarchy will tend to have more general, foundational, strategic statements and rules than those governing documents found toward the bottom of the hierarchy, which tend to include more specific, procedural, tactical statements and provisions.



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