

June 2017

# COMMUNITY MOMENTS

A REALMANAGE PUBLICATION



**Laurel McDonald**  
Assistant Community Association Manager



# JUNE

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I cannot believe that summer 2017 is already here! It seems like just yesterday we were putting up lights and wrapping presents for the Holidays. Summer is one of our favorite times of year at RealManage as it brings so many opportunities for our team to help you foster unity and growth within your communities.

Whether it be Memorial Day and 4th of July pool parties, outdoor carnivals or weekend garage sales; the options are endless for how you can build a greater sense of community within your Association. At RealManage, our team wants to make your lives as Association Board members, residents and vendors as easy and worry-free as possible.

We are committed to exceed your expectations through all our interactions from the very first call or email to facilitating your annual meeting or construction project. I hope summer 2017 is the best one yet and I am so honored that we get to partner with you in service to your community. If you have any feedback for me or my team, please feel free to send me an email at [clientsatisfaction@realmanage.com](mailto:clientsatisfaction@realmanage.com)



**Chris Ayoub**  
*President, RealManage*



# Laurel McDonald

ASSISTANT COMMUNITY ASSOCIATION MANAGER

For those of you that have seen the Disney Pixar movie Inside Out, picture Joy, the cheerful little delight inside Riley's head. That is Laurel McDonald.

Laurel McDonald has been an ACAM for our Naperville, Illinois market for over seven years. Laurel greets every visitor with a warm welcome and a smile. She carries that same delivery in every email and phone call to which she responds. Her unwavering positive personality continually finds a way to work through the negativity that can be part of our industry challenges.

Laurel's extensive knowledge of the Naperville communities is a great value to our team and our clients as she is always ready to jump in and assist. Over the years Laurel has had to deal with the company evolving, and some of the challenges have not been easy, but Laurel has made it her mission not to let change overcome her. "Laurel's warm, welcoming way in which she handles each, and every client is something that cannot be trained it is who she is.

She steps in whenever her peers are in need of an extra hand. Each community she helps with loves Laurel because she cares about what she is handling." states Araseli Kelly. While Dave Conforti adds "Laurel is not only a team member but a family member to our entire staff. She is like the rock our team can lean on in times of stress and is eager to assist any and every manager at any time."

Laurel's love for her family is easily recognized the moment she speaks of them. Her children, husband, parents, and siblings are her everything. Being the youngest of six makes for many wonderful memories and rather large family gatherings. Playing card games such as Phase 10 and word games like Words with Friends and Scrabble, are a few activities that bring Laurel joy. We could not be more blessed to have Laurel as our RealManage family member.



## BOARD MEMBER SPOTLIGHT

# Mark Anderson

ENCLAVE AT COUNTRY LAKES

Board President, Mark Anderson has had his work cut out for him since joining as a board member to the beautiful Enclave at Country Lakes, a 438 member community located in Naperville, Illinois.

A mere 12 years ago, Mark was asked to join the Board of Directors as a presiding board member after a presiding board member had resigned. At this time Mark was a mere homeowner interested in attending meetings, listening and observing how the current board was representing the community. When asked to join the Board of Directors, Mark felt it would make sense to accept the position as he was eager to participate in carrying out the fiduciary responsibilities associated with the association's funds and assisting in guiding the community in a positive direction as it matures.

Through Mark's tenure, The Enclave at Country Lakes has undergone major capital improvement projects such as sidewalk repair and/or replacement, asphaltting of driveways, along with siding and roof replacement, all without any special assessments assessed to the homeowners. In fact, the association over Mark's tenure has held a very healthy operating budget as well as funding the reserves to continue enhancing the community in the future. Mark has contributed in executing a firm policy for collections which has led to a single-digit percentage rate in bad debt write-offs over the past several years. Mark's insurance background had been just what the association needed at the time of a 2014 hail storm which resulted in an insurance claim of \$3.3 million dollars. Mark successfully guided the board and management through that claim. With concern of the shortage of parking throughout the community, Mark has successfully enrolled the association in the City of Naperville pilot parking program, which allowed the residents to park on the street overnight as the City of Naperville has an ordinance preventing on-street parking.

Marcia Caruso, as a managing agent that has worked closely with Mark, states, "Today the Enclave at Country Lakes has a healthy reserve, and the property has a strong preventative maintenance program in place. All of this achieved through Mark's strong leadership and fair treatment of all."



Mark, who is an avid animal lover, shares his home with his two pit bull terriers, Phoenix and Kaddie, which require a lot of his time and attention but are well worth it. Since family is important to Mark, and none of his family members live within the state of Illinois, Mark plans a trip once a year to visit them. When Mark is not dealing with the enhancing of his community, Mark tries to plan one trip every 12 – 18 months to a destination that he has not been to before. Come July of this year he will be heading out on a 7-day Alaskan cruise.

Mark is truly a hands-on president and lives up to the positive influence and reputation that helps make the City of Naperville a top 100 desired location for homeowners to live in the nation.

RealManage Illinois is privileged to work alongside Mark and value his dedication to his community.



# Developing an HOA Dispute Resolution Process

Disputes, as much as they are uncomfortable and inconvenient, are inevitable amongst homeowners. It is, therefore, important for HOAs to put in place a HOA dispute resolution plan that they can refer to and enforce in a consistent manner when a dispute arises.

## BEGIN WITH INTERNAL DISPUTE RESOLUTION

Internal dispute resolution refers to the common "meet and talk" process. It involves one party making a request to meet with the other party in writing. In conflict resolution, it is important for one of the involved parties to initiate the resolution process. Both sides can agree to meet and discuss the issues causing the conflict, with the board being represented by a neutral party. This process is a simple and affordable first step towards conflict resolution.

## SET UP AN AGREEMENT IN WRITING

After the conflicting sides have met and agreed to certain conditions in order to resolve the dispute, the agreement should be put in writing and signed by each of the parties. It can be helpful to establish a timeline— it's easy to remember something when it was recent, but you may need to recall details months down the road that each party may remember differently.

## MEDIATION

In the event that the conflicting parties cannot agree to a resolution, an independent third party can be brought in to mediate the issues surrounding the conflict. A mediation process can help both parties to arrive at a decision that they both deem fair.

The disputing sides are however not obligated to accept a mediation decision. If an agreement is reached through this process, it should be written and signed.

## ARBITRATION

If none of the previous methods have worked, you can set up an arbitration process in an attempt to resolve the conflict. Arbitration is a less formal version of a court trial, where both sides can be represented by legal counsel and an arbitrator (a kind of private judge) facilitates the process. Both sides get an opportunity to present their case, along with evidence, which the arbitrator will use to arrive at a decision. The parties also agree in advance as to whether the decision is binding or non-binding.

## CONSIDER THE LAWS OF YOUR STATE

State laws can influence how the HOA board can develop a conflict resolution plan. As you iron out the details of the process, seek the advice of your HOA attorney and property management company.

In conclusion, developing an HOA conflict resolution plan is important because it helps to address the needs and concerns of the members in a consistent manner, which is a crucial role for any HOA.

# Avoiding Conflicts of Interest as an HOA Board Member

When you're an HOA board member, you hold a great deal of responsibility for your association in your hands. You want to be sure that you're handling that responsibility correctly-- and avoiding conflicts of interest is one of the key ways to make that happen. Thankfully, it is possible to allow your own issues to be raised during board meetings without using your authority unfairly.

## LOYALTY DIVIDED

When you accept a seat on the board of your HOA, your duty is simple: to ensure the best possible outcome for all of the residents. Because of this, your personal agenda must be removed from the equation. Whether the goal is cleaner, safer streets for everyone, maintaining the community pool, or keeping an upstanding community where everyone feels safe and appreciated, your loyalty is no longer to your individual goals. Rather, it must be to choosing what is best for the entire community. Yes, that's often a matter of opinion— that's why you have a board and why issues often come to a vote! If you find yourself in a position of conflicting loyalties, however, you have a decision to make— and you need to make it quickly.

## WHERE DOES CONFLICT COME IN?

Some so-called conflicts of interest are so simple that they might completely pass notice. Your nephew has just started his own pest control business, and it's time to renew your contract with your current company: will you give him the business instead? If your automatic answer is "yes" simply because he is your nephew, with no consideration of the quality of his business or that of your current pest control specialist, the costs of those respective services, or other key questions, your loyalty is clearly divided.

Other conflicts are more obvious and more complicated. If you both own a unit within your neighborhood and work for the neighborhood, as a superintendent for example, there's a good chance that at some point you'll find the board voting on whether or not you're due for a raise. Conflict of interest, certainly!

Then there are the inevitable grievances that arise when you're the member of an HOA. Perhaps you want to put in an above-ground pool for the summer. Something simple, but easy to put up and take down without committing to a permanent in-ground pool. However, the HOA rules state that only in-ground pools are needed. However, the HOA rules state that only in-ground pools are needed to be allowed. Maybe a neighbor has expressed concern over the fact that your lawn maintenance has taken a hit this year. When there's a grievance raised against you, it's obvious that you have a conflict of interest.

## HANDLING CONFLICTS OF INTEREST

You're only human. Your opinions and needs color your interactions with your HOA even when you sit on the board. When you do have a conflict of interest, however, it's how you handle it that will ultimately set you apart.

### EXCUSE YOURSELF FROM VOTING.

If the issue involves you, don't vote on it! In the case of your nephew's pest control business, it's all right to put his name forward, especially if you know that other members aren't happy with the existing specialist's services or if your nephew can save residents money. When it comes time to vote, however, yours shouldn't be included and the relationship should be disclosed.

### DISCUSS THE GAINS FOR EVERYONE.

You can't always maintain a neutral perspective, but you can share what both you and others gain from a vote you're hoping for. Approving your above-ground pool, for example, could pave the way for some neighborhood changes that everyone will enjoy.

### ALWAYS DO YOUR HOMEWORK

From hiring a new pest control company to bringing in a security company, make sure you check the advantages and disadvantages of a

wide range of specialists in the area. The more information you have, the better you'll be able to help make an informed decision.

Avoiding conflict of interest isn't always possible. Handling it professionally, however, is. Ultimately, handling conflicts of interest well to properly create a more positive tone for your HOA throughout future interactions.



# 6 Reasons a Board Can Hold an Executive Session

Most states have statutes that permit or require executive sessions to deal with certain issues. These meetings tend to be highly rule-governed, and becoming acquainted with those rules will help you navigate this sensitive area of HOAs with poise and confidence.

## ATTENDANCE

In addition to HOA board members, attendees of the executive session may also include the association's attorneys; managers; the recorder of the minutes; and invited third parties, such as those involved in business with the association. One special case involves any disciplinary hearing held during the executive session concerning a non-executive association member. The member under question may attend their own hearing along with a witness. However, the non-board member and their witness will only attend the portion of the session devoted to the hearing.

## TIMING

In many states, the HOA board must notify the association of the time and place of the executive session at least two days prior to convening, unless the association's rules or state statutes stipulate a longer period. However, if the board decides to hold the executive session with an open meeting, the board must include mention of it in the open meeting's notice, which in turn must be posted four days prior to convening. It is important to check with your respective state statutes regarding the timing of executive sessions.

## AGENDA

The notice of the executive session must include the agenda that the session will cover. However, because executive sessions are by their very nature confidential, the session's agenda should only be treated briefly and in abstract.

## IN-PERSON VS. VIRTUAL MEETINGS

In many states, the board is not required to meet in-person at a physical address. Board members may join the meeting by phone or video, as long as the other directors can hear their voices. However, only in the event of an emergency can the board hold the executive session by email or by "unanimous written consent." Refer to your state statutes for more information as it related to meeting guidelines.

## THE SIX REASONS THE BOARD CAN HOLD AN HOA EXECUTIVE SESSION:

### 1.) LEGAL ACTION

The board has the right to hold an executive session to consider legal matters relating to the association. For example, the board might meet to discuss a pending lawsuit levied against the association and whether to propose a settlement.

### 2.) THIRD-PARTY CONTRACTS

The HOA board may hold an executive session to consider contracts the association has, or plans to have, with 3rd parties.

### 3.) DISCIPLINARY HEARINGS

In many states, the HOA board may choose to hold a disciplinary hearing inside an executive session. This is the one instance in which a non-board member, whether an association member or an employee, may attend the executive session -- to attend their own hearing. However, the non-board member does not have the right to record the meetings. Nonetheless, they can choose to discuss the outcome of the session publicly by waiving their right to confidentiality. Review your respective state guidelines as it pertains to disciplinary hearings.

### 4.) EMPLOYEE MATTERS

The HOA board may hold an executive session to discuss matters relating to personnel. Examples might include new hires, terminations, performance reviews, and raises.

### 5.) REPAYMENT PLANS

If an HOA member is having trouble paying their assessments, they can request a repayment plan. The HOA board can then convene an executive session to consider their request.

### 6.) FORECLOSURES

Board members can choose to delegate the decision to initiate a foreclosure to an agent of the association in order to refer delinquent accounts to the HOA's attorney. For associations that do not have an association agent, they can convene an executive session and decide by majority vote whether to move forward with the foreclosure.

## KEEPING MINUTES

An HOA board should refer to their respective state statutes and guidelines regarding keeping minutes of the executive session. They should also make a note of their minutes at the board's next open meeting. However, the minutes are confidential, and non-executive members of the association will not have the right to access them.

Executive sessions are highly rule-governed events that can have a real impact on their corresponding HOAs. If you are an HOA member, and especially if you are on the board, be sure to acquaint yourself with the six reasons for holding executive sessions, as well as the ins and outs surrounding them. Doing so will help you proceed with confidence and composure through one of the most sensitive areas of HOAs.





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