



### A BOARD MEMBER'S CODE OF CONDUCT CAN GUIDE YOUR ASSOCIATION THROUGH MORE EFFICIENT AND EFFECTIVE BOARD MEETINGS

By Matt D. Ober

A common frustration for association boards is dealing with issues that arise out of conflict with individual board members. At some point we have all heard of the board member who is hostile, disagreeable or the proverbial "loose cannon." Other boards have struggled with how to rein in the director who consistently advances his or her own agenda without regard to the best interests of the association. Finally, there are directors elected, for whatever reason, who feel compelled to reveal confidential information about the association to third parties. Unfortunately, the Corporations Code does not yet contain a provision allowing the board to remove a director for behaving badly. The slap on the wrist that follows improper disclosure or misconduct does little to undo the damage already done.



There are, however, viable options available to managers and boards to address misconduct. In most cases, the most direct option to control improper behavior is censure. There is no more effective method of controlling improper behavior

*A Board Member's Code of Conduct:  
continued on page 7.*

### THE BOARD SECRETARY

By David Brock, PCAM

An essential position on any HOA Board is the position of Secretary. The Secretary is one of three board positions that are specifically identified in the By-laws. A properly functioning board should always have a healthy division of responsibility spread among the members so that no board member is working harder than the others. In previous newsletters the roles of President and Treasurer have been addressed and it is important to understand the role of Secretary as well. This article will provide a possible outline for a job description for your association Secretary. Depending on the size and preferences of your association, some of the duties indicated here may be delegated to the management company. However, the primary responsibility remains with the Secretary.

#### The Secretary is the chief information officer for the community association.

The Secretary is the chief information officer for the community association. The Secretary's responsibilities include three primary areas: communication, documentation, and historian. Let's breakdown the functions and make it as simple and easy to accomplish as possible. Like all board officer positions, none of them are complicated but once they are fully understood they can be accomplished with just a minimal amount of time each month outside the board meeting.

First, the role of communication. The communication role involves two general types of responsibility: notices to all owners and letters to specific owners or a small group of owners.



#### The Secretary's responsibilities include three primary areas: communication, documentation, and historian.

The most common notice to all owners is to announce an upcoming board meeting or Annual meeting. This includes the creation of the Agenda, which should be done in coordination with the President.

The agenda, which can also function as the written notice of the meeting, should include:

- meeting time, date and location
- each issue that will be discussed
- the language of any resolutions that will be brought to the board
- a time allotment for each issue
- open forum

The Secretary must post the Agenda in the common area where owners will see it at least four days prior to the meeting, as required by law. This is usually in the lobby, elevators or near the mailboxes. There is no requirement to mail the agenda to owners unless they

*The Board Secretary: continued on page 5.*



# QUALITIES OF A GREAT RESERVE STUDY: HOW TO GET ONE!

By Robert M. Nordlund, PE, RS; Association Reserves, Inc.



Everybody wants a great reserve study. But what does that mean? Let me suggest a list:

- All the “right” components on your *Reserve Component List*

(none missing that should be on the list, and none on the list that should be handled in the operating budget)

- Accurate estimates of *Useful Life* (UL) and *Remaining Useful Life* (RUL)
- Accurate estimates of *Repair/Replacement* costs (\$)
- An accurate projection of the starting reserve balance (\$)
- A *Funding Plan* that allows for the timely repair & replacement of all the items on the Component List

## Component Selection: National Reserve Study Standards

If you’ve had a Reserve Study prepared by an independent, credentialed reserve professional (a “RS” or *Reserve Specialist*), your *Reserve Component List* should only need minor adjustments annually. Even so, review that *Component List* in light of the following National Reserve Study Standards 4-part test. Make sure that every component on the list is:

- 1) A common area maintenance responsibility
- 2) With a limited *Useful Life*
- 3) With a predictable *Remaining Useful Life*, and
- 4) With a repair or replacement cost above a minimum threshold of significance

This will be your best way to make sure you are reserving for all the “right” components.

## Inform Your Reserve Study Provider of Recently Completed Projects

Any recent reserve projects which have been completed by the Association should be reflected in your reserve study. Some associations maintain a “Reserve Projects” folder, where receipts and proposals are filed. This information helps ensure accurate estimates for *Useful Life*, *Remaining Useful Life*, and current *Repair/Replacement* costs.

If a roof is replaced for \$100,000 this year, the replacement costs in your current reserve study should reflect your actual costs. If your Reserve Specialist is not informed of this expense and updates your reserve study showing the roof as having one more year of *Remaining Useful Life* with an estimated replacement cost of \$80,000, the study will not be an accurate snapshot of the community.

Both the *Percent Funded* and recommended *Monthly Reserve Contribution* calculations will be affected by inaccurate component information. Learning from the actual projects at your association is the best way to help improve the accuracy of your *Useful Life*, *Remaining Useful Life*, and *Replacement Cost* estimates.

## Provide Your Reserve Study Provider with Vendor Information

Providing your *Reserve Specialist* with a list of the Associations’ vendors will allow for vital information to be passed on from vendors who have regular access to the *Associations’ Reserve* components. These vendors provide valuable information concerning the condition of, and cost to replace specific components.

An example would be a pool vendor who could provide information about a pool filter that, while not leaking and not rusting, is simply not functioning properly and needs to be replaced. The pool vendor could inform the *Reserve Specialist* that a different type of filter is needed and what the cost would be for replacement.

Another example would be an asphalt vendor who could provide information on the needs of the community, whether a seal-coat is all that is needed or a more substantial project like a petromat overlay or rebuild of the streets and driveways.

## Your End of Year Reserve Fund Balance

Estimating your end-of year *Reserve Balance* requires the involvement of the Board and management. Management typically has the most recent bank statements, knowledge of any outstanding payments needed to

be made from the Reserve Fund, and a realistic expectation of whether budgeted Reserve contributions will actually be made through the end of the year.

It is that combination of actual balance, projected expenses, and projected income to the *Reserve Fund* that will ensure a realistic and accurate *Fiscal Year End Reserve* balance. The accuracy of this computation is essential, as it will affect the % *Funded* calculation and possibly the recommended *Monthly Reserve Contribution*.

Timing is also an important factor in the reserve study process. Ideally, the recommended *Monthly Reserve Contribution* should be reflected in the budget. The study should therefore be completed before the draft budget is completed. For communities with a December 31 *Fiscal Year End*, bids for preparation of the reserve study should be obtained in early summer and the process started in July or August. The best case schedule scenario is shown below:

Jul- Aug: Obtain bid for Reserve Study  
Sep- Oct: Reserve Study is completed  
Oct-Nov: Budget is approved  
Nov: State Disclosures are sent out (as req’d)

This schedule allows the management and board to review the study and request possible revisions. The worst case scenario is that the association needs a reserve study and is frantically seeking bids in early November. That situation will lead to the reserve study being expensive,

*Qualities of a Great Reserve Study: continued on page 4.*

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# NO TWO PAINTING PROJECTS ARE EVER THE SAME: FINDING THE PAINTING SWEET SPOT FOR YOUR HOA

by Bob Mauser, Owner, CertaPro Painters of Pasadena

Everyone wants the next paint job in their HOA common areas to look great and last as long as possible. But a more expensive painting quote does not always turn into a better end product or painting experience. The magic is in finding the point where job specification, communication, surface preparation, painting skills, and appropriate products meet, creating the sweet spot for your specific project. There are four focus areas that can help you hit this sweet spot.

1. Identify the scope of work needed for your project.

What often times starts with the simple thought of "let's paint the building," turns into a collection of painting quotes that are all over the map in terms of price, approach and scope of work. Instead, start by identifying the areas that truly need painting, defined by the time lapse since the items were last painted and the physical deterioration of the paint or the type of substrate. Often your reserve study will help define the scope of work. Or perhaps your CCRs identify what needs to be painted. But if you don't have such guidance, consider the following:

- Paint lasts longer on some substrates than others. Assuming no water damage or excessive sun, paint on stucco can last 12 to 16 or more years. But wood and metal may only last 4 to 8 years.

- The more weathered sides of your buildings may need painting more often than shaded sides. Typically the south and west exposures in Sothern California are the most often in need of painting.

Depending on your HOA's architecture and exposure to the sun, consider painting on split cycles such as: exposed wood on four year cycles, shaded wood on eight year cycles and all of the stucco on the same eight year cycle for labor efficiencies. Or, if the stucco paint is in good shape, only paint it every other eight year

cycle (16 years).

2. Engage with a paint manufacturer to create a professional project specification. Take advantage of a free service offered by most major painting manufacturers and have them provide a written project specification. This document will contain a recommendation of what to include in the scope of work, what preparation and priming is required and the appropriate materials for each substrate. Their specification will combine your project needs with their products and the steps required to properly apply their products. Your selected bidding contractors can then provide the Board with apples-to-apples bids for comparison.

If extensive wood replacement is expected, follow a similar process by hiring a consultant or independent contractor to conduct a detailed wood audit based on a physical inspection, not just a visual job walk. This wood audit makes sure that your bids include the same amount of wood replacement making them easy to compare.

3. Select the best fitting painting contractor

Once the specification with scope of work is approved by the Board, select three or four licensed, insured, professional painting companies to provide quotes based strictly on the specification. The pool of bidding contractors is usually created through referrals from your property management company, paint manufacturer or personal interaction in organizations such as CAI or CACM. Obviously price is a significant factor in awarding the job but it's not the only factor. Consider asking these differentiating questions:

- Do the contractors have the proper scale to handle your size project, large or small?

- Do they have a history of doing work on your style and era of

buildings? This is especially important for work on buildings built before 1978 that may contain existing lead based paint.

- Have they clearly identified the preparation steps and number of coats being applied to each substrate?

- Do they employ a standardized painting production process for consistency?

- Do they employ a solid communication process with proper notifications, on-site designated contacts and appropriate escalation contacts if necessary?

- Do their references validate that post-job issues are addressed in a timely manner?

- Are they the right fit for your specific community dynamic?

The first three points above create a quality end product. The last four points ensure a great experience.

4. Work with your selected contractor on a production plan.

Prior to work beginning, hold one or two pre-production meetings with your contractor to iron out schedules and address any remaining process concerns. Open communication early in the execution phase can prevent surprises later in the process.

Painting contractors want satisfied clients at the end of every project, both in terms of the quality of the work and in the quality of the experience. But not all contractors and clients are alike. So defining that perfect painting sweet spot for your specific HOA will go a long way towards making your next paint job last as long as possible and be a great experience for your residents.



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rushed, and possibly too late to be utilized in the budgeting process.

**Reserve Study Funding Plans: National Reserve Study Standards**

Finally, what makes a great *Funding Plan*? National Reserve Study Standards require a *Funding Plan* be based on four principles:

- that it provide adequate funds when needed

- that it provide budget stability from year to year
- that it fairly distribute the contributions among the owners, over the years, and
- that it be fiscally responsible.

These principles ensure that the *Funding Plan* is not based on the expectation that future owners will carry more than their fair share by burdening future owners with a special assessment for assets that deteriorated well before they became owners in the association.

A great *Funding Plan* also does not recommend reserve contributions that are too low to be sustainable, favoring current owners. Ideally, Reserve contributions should correlate to the current rate of deterioration of the reserve assets - effectively offsetting their ongoing deterioration. In this way, current owners fairly pay for the deterioration of the common areas they are "using up" during the time they own a home at the association.

There should be an anticipation that the reserve contribution will increase annually. The desire not to increase dues is understandable, but should not be confused with the needs of the association. Unfortunately, \$300.00 a month is not worth what it was 15 years ago. If increases have not been made over that 15-year period, the association has been taking steps backward as the value of the dollar decreases. Further, historically low interest rates earned on reserve funds does not help to offset inflationary increases.

The above principles require the involvement of the experienced reserve study professional, the Association Board, and management. A "great" reserve study is the result of refinements year after year, so that it accurately reflects the current physical and financial state of the association, and provides accurate budget guidance to the Board and management.

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**MODEL CODE OF ETHICS FOR COMMUNITY ASSOCIATION BOARD MEMBERS**

From Community Associations Institute, [www.caionline.org](http://www.caionline.org); (888) 224-4321

After every election of a new board the new board members should evaluate their commitment as a Board member to their association. This sample code of ethics as provided by the Community Associations Institute (CAI) is not meant to address every potential ethical dilemma encountered by a community association board member, but is offered as a basic framework that can be modified and adopted by any common-interest community.

Board members should:

- Strive at all times to serve the best interests of the association as a whole regardless of their personal interests.
- Use sound judgment to make the best possible business decisions for the association, taking into consideration all available information, circumstances and

**The Secretary is the chief information officer for the community association.**

resources.

- Act within the boundaries of their authority as defined by law and the governing documents of the association.
- Provide opportunities for residents to comment on decisions facing the association.
- Perform their duties without bias for or against any individual or group of owners or non-owner residents.
- Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with

*Model Code of Ethics: continued on page 8.*

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request it. The notice of the annual meeting is usually performed by the election inspector and the Secretary cannot function as the election inspector. The second aspect of the communication role involves letters which need to be sent to a particular owner or small group of owners. Common examples include a "notice of violation", "request to attend a hearing" or some other disciplinary issue. Again, very often, the management company will write the notices or letters to the owners, with the Secretary overseeing this process.

### Many board members do not want to take on a role with a heavy work load.

Documentation is the most commonly understood role that the Secretary performs and this involves the taking of minutes at all Board and Annual meetings. The purpose of minutes are to record only the actions of the board. The agenda becomes the skeleton of the minutes for the meeting. A well-constructed agenda, when closely followed, makes accurate note-taking much easier. If the language of each proposed resolution is already contained in the agenda, the Secretary need only indicate how each board member voted on the resolution. Some secretaries believe that the minutes should reflect much more information than is legally necessary, however the minutes are never to be a record of everything said but only a record of the decisions that were made.

Once the Secretary prepares the draft minutes, they need to be distributed to the other Board members for review and approval. Normally, the Board approves the minutes at their next meeting.

Finally, the historian role could also be described as "archivist". While this is not a legal requirement, the historian duties of the Secretary are to create a

"corporate memory" with the following specific tasks: creating a system to recall specific board policies by topic which can be accessed by future boards, as well as maintaining a record of correspondence with owners. Both of these can be accomplished with a spreadsheet. A management company can maintain copies of correspondence with a particular owner with their tracking system.

An old-school approach that some associations used to do was to keep all resolutions in a separate book. The Book of Resolutions will show what actions the various boards have taken over the years, when and why those actions were taken, and who voted for and against each resolution. This book permits succeeding boards to use the decisions of prior boards as similar issues re-emerge over time.

In closing, it is important to state that the most important role of the Secretary is to take minutes, or at least, oversee that process. The role of communication is often delegated to a management company, and the role of historian is a great idea but not legally required. As in most associations, many board members do not want to take on a role with a heavy work load, and managing the role of minute taking can be easily accomplished with a pre-established frame work in a word document and completed at the meeting for the most part on a laptop. The role of historian can be easily accomplished by saving all of the prior minutes onto one master word document that would allow the ability to search on a word related to the issue under discussion.

The goal, which is very achievable, is to make the volunteer roles manageable and efficient in order to minimize the work involved and thereby increase the potential amount of volunteers in the future. By applying these tasks related to the Secretary this goal can be accomplished.



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# HOW TO AVOID A REALLY BAD DAY!

By John Bottala, Western Rooter

Most everyone knows that plumbing problems occur on their own schedule. Not only are they unpredictable but they can occur when least convenient, such as during the middle of the night or on holidays and weekends. The unpredictable nature of plumbing emergencies can also make them more expensive to resolve, since the probability of interior damage to flooring, walls and personal property is high.

The good news is that associations can take steps to remove the “surprise” element of some plumbing emergencies. There are proactive steps an association can take to avoid plumbing emergencies as it pertains to sewer drain clogs. This requires the commitment of the board to responsibly budget for regular drain cleaning service at least once a year, if not more frequently. It is easier to remember to budget for tree trimming annually because we see

clearing a sewer drain, specifically traditional roto-rooter and hydro-jetting. The traditional roto-rooter approach utilizes a machine with cable and sharp blades to cut roots, and other debris in the sewer line. The hydro-jetting process is more intense and utilizes trailer mounted equipment that uses up to 4,000 PSI and pushes 13-20 gallons per-minute through the sewer line. The bottom line is that hydro-jetting uses a larger machine to effectively cut roots and blast out grease and debris. The roto-rooter approach by comparison is far less effective. The cost of the roto-rooter approach as opposed to the hydro-jetting approach is about one-third to one half, however the effectiveness is much greater since the power utilized with hydro-jetting will most effectively blast the grease, sludge and kitchen waste debris through the pipe completely. By contrast, the roto-rooter approach is like poking a temporary hole thru jello. You may get the line flowing but the grease will come back quickly. Hydro jetting technology has improved over the past few years that such they now make tips and nozzles to effectively target what you are trying to clean, whether it is roots, grease or other debris.

Older sewer pipes, such as cast iron, are more common in HOA's and they are more problematic than ABS plumbing which is common with newer construction.

It is not uncommon for plumbers to find inappropriate items in the drain, such as grease, baby wipes, and excessive food waste. All of these items should never be in a cast iron sewer pipe as the grease and acidity from food waste can actually eat away at the sewer pipe over time. Also, most people aren't aware that soda or bacon grease should never be run down the drain. Grease will actually harden over time as it sits over time. The garbage disposal should never be used as a trash can.

When bidding for this service you should always insist that the company remove all sewer line caps and utilize the hydro-jetting method. After the hydro-jetting is performed it is advisable to require that the company wash down the driveway or surrounding area where the sewer line is, to insure everything is cleaned.

Regular hydro jetting maintenance can cut down on frequent back ups, remove grease and debris in the sewer line to help the pipe last longer and avoid unforeseen and expensive emergency calls. Also, root damage to plumbing lines is a factor if you have a lot of trees nearby.

Roots can be cut out a few different ways. A traditional cable and blades will get the job done if you have roots in your sewer line. The technician may have to work the root infested area longer than normal, however, a traditional blade, cable and roto-rooter machine can effectively clear the sewer. A hydro jet can effectively cut roots very fast and efficiently. It will take less time than a cable and blade and it is a little more expensive. It is essential though the company has the right equipment to cut roots with their hydro-jetting machine.

The important points to remember is to schedule regular drain maintenance, and work with a licensed and insured vendor who can help guide you as to the proper method of cleaning your drain lines. Proactive drain maintenance work will save you money in the long run. Don't neglect it.

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the trees every day and appreciate them. But sewer pipes are a bit different. We don't appreciate the drain lines until one gets clogged. The good news is that there are ways to limit the emergency calls, and proactively keep your sewer lines healthy. Just like your personal health it's important to keep your heart arteries clear so that way you don't have a sudden heart attack.

There are a few options to



than by confrontation by one's own peers. A board that regulates itself will send a positive message to the community that its association is governed by those with a high regard for the best interests of the community. If the issue is severe enough, make sure the board consults with association legal counsel about the potential ramifications.

A director must refrain from misconduct and improper disclosure of confidential information. In addition, each director has an affirmative obligation to monitor the conduct of every other director to ensure that all directors act in furtherance of his or her fiduciary obligation to the association. A board that regulates itself will send a positive message to the community that its association is governed by those with a high regard for the best interests of the community.

Understandably, a director may be uncomfortable with the task of disciplining a fellow director. Therefore, although the Corporations Code already establishes a bench mark for acceptable conduct by board members, your association should consider establishing a code of conduct which outlines the obligations of a director, and the consequences of failing to meet those obligations. If the board chooses to require a code of conduct it should be adopted and in place before an issue arises. That said, associations should not hesitate to implement one at the sign of a problem. If used, a code of conduct should include the following obligations:

- To maintain the confidentiality of executive session information;
- To put personal interests aside and advance the best interests of the association;
- To respect, abide by, and carry out the decisions of the majority of the board; and
- To treat both fellow directors and homeowners with respect, and approach board decisions

prepared and with an objective, open mind.

- To maintain current in their assessment payments and comply with the rules and regulations so as to remain in good standing.

Boards of directors are encouraged to adopt a code that meets the needs of their associations. The directors should evaluate those issues that have historically been problems and reach a consensus on what to include in the code of conduct. The more agreement there is among directors about what to include in the code, the more likely directors will comply. Once the code is completed, a resolution should be drafted by legal counsel detailing among other things, the reasons for the code, and the board should vote to adopt the code of conduct for the association. Until revised or removed, that code will govern the conduct of all current and future directors. Like all rules, the code of conduct must be enforced fairly, uniformly and consistently.

Directors and homeowners should be reminded of the code of conduct for board members on an annual basis, prior to director elections. Ideally, every candidate nominated would have the opportunity to sign the code of conduct as they submit their name to be included on the ballot. If the owners knew which Board members agreed to the code it may help to elect a board that will function in the association's best interest. It seems reasonable to expect that owners should know who they are voting for and that they can expect their association to benefit as a result.

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the association.

- Conduct open, fair and well-publicized elections.
- Always speak with one voice, supporting all duly-adopted board decisions even if the board member was in the minority regarding actions that may not have obtained unanimous consent.

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### Board must always speak with one voice.

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Board members should not:

- Reveal confidential information provided by contractors or share information with those bidding for association contracts unless specifically authorized by the board.
- Make unauthorized promises to a contractor or bidder.
- Advocate or support any action or activity that violates a law or regulatory requirement.
- Use their positions or decision-

making authority for personal gain or to seek advantage over another owner or non-owner resident.

- Spend unauthorized association funds for their own personal use or benefit.
- Accept any gifts—directly or indirectly—from owners, residents, contractors or suppliers.
- Misrepresent known facts in any issue involving association business.
- Divulge personal information about any association owner, resident or employee that was obtained in the performance of board duties.
- Make personal attacks on colleagues, staff or residents.
- Harass, threaten or attempt through any means to control or instill fear in any board member, owner, resident, employee or contractor.
- Reveal to any owner, resident or other third party the discussions, decisions and comments made at any meeting of the board



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