



OVERVIEW OF BOARD GOVERNANCE, AUTHORITY AND MEETINGS

AND

POLICY AND PROCEDURES ON THE CONDUCT OF BOARD MEETINGS

CORPORATE RESOLUTION 2017-2

The Overview of Board Governance, Authority and Meetings (“Overview”) set forth below is intended to provide Tahoe Donner Association (“Association”) members (including those members considering running for the Association’s Board of Directors (“Board”)) with a summary of the California laws (“Law”) and provisions of the Association’s governing documents (“Governing Documents”) regarding Board governance and authority and the conduct of Board meetings.

The Policy and Procedures on the Conduct of Board Meetings (“Policy”) is intended to help ensure that Board meetings are carefully planned, facilitated and documented.

Neither the Overview nor the Policy is intended to amend or change any Law or any provision of any Governing Document. To the extent there is or ever becomes any conflict or ambiguity between any Law or any provision of a Governing Document, the provisions of the Law or the Governing Document shall control.

I. Overview of Board Governance, Authority and Meetings

A. SPECIFIC POWERS OF THE BOARD OF DIRECTORS; LIMITATIONS ON THE BOARD OF DIRECTORS' AUTHORITY

The following Association Bylaw provisions set out the Board’s authority and the limitations on that authority.

- Bylaws, Article IX, Section 1: Specific Powers of the Board
- Bylaws, Article IX, Section 2: Limitations on Board Powers
- Bylaws, Article IX, Section 2(a): Actions needing approval of majority of quorum of Members
- Bylaws, Article IX, Section 2(b): Actions needing approval of majority of total voting power of Members

- Bylaws, Article IX, Section 2(c): Actions needing approval of all Members

B. SUMMARY OF BOARD AUTHORITY

Ultimate authority for the management of the Association rests with Board. The Board makes decisions involving (without limitation):

- corporate policy and strategic planning
- election of officers and determination of the officers' duties
- hiring and oversight over performance of General Manager
- adoption, amendment or repeal of the Declaration and Bylaws subject to certain limitations for member approval
- approval of material contracts
- determination and oversight of the Association's budget and finances
- approval of other major corporate transactions

The Board must make decisions as a Board; an individual director cannot act alone, unless pursuant to authority that has been specifically delegated to him or her by the Board. Individual directors cannot act by proxy; nor can they appoint alternates to act in their place.

C. FIDUCIARY DUTIES OF A DIRECTOR

"A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances." (Corp. Code §7231; Declaration, Article III, Section 9.)

D. DUTY OF CARE

A director must be adequately informed and diligent when making a corporate decision and overseeing the management of the Association. With respect to "reasonable inquiry," the director may rely on information, opinions, reports, or statements, including financial statements, prepared or presented by:

- one or more corporate officers or employees the director believes to be reliable and competent in the matters presented;
- counsel, independent accountants, and other persons on matters that the director believes to be within such person's professional or expert competence; and
- a committee of the Board on which the director does not serve, as to matters within the committee's designated authority.

E. DUTY OF LOYALTY

Each director must act in a manner the director believes to be in the best interests of the Association. The directors must strive to advance and achieve the Association's purposes as stated

in the Articles of Incorporation and Bylaws, not to advance the interests of the director or other individuals.

F. CONFLICTS OF INTEREST

Regulation of Conflict of Interest Transactions. No director shall participate in any discussion or Board action concerning or in any way attempt to use his or her Board position to influence a Board decision in which the director knows or has reason to know that he or she has a "material financial interest" (Bylaws, Article IX, Section 3; Civ. Code §5350(a); Corp. Code §7233).

Recusal from Certain Votes. A director shall not vote on any of the matters set forth in Civ. Code §5350(b).

G. BOARD MEETINGS

A Board meeting is defined in *The Davis-Stirling Common Interest Development Act* as either:

- (1) a gathering, "at the same time and place, of a sufficient number of directors to establish a quorum of the Board, to hear, discuss, or deliberate upon any item of business that is within the authority of the Board" (Civ. Code §4090(a)), or
- (2) "a teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video, or both" (Civ. Code §4090(b)).

The purpose of Board meetings is for the Association's Board of Directors to conduct the business of the Association.

"Open" Board Meetings: Most of the business of the Association is conducted at "open" Board meetings, which are usually held monthly. Except in the case of "emergency" meetings (discussed below), the Board is required to notify the Members of the date, time, location, and agenda of each "open" Board meeting at least four days in advance. In these meetings, the Board sets policy, oversees management's results, reviews operating and financial results, resolves certain types of disputes, hears certain types of appeals, hears comments from owners/members during scheduled membership comment periods, and plans for the future. Often the health and harmony of an entire community is directly linked to how constructive these meetings are. Members always have the right to listen to Board discussions. Tahoe Donner's Board of Directors holds monthly meetings according to an annual regular meeting schedule, which is discussed and approved by the Board after the annual membership meeting in June. Given the diversity and size of the membership (6,500 owners, and over 25,000 members, with the vast majority of members' primary residences away from Tahoe Donner), it is impossible to select one regular day or time which could possibly accommodate all members' schedules to attend in person. Regular meetings usually begin at 9:00 a.m., and are held at either the Lodge Restaurant & Pub or the Northwoods Clubhouse. Meeting schedules, notices and agendas are published online at the Association's Membership/Board of Director's page, and are also posted on the bulletin board of the Northwoods Clubhouse. Members can sign up to receive e-mail notification of regular Board meetings.

"Emergency" Board Meetings: If there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board, and which of necessity make it impracticable to provide four days' notice to the membership, the Board may hold an "emergency" meeting without giving notice to the members. Emergency meetings may be called by the president, or by any two directors other than the president. (See Civ. Code §4923.)

"Executive Session" Board Meetings: The Board is allowed to meet in "executive session" to discuss certain topics. The Board is required to notify the Members of the date, time, location, and agenda of each executive session Board meeting at least two days in advance but, unlike "open" Board meetings, non-director members are not allowed to attend executive session Board meetings. The Board may adjourn to executive session from an open Board meeting, or may meet separately in an executive session that is not held in conjunction with an open Board meeting. Immediately before adjourning to executive session from an open Board meeting, the Board shall announce the general nature of the matter(s) to be discussed in executive session, without detail and without compromising the confidentiality or privacy of the matter.

According to Civil Code §4935, the Board may meet in "executive session" for the following purposes:

to consider:

- litigation
- matters relating to the formation of contracts with third parties
- member discipline
- personnel matters
- to meet with a member regarding the member's payment of assessments
- to discuss a payment plan for delinquent assessments
- to decide whether to foreclose on a lien for delinquent assessments

The Board may also meet in "executive session" when appropriate to protect the Association's attorney-client privilege. *All* communications between the Board and the Association's legal counsel are protected by the attorney-client privilege (Evidence Code §950 *et seq.*); therefore, the Board may always meet with the Association's legal counsel in executive session, whether or not "litigation" is being discussed or considered.

Any matter discussed in executive session must be generally noted in the minutes of the immediately following meeting that is open to the entire membership. (Civ. Code §4935(e).)

II. Policy and Procedures on Conduct of Board Meetings

A. AGENDA PREPARATION

Productive Board meetings are the foundation of a successful community association. As such, these meetings should be carefully planned, facilitated and documented. One of the most effective ways to accomplish productive meetings – and strong governance – is to carefully design an agenda, and then adhere closely to that agenda.

1. It shall be the responsibility of the Association's President to oversee Staff's preparation of the Board meeting agenda. Each topic should be clearly identified, the person responsible for leading the discussion should be noted, and if the Board decides to use a "timed" agenda, the agenda should identify the length of time expected for each item.
2. The Board will attempt to order the agenda so that topics the Board expects to be of greater importance to non-director members shall be scheduled in the beginning portion of the agenda.
3. Items must be submitted to the President for placement on the agenda no later than eleven (11) business days prior to the meeting.
4. Where appropriate, agenda items shall be designated either as an "Action" or a "Discussion" item. Items listed as Action are intended for the Board to make a determination on at that scheduled meeting. Items listed as Discussion are intended to inform the Board on topics that might later be brought before the Board as Action items.
5. Board books shall be ready for Directors no later than the seven days prior to the Board meeting.
6. Where appropriate, the Board will endeavor to post supporting documentation for agenda topics online for membership review no later than seven days before Board meetings.

B. VIDEO RECORDINGS OF OPEN BOARD MEETINGS

Given that most members' primary residences are not at Tahoe Donner, the Board recognizes and understands that it will be difficult for many members to attend open Board meetings in person. As a result, the Board will audio/video record all open Board meetings in order to make them available to the membership no later than 7 days after the meeting. Audio/Video recording of open Board meetings will be posted on the Association's website and be retained for ten years after the meeting. The Association intends to institute live broadcasting of open Board meetings and live remote member verbal comment capability before the end of 2017.

C. OPEN BOARD MEETING PROCEDURES

1. It shall be the President's responsibility to cover the agenda and to keep Directors, Staff and members on topic and focused. Member comments are welcome and generally limited to 3 minutes at the beginning of meetings for items not on the agenda.
2. Unless the Board adopts other parliamentary procedures, or unless doing so will conflict with California law or the Association's Governing Documents, the President will generally use "Robert's Rules of Order" to conduct Board meetings.

3. While allowing for flexibility in the time frames allotted for discussion of each agenda item, every effort will be made to adhere to the stated time limits.
4. The Secretary will assist the President in moving the agenda along by monitoring agenda time limits.
5. Copies of the following documents will be made available at the meeting for member access: the Agenda for the meeting, draft minutes to be approved at the meeting, financials (excluding private or confidential information).
6. California law requires that the minutes, or a draft of the minutes, or a summary of the minutes, of any board meeting (other than an executive session), shall be available to members within 30 days of the meeting. The Board will endeavor to have a draft of the minutes of each open Board meeting available within 16 days after the meeting. The Board will ordinarily approve the final minutes at the next regularly scheduled open Board meeting.

ACCEPTED AND DATED: September 2, 2017

JEFFREY CONNORS, President

JEFF SCHWERDTFEGER, Vice President

JEFF BONZON, Treasurer

JENNIFER JENNINGS, Secretary

DARIUS BROOKS, Director