



Andrew Mowery <andrew.p.mowery@gmail.com>

Robert's Rules of Order

Andrew Mowery <andrew.p.mowery@gmail.com>

Mon, May 20, 2019 at 5:23 PM

To: Maryann Goyn <goynm@outlook.com>

Cc: walker flanary <wgflanary@gmail.com>, Buck Hammond <buck.hammond@gmail.com>, Clay & Gloria Jones <joneswv@gmail.com>, Heather Phillips <purpleheather@ymail.com>, ben johnson <WindsorBen@gmail.com>

In the absence of any rebuttal after 3 days, it is presumed that none is forthcoming since the issue about whether or not Robert's Rules of Order is intended for small groups and is explicit within the Rules. I have cited the sections, and provided supporting documents. I have not received any written response to this email since.

I am therefore proposing MOTIONS to be voted upon without delay that follows Bylaws Article IV Section 8 "Action by Written Ballot" and Article VII Section 2 "Action without a Meeting". I further propose that we are adhering to the standard in Bylaws Article IV Section 8 (d)(4) that states that the request for this vote "be accompanied by written information sufficient to permit each person casting such ballot to reach an ***informed decision*** on the matter."

I believe after careful consideration that these motions are urgent, and require a vote prior to both the next Board meeting, as well as prior to the next ACC meeting, which is scheduled to occur in 9 days, on 5/29/19. Please respond to confirm receipt and your intention to vote or waive your right to vote on the matter.

Andy

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**Motion 19-0520-001:** I, Andrew Mowery, hereby make a motion that the Poudre Overlook HOA affirm that it will conduct its Board, ACC Committee, and General Member meetings in accordance and as described and required by the Policy for Conducting Association Meetings in Sections 3.2 and 4.2, using Robert's Rules of Order Newly Revised (current to at least the 11th version). The Board, ACC, and Member meetings shall not waive use of Robert's Rules of Order under any circumstances. The Board and ACC shall specifically adhere to the following guidelines outlined in Robert's Rules of Order for "small groups" designated at less than 20 persons:

1. Members are required to obtain the floor before making motions or speaking, and are not required to rise/stand in order to do so.
2. Motions need not be seconded.
3. There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.
4. Informal discussion of a subject is permitted while no motion is pending.
5. The chairman need not rise while putting questions to the vote.
6. The chair debates and votes last, after others have spoken, but shall always have the right to discuss and vote on a motion.
7. The chair does not propose motions because of the human tendency to show undue deference to the leader of the group. Motions should come from members.

**Motion 19-0520-002:** I, Andrew Mowery, hereby make a motion that Officers of the Poudre Overlook adopt a Code of Conduct effective immediately upon passage.

1. Focus on issues rather than personalities
2. Respect decisions of the full board that are in compliance with Federal, State, Local laws (Laws), as well as Bylaws, CCRs, Guidelines and Policies (Governing Documents).
3. If decisions or actions of the full board are suspected of being non-compliant with Laws and/or Governing documents, Board members ***shall report them*** in writing to all other members of the Board. The Board shall then

- follow the Policy for Enforcement of Covenants and Rules and engage in impartial fact-finding within 7 days of the report to the Board, and shall respond in writing within 10 days of the report to accept, deny, or provide reasons why more time is necessary to investigate the matter. If impartial fact-finding determines actions or decisions of the board are non-complaint with Laws or Governing documents, then the entire Board shall follow the same procedures for voting on the matter used to approve the original matter to immediately cause the Board to stop violating Laws or Governing documents. The Board may choose to take further actions as allowed in the Governing Documents.
4. Exercise honesty in all written and interpersonal interaction, never intentionally misleading or misinforming each other, checking out assumptions and not assigning motives or agendas.
  5. When disagreements in interpretations of the Governing Documents or Laws cannot be resolved to the satisfaction of all Board members, the Board shall seek expert opinions and advice (including legal advice) prior to making any decision or taking any action. Such advice must be sought without unreasonable delay, and regardless of which Board member makes contact with an expert, the full and unredacted written or verbal responses from experts shall be shared equally with all voting members of the Board. The information from experts shall meet the standard in Bylaws Article IV Section 8(d)(4) to be "sufficient to permit each person casting such ballot to reach **an informed decision** on the matter.
  6. If any Board member obtains professional advice relevant to any matter, issue, decision, or motion by the Board or any of it's committees, each Board member shall make available the entire contents of such advice, written or verbal, to all other Board members, without exception, delay, redaction, excuse, or protest. No Board member shall withhold information relevant to any relevant matter upon written request of any other individual Board member.
  6. Criticize privately, praise publicly.
  7. Make every reasonable effort to protect the integrity and promote the positive image of the board and one another through open, honest and transparent dialog with each other, and the community
  8. Never embarrass each other or the community
  9. Practice active listening, hearing people out and extending equal voice
  10. Not monopolize the conversation
  11. Use respectful body language
  12. Exercise integrity in making decisions based upon the Owner and Resident's best interests
  13. Agree to disagree agreeably

**Motion 19-0520-003:** I, Andrew Mowery, hereby make a motion that prior to any proposals for or actual revisions, modifications, amendments or changes of any kind be made to the Rules and Guidelines as specified in Article IX Section 3 by the Architectural Control Committee (ACC), that the ACC first make a public announcement through US Mail, Email, posting on the USPS Mail Boxes, and announcement on the sandwich board, inviting all Owners to participate in any email thread, conference calls, or public meetings of the committee in which the topic of such changes are discussed, deliberated, or considered in any sense of these words.

**Motion 19-0520-004** I, Andrew Mowery, hereby make a motion that the Guideline for Architectural Control be amended in title to say Guideline for Architectural Control and Use Restrictions to reflect the cross referencing in CCR Article IX and Article X that appears to have resulted in a Feb. 1, 2006 Guideline that includes elements of both Articles.

**Motion 19-0520-005:** I, Andrew Mowery, hereby make a motion that the Guideline for Architectural Control (or Architectural Control and Use Restrictions) be amended by a majority vote of the **full board**, based upon both the combination of input from the community of Owners and recommendations of the ACC. Included in the amended Guideline shall be clear language that explains:

1. The specific, exact, and exclusive reasons an Owner shall need to seek permission from the ACC for any Improvement.
2. The sole and specific CCRs and/or Use Restrictions that the Board will, in fact, enforce upon receiving a written report.
3. The specific appeals, mediation, or hearing process that shall be necessary to inform Owners when they are given written notice of a violation as it relates to each Guideline as required by Colorado Statutes.
4. A copy of any request form necessary for seeking approval or requesting a variance.
5. A specific explicit statement about whether the ACC or Board governs enforcement for each Guideline.
6. Require that any claims that non-enforcement of any covenant would negatively affect home values be accompanied by citation of an authority, or the affidavits or no less than 3 real estate experts. Guidelines that do not affect home values (and therefore fiduciary duty) shall not be misrepresented as affecting home values without

sufficient proof that would allow those voting on such guidelines to have time to become fully informed prior to voting for or against such guidelines.

**Motion 19-0520-006:** I, Andrew Mowery, hereby make a motion that the Policy for Enforcement of Covenants and Rules be amended as follows:

1. Amend Section 4.2 to require a written report by a named individual, whether Owner, Board Member, ACC Member, or authorized 3rd party HOA Management Company prior to any enforcement action. All reports of violations shall be documented in writing. The written report must be specific in citing the exact Guideline violated, and must include the specific lot or address of the violation. The report should include impartial facts documenting the violation including documents, photos, video, or audio, and should not be accepted for action to initiate impartial fact-finding based upon hearsay or rumor.
2. Amend Section 4.2 to include that being represented by an attorney does not deny any Owner their rights to a hearing (already stated in Section 3 for mediation).
3. Amend Section 4.2 to require that all Notices be sent by the Secretary who shall have the responsibility to verify that Notices are in compliance with all Federal, State, and Local Laws, as well as the Governing Documents prior to sending. No documents shall be sent on behalf of the Board or ACC without review by the Secretary for such compliance and shall be remanded to the author, Board, or HOA attorney as is prudent or necessary if found non-compliant.
4. Amend Section 4.2 to require that all Notices, Fines or any Enforcement Actions shall not violate any rights of Owners per FHA Laws which do govern HOAs and carry specific civic penalties. Specifically, we must not selectively enforce any Rule or Guideline that would unfairly single out protected classes, which now includes families with children under 18.
5. Amend Section 4.2 to require that Notices be sent both to the registered email address for the owner (for timely receipt), as well as through USPS First Class Certified Mail with Signature.
6. Include specifically the circumstances that require use of Article IX Section 7 Appeals processes with clarity as to whether or not it's only for situations that are requests for permission, or also requests for variances (and whether the ACC is the correct body for such requests, including variances). There must be clarity as to when there would be a difference in enforcement process when asking permission vs. being "caught".
7. Establish, with clarity, the exact procedure by which the Board, by a majority vote, may delegate any action (impartial fact-finding, authoring Notices, imposing fines, scheduling mediation/hearings/appeals) to any other individual or committee.
8. Establish, with clarity, when a Board member who is both serving on the Board and ACC must recuse themselves from discussion or voting in mediation/hearings/appeals, so that there is absolutely no disagreement should the circumstances arise.
9. Either explicitly establish a full definition of what a CCR Committee is or does and the rules that apply to it, or disband it's use in any type of Rules Enforcement going forward.

[Quoted text hidden]