



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

Request for Comment: 9 Board Members

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

Mon, Nov 11, 2019 at 6:54 PM

To: Irve Denenberg <ibdpo4hoa@gmail.com>

Cc: walker flanary <wgflanary@gmail.com>, matt clark <pohoamatt@gmail.com>, Buck Hammond <buck.hammond@gmail.com>

Irve,

The person you are quoting has seen your letter, and has written back controverting your assertions: Both the ones you've made anonymously, as well as the ones in your 9/15/19 letter. This is not to mention the other persons who disagreed with your assertions and theories with equal or greater professional experience - as parliamentarians. Your attempt to misinform the community has failed, and I intend to make it known the full facts surrounding what you've done to, once again, subvert democracy in Poudre Overlook HOA.

I will be raising this issue tomorrow, and publishing an educational article on the matter for the community in real time. I will be glad, once again, to publish your response and/or rebuttal in the same space.

In the meantime, however, it's abundantly clear that the actions taken to vote upon the number of board members was legitimate and legal, and that your demands are not.

I've made contact with the Board to have this issue raised at the meeting to properly add it to the agenda.

Sincerely,

Andy

On Mon, Nov 11, 2019 at 4:08 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Irve,

Today I received a letter in the mail from a group that has called themselves "Poudre Overlook Advocates". I have reasons to believe you are the author, or have informed the author. In fact, I'm certain of it.

In the letter, I noted the following paragraph:

Additionally, Roberts Rules professionals had this to say regarding our voting at the Special Meeting: "Voting on one person at a time is not the proper method of filling multiple identical positions. However, it is too late to raise a Point of Order (this was raised at the meeting but disregarded) regarding that issue at this time. Instead, members should be instructed to vote for a number of persons up to the number of open positions. Each ballot is treated as a vote cast for the number of votes needed to receive a majority". We recommend this rule be followed.

It would appear you are quoting a group of professionals (plural use of the word chosen), yet attributing a single exact quote to the group.

I have not yet received a response to any of the questions below, but I am adding the following questions which you may choose to answer now, or at tomorrow's meeting:

- What is the name or names of the "professionals" you refer to as experts who should inform our community about the validity of the Special Meeting decisions/votes?
- What are the credentials, academic or professional, of the "professionals" you are referring to in this quote?
- Are the "professionals" who issued the quote licensed attorneys in the State of Colorado? Do they actively practice HOA Law, if yes?
- If the "professionals" who issued the quote are not licensed attorneys, what is their expertise, and why should members of the Poudre Overlook HOA consider their opinions as expert, professional, or authoritative?
- Did you obtain this opinion from "professionals" in writing? If yes, would the person be available for the meeting to answer questions, or available prior to the meeting by phone, email, text, or conference call?
- Did you obtain permission to use the mailing list for the HOA from the Board prior to preparing or sending your mailing?
- Why did you send it anonymously, vs. your prior community-wide mailings (i.e. August of 2019)?
- Is the "group" you formed for your 9/26/19 meeting at your home the same persons as your new "Poudre Overlook Advocates" group?
- Did you obtain your "professionals" opinion prior to the 9/26/19 meeting, and use that information to threaten, harass, and intimidate the board into a decision that could not be made by the board per our governing documents?
- What specific clause from Robert's Rules of Order was violated causing the decision by 44 homeowners to elect 5 board members, causing the decision to be invalid?

Given your pattern of avoiding answering questions well in advance of meetings, and using stunts at or just immediately prior to meetings to attempt to mis-inform members, I believe that it qualifies as an additional example of fraudulent and dishonest behavior as described in CRS 7-128-109, and may be grounds for barring participants from future participation in HOA self-governance.

If I do not receive a response in a timely manner (24 hours prior to meeting), I am giving you notice that I will be asking for time from the President (Matt Clark) to speak to the community as an agenda item. Given the details and complexity, I may request more than 2 minutes to speak to the issue, and I will be prepared with documentation that proves you are the author of the anonymous letter containing false or misleading information received just prior to our Annual Meeting. Matt is being copied with this email thread so that he may consider the full background in advance of my proposed presentation and motions on the matter.

I will await your response by 645pm today (allowing 15 minutes before the 24-hour deadline) to add to the agenda of the meeting. I will also present the evidence proving you are the author via www.poudreoverlook.com in advance of the meeting, and will make printed materials available at the public table prior to entering the meeting. I do not believe using anonymity to spread false and misleading information should be allowed, or go without consequences. I have been studying a successful HOA, and have been in contact with a long-serving board member, and I do believe it's time we, as a community, make a policy decision to address using anonymity in this manner.

Sincerely,

Andy

On Mon, Nov 4, 2019 at 12:32 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Irve,

I have obtained a copy of a letter that appears to have been sent by you to the Board on behalf of an organized

group. It does appear to confirm the answer to some of my questions. It also raises some additional questions.

But, first, can you please confirm that this is a letter that you authored and sent to the board?

Of the questions already asked, this one is central to whether you knowingly tried to coerce the board into taking action that would have been a violation of our Bylaws (see prior quote of Article VI Section 3). I have added some additional questions regarding your current position now that, at the very least, you've been given notice of the Bylaw that conflicts with your proposal?

- Did you know prior to advocating your position with the board that our bylaws **only allow the homeowners, not the board**, to change the number of board members?
- Are you still advocating that Owners NOT have a voice in settling the question of the number of board members at the meeting next week?
- Are you still advocating that Sara and Jen's seats are not up for re-election next week?
- Are you still advocating this overall plan at this upcoming meeting?
- Who else is in your group? Do they maintain the same position going into the meeting?
- Is Walker Flanary giving legal advice, as it pertains to the question of compliance with this Bylaw, to your group? If no, did you have your plan reviewed by an attorney prior to presenting and advocating this to the board?
- Now that you know this appears to conflict with our Bylaws, do you retract, amend, or revise your proposal in advance of the Annual Meeting?
- Do you accept all votes at the 8/27/19 Special Meeting as legitimate and legal?
- Do you accept that the vote for 5 board members was 44-20, and that 44 votes represents an actual majority in our 87-home HOA?

Given that we are just 8 days out from the Annual Meeting, Owners should have time to consider these issues in advance so they are informed prior to voting - particularly those who are voting via proxy. Do you plan to send out another community-wide mailing (as you did in August)? Will that mailing address this issue of conflict with this bylaw?

In the meantime, it would appear that what I have already written is backed up by this documentation. Therefore, I am not understanding your vague comment about inaccuracy. Similarly (for Buck), I am not understanding how persons I regularly see gathering on the street together (and having parties together) would have no knowledge of the existence of a "group", yet both Buck and your group appear to be advocating the same thing (ignoring the vote regarding the number of board members, and the legitimacy of those who were elected). I can understand Buck not wanting an association with advocacy of yet more non-compliance with statutes and our governing documents - and now I wonder how many members of your group are aware that they are supporting such a measure that raises the same issues that required use of CRS 7-128-108 to remove the old board.

But, maybe you could just answer Buck's question: Why won't you let democracy work?

Sincerely,

Andy

On Thu, Oct 31, 2019 at 6:12 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Irve,

Since your comment about "inaccuracy" is vague and/or ambiguous, and you haven't responded to my last email, I can form yes/no questions about the main topics/issues I've written about to try to discover what you are referring to. Maybe this will be easier than composing a prose email in response. Please just answer yes/no to the following:

- Do you accept all votes at the 8/27/19 Special Meeting as legitimate and legal?
- Do you accept that the vote for 5 board members was 44-20, and that 44 votes represents an actual majority in our 87-home HOA?
- Is it true you have been advocating to the new board that they add additional board members?

- Is it true you organized a meeting of like-minded homeowners that you described as "concerned neighbors" at your home on September 26th to advocate changing the number of board members?
- Have you presented your grievances to the new board in writing regarding the number of board members?
- Is it true that you have advocated that the board itself change the number of board members and add them directly vs. having the homeowners make this decision?
- Is it true that any persons attending your September 26th meeting told any member of the new board that they may take legal action against the new board, or any individuals on the new board?
- Is it true that any persons attending your September 26th meeting told any member of the new board that they would need to sell their home and move from the neighborhood?
- Did you know prior to advocating your position with the board that our bylaws **only allow the homeowners, not the board**, to change the number of board members?
- Have the "concerned neighbors" ever published a platform (as the Petitioners did), or provided any written rationale for why this community benefits from 9 board members, or suffers from having only 5 members?
- Did you or any "concerned neighbor" advocate that addition of more board members was a predicate to "healing" or "healing the community"?
- Did you tell Matt or Gloria that if I attended or participated in a Landscaping Committee Meeting in advance of the 10/5 Planting Day, you would resign from the committee?

Again, I am glad to correct anything you can demonstrate is factually incorrect once you have provided documentation of the inaccuracy (email, letter, recording, etc). If you, on the other hand, have a different opinion about any matters, I am glad to publish them as a rebuttal, comment, or as an article of your own. I should also mention that there is now an [online forum available](#) for engagement on these topics if you would prefer that platform.

I think, however, Buck's response raised a great issue: [Let Democracy Work](#). I asked Buck to explain for himself (because he says he isn't aware of your group or coordinating with you) why the community needs to revisit the 44-20 vote for 5 board members. He hasn't responded in a few days. But, the same question is worth asking you directly: Why not allow the democratic community decision from 8/27/19 stand, and give the new board a chance to demonstrate their service to the community? What is so urgent that requires all the additional contacts to the board, extra meetings, and aggressive pursuit of this issue? Why not accept that this is, in fact, what the community wants?

If our Bylaws are specific about only the members having the right to change the number of board members, why spend any of this energy berating the board for something they can't do anyways? Did you expect the board to ignore this bylaw?

3. Number of Directors. The board of directors shall consist of not less than one (1) nor more than nine (9) directors. During the period of Declarant control as provided in the Declaration, the number of directors shall be fixed or changed by the Declarant. Thereafter, the number of directors may be fixed or changed from time to time within the range by the voting members.

Your approach is lacking logic, unless you can explain what you were expecting the new board to do, and why the community should not live with, at least for a reasonable period of time, the democratic decisions already made. Or, should this community expect that you will persist in bringing up the number of board members at every meeting (and outside of meetings) until you get your way? How does this possibly benefit the community? How does this facilitate any type of "healing"?

If I get no response, then I think it's safe to assume that what I've written is, in fact, accurate, in terms of factual references. You don't have to agree with my opinions, and you have the freedom to express your own. I'll give it another day before I write any additional articles.

Sincerely,

Andy

On Tue, Oct 29, 2019 at 3:26 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Irve,

If there is an inaccuracy, you are free to document it in writing. I am happy to correct any inaccuracies of fact, but you'll need to provide documentation. If you have a different opinion, as I stated, I am happy to post your rebuttal. You are also free to make comments on the website directly.

Were there minutes kept at your meeting? If yes, do you plan to publish them? Did anyone make an audio or video recording of the meeting?

Andy

On Tue, Oct 29, 2019 at 3:10 PM Irve Denenberg <ibdpo4hoa@gmail.com> wrote:

This is not accurate. It would be good to meet directly to discuss

Irve

On Wed, Oct 23, 2019 at 3:26 PM Andrew Mowery <andrew.p.mowery@gmail.com> wrote:

Gentlemen,

I understand that the three of you are leading a group of "concerned neighbors" who are advocating that we raise the number of Board Members from 5 directors to 9 directors. I am publishing an article today on the subject in advance of the annual meeting, and according to those I've spoken with who have familiarity with how you've presented the issue, they have only been able to articulate these points:

- The community needs healing
- You represent a "side" of the community that feels they need representation on the Board, and this is related to healing
- The Bylaws allow 9 Directors
- There were 9 members from November 2018 through December 2018

I attended both the September and October Board meetings, and don't recall any other points being raised at either meeting.

After reviewing the 8/27/19 meeting, I am also noting the following points were raised by individuals at the meeting:

- Irve made a motion to keep the bylaws "as stated"
- Patty said the board "started with 9" [for the record, it was raised from 3 to 5 in February 2017, then 5 to 9 in November of 2017]
- The more people working, the more work gets done (Patty)
- More diversity leads to closer votes (Patty)
- It's a good group ratio for board to community (Patty)
- Representation will be limited (Walker)
- The current wishes of the community is to have 9 board members (Walker)
- The community was not advised about having their representation limited (Walker)

I would like to give you, or anyone else from your group (it's unknown to me who are the members of your group), the opportunity to comment, which can be before or after I publish my own thoughts. I would even be willing to publish one or more letters advocating your positions as a group or as individuals, and you are free to extend this to others in your group.

I want your group to have it's positions considered fairly, so if, instead, you have a statement representing why the community would benefit from additional board members (similar to what the Recall Group published), I would be happy to publish that as well.

If you choose not to respond, I will simply note that I have reached out for comment and have not received a response.

Sincerely,

Andy