



Andy Mowery &lt;pohoaandy@gmail.com&gt;

---

## Backlot Mowing

---

**Andy Mowery** <pohoaandy@gmail.com>

Tue, May 30, 2023 at 6:07 AM

To: Poudre Overlook HOA at FtC &lt;atftcpoudreoverlook@gmail.com&gt;

Cc: Lora B 4POHOA &lt;lb4pohoa@gmail.com&gt;, Clay Jones &lt;joneswv66@gmail.com&gt;, "Walker G. Flanary" &lt;wgflanary@gmail.com&gt;, John Tunna &lt;pohoajohn@gmail.com&gt;

To the Board,

Reviewing your response, I have a few follow up questions, therefore I do not consider the matter "closed" as the questions were not answered completely and raise additional issues or questions.

### Regarding Question # 3

My original questions were these:

3. Is the Treasurer still making all contractor decisions unilaterally at his sole discretion and authority?

A. If yes, has the new Board voted (or used unanimous consent) to continue this arrangement?

B. If no, is this now a Board decision on when to schedule with the contractor?

C. Did the Board actually vote or make a decision at the last meeting to schedule the contractor in "mid-June"?

1) Your response was "This is addressed on a case by case basis". Unfortunately, this is not how it was legally recorded in the Meeting Minutes from 6/15/22:

**Agenda item III. Election of Officers. Clay Jones moved Lora Ballweber for President, Lora Ballweber for Secretary and Clay Jones for Treasurer with the Treasurer being the sole point of contact for contractor interactions. The motion was adopted after debate.**

2) According to the Meeting Minutes, the agenda item was "Election of Officers", whereby a motion was made to make the Treasurer the "sole point of contact for contractor interactions." While the minutes record "adopted after debate", it does not record whether this was a tie vote broken by the President, or whether it was a 1-0 vote (with Clay voting for himself to have such powers) and an abstention. Please confirm which occurred.

It also does not indicate at all a "case by case basis" process or standard, nor does it indicate that the Treasurer is the sole DECISION-MAKER for contractor actions. It merely states that the Treasurer is the sole **communicator** of BOARD decisions. According to the legal record of the association, the Treasurer (an Officer position not necessarily filled by a Director, per the Bylaws) is the "sole point of contact" and not granted authority to make all decisions on behalf of the Board - regardless of whether that is an "always" or "case by case basis".

**Does the Board consider the vote to be limited to "sole point of contact" as recorded in the Meeting Minutes, or has there been a change without a formal vote or legal recorded Board action?**

3) According to the 3/22/23 Meeting Minutes, however, the election of Officers did not include a motion to give the Treasurer these same powers, but rather that Director Jones continue in the Treasurer position. Since the original motion from 6/15/22 did not include some sort of "case by case basis" review process for when the Treasurer is the sole contact for contractors.

New Business:

Election of Officers – Clay Jones moved that Lora Ballweber continue as President, John Tunna be Vice-President, Walker Flanary be Secretary, and he continue to be Treasurer. The motion was adopted (3 yes/0 no).

It is therefore unclear whether the Board intended to continue or carry-over this **POLICY CHANGE** granting the Treasurer the new power of being the "sole point of contact" with contractors (not described in the CCRs or Bylaws). The Board appears to have simply elected officers without this modification to the Treasurer's duties and responsibilities. And, again, there is no mention of "case by case basis", which would be a departure from what was legally recorded for the 6/15/22 meeting.

**Has the Board assumed that the 6/15/22 decision carries over and attaches a duty or responsibility to the Officer position of Treasurer until there is another Board vote modifying or reversing this decision?**

4) It appears that the Treasurer did not act alone in signing a contract with E&W regarding backlot mowing. According to the Action Without A Meeting records on Frontsteps, the Board, not the Treasurer decided to renew the contract with this contractor.

E & W Contract

As evidenced by my email approvals, I agree to an action w/o a meeting, to sign a contract with our vendor of the last 2 years, to mow our unirrigated HOA area and weed eat along the fence lines & drainage areas.

Signature Yvonne Balluker

Signature Wally Jones

Signature Clay Jones

Signature John Turner

As evidenced by my email approvals, I agree to the E&W Outdoor service contract dated April 13, 2023 and authorize the treasurer to sign.

Signature Yvonne Balluker

Signature Wally Jones

Signature Clay Jones

Signature John Turner

**Is the Treasurer required to get Board approval for all actions taken on signing contracts, or is this on a "case by case basis"?**

**What other actions must the Treasurer get Board approval prior to taking the action?**

5) It therefore appears that the Treasurer is not authorized to enter into contracts unilaterally, even if the Treasurer is continuing to be the "sole point of contact" per the 6/15/22 vote. It is therefore reasonable to ask specifically whether the Treasurer has the sole power or authority to **make scheduling decisions** based upon this same 6/15/22 vote which makes no mention of this power or authority. Given that the contract may include scheduling (past landscaping contracts have included date-specific scheduling in the past) and that the Treasurer needed board authorization to sign such a contract, it appears that the Board and/or Landscaping Committee (which has been previously authorized to act on scheduling independent of the Board in the past) would be the decision-makers on scheduling.

In practice, it appears that Director Jones has unilaterally changed the Bylaws by assigning new duties to the Officer role of Treasurer by attempting to control all scheduling decisions as the "sole point of contact", or a NEW POLICY was created with the 6/15/22 vote that give those powers or authorities to the Treasurer, even though that was not on the agenda for that meeting, nor was there any proper notice for a policy change.

**Will the Board go through the proper process to change the Bylaws or Policies if the intention is to give ALL Treasurers (indefinitely into the future) such powers and authorities?**

**If not, why not?**

**If the Board does not intend to change the Bylaws or Policies, will it at least vote on the matter of clarifying the boundaries of whatever was decided on 6/15/22, and to have THIS Board vote on whether to even continue the Treasurer be the "sole point of contact" - regardless of whether it is "always" or on a "case by case basis?"**

#### **Regarding Question # 4**

1) I have reviewed all Meeting Minutes regarding the subject of a Landscaping Committee, and there does not appear to be any record of solicitation of volunteers for such a committee. If there has been a solicitation, when did it occur, and what record exists of such a solicitation?

2) When we had a Landscaping Committee in the past, it was chaired by Gloria Jones. During her tenure, she was also a member of the Board for some period, and then was not (after the 8/27/19 removal). From September of 2019 onward, Ms. Jones appears to have operated as the sole member of the Landscaping Committee and/or absorbed the Committee into the Board (making the Board the Landscaping Committee, as it was referred in some Board Meetings) once she returned to the Board.

3) It now seems that the Jones household has had continuous de facto control over landscaping decisions in the common areas for the past 4 years, with the control over such decisions (scheduling and scope of work) apparently given to Treasurer Clay Jones via that 6/15/22 decision.

4) Meanwhile, it is on the record (or at least audio-video recordings) that not only myself, but several homeowners have had significant concerns with landscaping decisions or actions for the past 2-3 years. I specifically attempted to have landscaping topics added to the Agenda of several meetings in 2022 as a Director, and was told I was not allowed to add to the agenda, and my agenda modifications were voted down by Director Jones with Director Ballweber using her tie-breaker vote to block the topic of scheduling landscaping from even being considered by the Board as a whole.

5) It appears that the Jones household makes landscaping decisions that favor and benefit those adjacent to the irrigated greenspace, including their own home. But, those whose properties abut the Southern "backlots" have not had representation that includes the power to add to the agenda (myself), or when they have (Director Tunna), scheduling remains strictly controlled by the Jones household - either by tradition, apathy, or this "sole contact" power voted upon at the 6/15/22 meeting.

6) It is therefore reasonable to request that the Board actively solicit TO THE ENTIRE COMMUNITY in a written communication that it is seeking those interested in forming a Landscaping Committee.

**Will the Board consider sending an email or US Mail communication to that effect?**

7) Since there has been perennial dissatisfaction by several homeowners regarding the backlot and natural area landscaping voiced at several meetings, is it perhaps time for the Board to revisit giving a single household nearly unilateral control over these decisions?

8) In another instance of unilateral decision-making, it has been observed several times that the watering of the greenspace does not appear to be adjusted when there are heavy rains. While I have raised the issue of the pattern of watering per the City of Fort Collins records (dismissed at being carry-over consecutive days due to watering past midnight), it appears again that the Jones household has had complete control over when and how much the central greenspace and natural areas are watered. This affects both budget and aesthetics.

**If there is not going to be a Landscaping Committee, will the Board, at the very least, actively vote upon such decisions to avoid the appearance of giving a household that personally benefits from some decisions such complete control - while ignoring the needs of those who are not represented?**

**Regarding Question # 8**

1) Given the fact that Gloria Jones/Clay Jones have been operating at the Landscaping Committee, and that we have previously had committees with just 1-2 members (Litigation Committee was just Jenn Hutchinson and Linda Brucker, for instance), it appears untrue that there is not sufficient interest for a Committee.

2) Director Tunna has twice raised the issue of a Landscaping Committee at Board Meetings, and clearly indicated he is willing to Chair or be a member of the Committee. I too have indicated a desire to serve on such a committee. Since the Bylaws do not have a minimum-member requirement to form committees, and the practice of the Association has been to have committees that have only 1-2 members (including a single household), it is therefore the established practice of POHOA to allow such small committees.

3) Given the concerns raised by several homeowners about common area landscaping practices and scheduling, given the domination by one household for at least 4 years during this period of dissatisfaction with some decisions, and given the established practices in forming committees, it therefore appears reasonable and logical for the Board to solicit to the entire community volunteers who wish to serve on such a committee, and for that committee to be an agenda item with a vote (or AWAM).

**Will the Board take this next step?****New Questions:**

9. Does the Board consider maintenance of the grasses/weeds adjacent to the common area sidewalks to be equal for all such areas?

10. Specifically, does the Board consider maintenance of the common areas at the end of cul-de-sacs to be only necessary when backlot mowing is done?

11. If yes, why are the common area sidewalks adjacent to the front entrance, center greenspace, and connector to Lin-Mar Acres mowed regularly (weekly, apparently), but those adjacent to common area sidewalks at the both ends of Bubbling Brook, Tributary, and Ripple only mowed or maintained twice per year?

12. You have grasses and weeds literally overtaking several of these areas, and it appears that Board representation prioritizes maintenance of these areas where they live, and ignores those areas where they don't. If we need to keep these sidewalks clear of snow, doesn't it make sense that they also be cleared of grasses and weeds?

Thank you for responding. I plan to publish an article this week on this subject (landscaping), and hope to include your responses in the article.

Sincerely,

Andy

[Quoted text hidden]