



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

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## january board meeting - please respond ASAP

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

Fri, Dec 23, 2022 at 6:56 PM

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

Cc: Clay Jones &lt;joneswv66@gmail.com&gt;, Walker G Flanary &lt;wgflanary@gmail.com&gt;, John M Tunna &lt;j.tunna@icloud.com&gt;

Lora,

I believe that this is a topic of Education that is required for Board Members as well as Homeowners. I am writing at length to furnish the educational material for consideration. I am submitting the material in advance of a Motion for Action Without A Meeting to Adopt a Resolution regarding the setting of Agendas going forward.

**MOTION:** I, Andrew Mowery, make a motion to adopt a Resolution using Action Without A Meeting regarding how the content of an agenda is to be determined by the Poudre Overlook HOA Board of Directors. Be it resolved that the Board shall schedule all Regular Meetings of the Board at least 30 days in advance prior reserving meeting space at any location by a vote taken at a Regular or Special Meeting of the Board, or Action Without A Meeting. Be it further resolved that the Board shall, upon setting the time, date, and location, open to all Directors a process of submitting topics to the Chairperson of the Meeting prior to publishing the agenda. Submissions must be received no less than 10 calendar days prior to the scheduled meeting date. Each Director has the right to have at least one (1) topic added to the agenda, which shall receive a vote by the Board of Directors unless properly Tabled per Robert's Rules of Order. Directors may not submit more than 5 topics for any one meeting, but are not restricted from raising the same topics in New Business.

Upon receipt of all topic suggestions from Directors, the Board shall vote on a Resolution to adopt a draft agenda to then be published and sent with notice of the meeting to the homeowner members. The Board may chose any number of the topics to allow onto the agenda, with the exception that any Director may have one topic that cannot be excluded from the meeting per meeting.

### BACKGROUND

Regarding the setting of the agenda, Officers (whether President, Secretary, or otherwise) **do NOT have the sole power to draft the agenda**. Officers are roles that are secondary jobs, **not ranking of Directors**. The Non-Profit Act and/or CCOIA, or our Governing Documents do not contradict this assertion, nor do any make this a matter of discretion.

Furthermore, Robert's Rules of Order also do not grant such powers to the President or Secretary (Officers) either. The Chair of the meeting (which can also be someone who is neither a Director or Officer) must follow the agenda and maintain order. But, the Chair does not have sole discretionary power to determine the agenda content.

In fact, the power to control the agenda of meetings is not an absolute power of either the Board or any Officer. Per the Bylaws:

## 2. Special Meeting.

- (a) The Association shall hold a special meeting of its members:
- 1) On call of its board of directors or the person or persons authorized by resolution of the board of directors to call such a meeting; or
  - 2) If the Association receives one or more written demands for the meeting, stating the purpose or purposes for which it is to be held, signed and dated by members holding at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the meeting.

As you can see, Homeowners have the power to call a Special Meeting with 10% Quorum. And, per the Bylaws, if the Board does not timely respond, the Petitioners may schedule the meeting, set the agenda, and even chair the meeting themselves. This is not limited to Board Removal processes described in CRS 7-128-108. Therefore, the **absolute control of agenda by the Board or any Officer** is not an actual power or authority, per the Bylaws.

### CONCLUSION

Therefore, in the absence of any Statute, Bylaw, or Policy that grants the current power to create the agenda, the agenda should be created by RESOLUTION of the Board, which requires a vote. This vote can be taken using Action Without A Meeting. No such AWAM or Resolution has ever been legally recorded by POHOA giving the President or Secretary such powers, nor allowing any Director to designate themselves to have, hold, or use such powers. I believe the motion above is appropriate, but if you wished to consolodate such powers to be at the sole discretion of any Officer (President or Secretary), either a Resolution would be necessary, or it would require a chance to the CCIOA-required Policy on the Conduct of Meetings (which is similarly silent on the exact process for forming agendas). In order to change that Policy, we would have to follow our Procedure for Amending Policies.

Since your notice about this meeting does not declare whether it is a "Regular" or "Special" Board meeting, that too should be determined by a Resolution of the Board, not the declaration by any Director or Officer. As far as I can tell, no schedule or determination of frequency of "Regular" Board meetings has been determined. And, since you simply ignored the published "Regular" Meetings upon assuming office on 5/25/22, your designation of which of the several meetings is Regular vs. Special appears to be selective, random, or even capricious - based upon your whim. You do not actually have such powers.

Please let us know whether you are proposing that January 10 be a Regular or Special Meeting, and if Special, what is the purpose that warrants that designation without a proper Resolution.

You may wish to review the Q&A pairs I've copied below for reference and general education on the matter. I do not believe you are following the letter or spirit of the Governing Documents or Robert's Rules on setting agendas. If you have other sources, citations, or authorities we should consider, please furnish in advance of consideration of the Motion above.

And, since the Bylaws allow a remedy vis a vis a Petition with 10% of Homeowners, it would be a good idea to consider a more inclusive and responsive process for setting the agenda of any meeting - particularly when the input is from a fellow EQUAL Director. That said, locking out homeowners from adding to the agenda, or having reasonable time to add to the Agenda via New Business has been the regular practice of the Board you've led since May. This should change, and is not following either RONR, the Bylaws, or Colorado Statutes. I believe it is a legitimate Point of Order, and for the record, the President or Chair does not have sole discretion on determining the validity of Points of Order - **a vote by the members (homeowners) or board members can overrule the Chair** (depending on meeting type), per RONR. Please see the attached document for a full explanation about how and why the Chairperson of a meeting cannot just rule a "point of order" as "irrelevant" or simply ignore it. If the Chair is called out as not following the rules (including statutes, governing docs, policies, or RONR), ANY Director has a right to demand a vote on the matter.

I have previously written with my agenda priorities, and have outlined them in a [published article](#). I will designate a single priority topic should my proposed AWAM Resolution pass a vote.

Respectfully,

Andy

### Who sets the agenda for HOA Board Meetings in Colorado?

In the state of Colorado, the agenda for a homeowners association (HOA) board meeting is typically set by the board of directors. The board is responsible for conducting the business of the HOA, and as such, they have the authority to determine the order of business for each meeting.

The agenda should be distributed to all board members in advance of the meeting, and should include a list of items that will be discussed and any materials that will be needed for the meeting. The agenda should also include the date, time, and location of the meeting.

In some cases, homeowners may request that specific items be added to the agenda for a board meeting. If this occurs, the board may decide to add the item to the agenda or may refer the homeowner to a future meeting. It is important for the board to be transparent and responsive to the needs and concerns of the homeowners it represents.

Does any one Director have authority or priority to set the agenda over other Directors?



In a homeowners association (HOA) in the state of Colorado, the board of directors is responsible for setting the agenda for board meetings. As a group, the board has the authority to determine the order of business for each meeting.

Typically, the board will establish a process for determining the agenda, which may involve one or more board members taking the lead in organizing the meeting and preparing the agenda. The president of the board, or another designated officer, may be responsible for overseeing the preparation of the agenda and ensuring that all necessary items are included.

However, it is important to note that no one director has authority or priority to set the agenda over other directors. The board works as a team and all directors should have an equal say in determining the agenda for board meetings.

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If one Director attempts to control the agenda, what options do other Directors have to amend the agenda if the controlling Director refuses?



If one director of a homeowners association (HOA) board in the state of Colorado is attempting to control the agenda and refuses to allow other directors to have input, the other directors have a few options for addressing the issue.

First, the other directors could raise their concerns during the board meeting, either through a discussion or by making a motion to amend the agenda. If the motion is seconded and receives a majority vote of the board, it can be adopted and the agenda can be amended.

If the controlling director continues to refuse to allow the agenda to be amended, the other directors could consider seeking the advice of legal counsel or consulting with the bylaws of the HOA to determine their options for resolving the issue.

It is important for the board to work together and ensure that all directors have an opportunity to have their voices heard and to participate in the decision-making process. If the issue cannot be resolved through discussion and negotiation, the board may need to consider seeking mediation or other alternative dispute resolution methods.

## Does Robert's Rules of Order allow the President (an Officer) of an HOA to set or control the agenda of an HOA Board Meeting?

Robert's Rules of Order is a set of guidelines for conducting meetings and making decisions in a deliberative assembly, such as a homeowners association (HOA) board. According to Robert's Rules, the president of the HOA board (also known as the chairperson or chair) has certain responsibilities in setting and controlling the agenda for board meetings.

The president is responsible for calling the meeting to order and announcing the business to be conducted. The president may also have the authority to determine the order in which items on the agenda will be considered, unless the board has adopted a different order or the bylaws of the HOA specify a different process.

However, the president does not have the authority to control the content of the agenda or to prevent other directors from suggesting items for inclusion on the agenda. The agenda should be developed in consultation with the other members of the board, and all directors should have the opportunity to suggest items for inclusion.

In general, Robert's Rules emphasizes the importance of fair and open communication and decision-making, and encourages all members of the assembly to participate in the process.

[Quoted text hidden]



**Remedies-for-Abuse-of-Authority.pdf**

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