
RECORD OF PROCEEDINGS

Minutes of the Meeting of the Board of Directors of Lake Creek Metropolitan District February 24, 2022

A meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on February 24, 2022 at 4:00 p.m., at the offices of Marchetti & Weaver, LLC, 28 Second Street, Suite 213, Edwards, Eagle County, Colorado with an option to attend via electronic Zoom meeting <https://us02web.zoom.us/j/85085733693>, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Kathleen Eck
- Dan Barry
- Ann Bourke
- Anne McGonagle
- Hatsie Hinmon

Also in attendance:

- Ken Marchetti, Marchetti & Weaver, LLC
- Beth Johnston, Marchetti & Weaver LLC, secretary for the meeting
- Tony Zancanella, Zancanella & Associates
- Chris Geiger, Balcomb and Green
- John Kelly, owner 119 Brooke Place

**Call To
Order**

The meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order by Director Barry on February 24, 2022 noting a quorum was present. There were no conflicts of interest disclosed.

Agenda

There were no changes to the meeting agenda.

**Public
Comment**

There was no public comment.

Minutes

The Board reviewed the minutes included in the packet. Following discussion and upon motion duly made and seconded, it was

RESOLVED to approve the November 11 ,2021 minutes as presented.

2021CW3161

Kelly

Mr. Geiger reviewed the water court application filed by John and Margaret Kelly including the proposed uses. Mr. Geiger explained that aesthetic use was allowed if ancillary to another beneficial use such as wildlife habitat and watering as proposed in the application. Mr. Geiger also stated that the amount of water in questions is equivalent to a garden hose and will not run all year round . Discussion

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on the application included beneficial versus aesthetic use, seasonality of the spring, lack of creek access, concern that the spring will feed into the diversion channel, and the location and source of the spring water.

At the Board's request, Mr. Kelly joined the meeting via phone to address questions and clarify aspects of the application including the location of the spring, if the spring flows year round, and the source of the spring. It was confirmed that Mr. Kelly could hear everyone at the meeting and that everyone at the meeting could hear Mr. Kelly. Mr. Kelly explained the intended use was to link the spring to a cistern that is used for irrigating the property with any overflow of the cistern flowing back into Lake Creek. Mr. Kelly said he did not intend to build a pond on the property. The application was filed to ensure that the property always has the right to use the spring's water. Mr. Kelly left the meeting.

Discussion continued on the diversion channel that runs through the Kelly's property and if it diverts water from the creek into a cistern that is used for irrigation. The Board is concerned about the water source for the side channel and its effect on the District's water rights and decree. The Board requested that Mr. Zancanella and Mr. Geiger research the water source for the side channel and report back to the Board at the next meeting. Director Barry recalled that Mr. Kelly explained during the phone call that his neighbor Tabb's spring was the source of the water used in the diversion channel that fed the cistern for irrigation. There are two channels that now run through the Kelly property; one that appears to be from Tabb's property (which Dan Barry commented that Mr. Kelly stated was the source of water used for irrigation out of the cistern). This is a totally different channel than the diversion channel which resulted from Mr. Kelly digging into and "diverting" the from East Lake Creek. Following discussion, and upon motion duly made and seconded, with four Directors voting in favor and Director Hinmon voting against, it was

RESOLVED to not file a statement of opposition in case 21CW3161 water application of John and Margaret Kelly.

2021CW3180

Minturn

Mr. Geiger reviewed the Bolt's Lake site purchase explaining that Minturn was growing and needs more water. The application proposes to remove water from the Eagle River with no replacement water identified which could ultimately harm the District's augmentation water source. Mr. Geiger further explained that there were other applications pending that could overlap the Town of Minturn application and that other entities were also opposing the Minturn application as filed. Following discussion, and upon motion duly made and seconded, it was unanimously

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RESOLVED to file a statement of opposition in case 21CW3180 water application of Town of Minturn.

Mr. Geiger gave an update on the other pending water applications currently being opposed by the District.

Water Operations Report

Mr. Zancanella reviewed the District's water operations including the Water Production and Consumption Reports included in the packet. There was general discussion on the unaccountable water. Mr. Zancanella hypothesized there may be a leak and would have the vaults checked. Mr. Zancanella also reported that the Radamus home at 104 Meadow Rd used an excessive amount of water in January which caused a bump in the usage.

Capital Projects Update

Mr. Zancanella reported that the new vault was delivered and is being stored by Ewing Trucking for installation in the spring. Most of the fire hydrants have been installed. There are two remaining hydrants that will be installed in spring 2022 including one at the top of Eagle Crest that will either tie into the pressurized system or be installed as a draft hydrant on the water storage tanks. Some of the newly installed hydrants may need to be raised and will be evaluated over the summer of 2022350. The Backup Generator will be installed by Cummings in spring 2022.

Water Features

Mr. Geiger reported that he and his team researched how other Districts, including Eagle River Water and Sanitation District, handle water feature requests. He gave a brief overview of his findings. Mr. Geiger said he and Mr. Zancanella would work together to determine what parameters would work for the District and provide recommendations for the Board. Following discussion, the issue was tabled until the next meeting

Water Rules & Regs

Clarification Director Eck gave an overview of her findings regarding Dwelling Unit and Residential Unit in the District's Water Rules and Regulations. She explained the terms, although different, were used consistently by the Board in its decision making, and therefore were acceptable, in her opinion, notwithstanding the different terminology. Director McGonagle reported that the Lake Creek Meadows HOA was reviewing the Design Guidelines and to let her know if there were any suggestions for language regarding dwelling units or ADUs to make the documents consistent and less confusing.

Financial

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Statements Mr. Marchetti reviewed the 2021 year-end financial statements included in the packet. Most items came in as forecasted and unspent funds in capital projects were moved into the 2022 budget. There was general discussion on deferred property taxes.

2021 Application for Exemption from Audit

Mr. Marchetti reviewed the 2021 application for exemption from audit included in the meeting packet explaining that it was the same as the year-end financial statements but presented on a State mandated form. Mr. Marchetti also reviewed the Resolution to approve the 2021 Application for exemption from Audit. Following review and discussion, upon motion duly made and seconded, it was unanimously

RESOLVED to approve the 2021 Application for Exemption from Audit; and

FURTHER RESOLVED to approve the Resolution Approving an Exemption from Audit for Fiscal Year 2021.

Accounts Payable

Ms. Johnston and Mr. Marchetti reviewed the accounts payable list included in the packet. Following discussion and, upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Accounts Payable List as presented.

Accounts Receivable

Ms. Johnston reviewed the accounts receivable report sent separately to the Board. There are no issues or accounts of concern at this time.

Posting Location

Resolution The Board reviewed the posting location resolution included in the packet. Notices are posted on the District website with the emergency backup location being the Pumphouse at Brook Place. Following discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Resolution Designating Location to Post Notice.

Election

Ms. Johnston gave an update on the May 3 director election. Five director seats are up for election and three self-nomination forms have been received so far. The deadline to submit a nomination form is Friday February 25. Director McGonagle expressed her intent to submit a form before the deadline. Director Barry announced

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that he would not be running for another term however he said he would be willing to assist the Board with any history or background questions that may have occurred over his tenure on the Board. Discussion continued on potential candidates to fill the expected vacancy.

**Future
Meetings**

Due to a scheduling conflict, the May 12 meeting was cancelled and a special meeting was set for June 2, 2022 at 4:00 p.m.

Adjournment There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 24th day of February, 2022.

Respectfully submitted,



Beth Johnston
Secretary for the Meeting

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Minutes of the Special Meeting of the Board of Directors of Lake Creek Metropolitan District June 2, 2022

A special meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on June 2, 2022 at 4:00 p.m., at the offices of Marchetti & Weaver, LLC, 28 Second Street, Suite 213, Edwards, Eagle County, Colorado with an option to attend via electronic Zoom meeting <https://us02web.zoom.us/j/85085733693>, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Kathleen Eck (zoom)
- Ann Bourke
- Anne McGonagle (zoom)
- Hatsie Hinmon

The following Director was appointed but not acting, pending completion of Oath of Office:

- John Horan Kates, Resident (Zoom)

Also in attendance:

- Ken Marchetti, Marchetti & Weaver, LLC
- Beth Johnston, Marchetti & Weaver LLC, secretary for the meeting
- Kendra Nicholson, Marchetti & Weaver, LLC
- Tony Zancanella, Zancanella & Associates (Zoom)
- Chris Geiger, Balcomb and Green (Zoom)

Call To Order

The meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order at 4:07 p.m. by Director Hinmon on June 2, 2022 noting a quorum was present, All participants were able to hear one another clearly. There were no conflicts of interest disclosed.

Agenda

The legal discussion was moved to the top of the agenda and a discussion item for the District's Due Diligence report for conditional water rights due before June 30, 2022 was added.

Public Comment

There was no public comment.

Legal

Chris Geiger gave an overview of water augmentation supplies and how they are used. He explained that due diligence is required every 6 years for the conditional rights to prove they are still needed and to provide detail on the planned use of the conditional rights until they become absolute. Mr. Geiger then spoke about a plan being developed to apply for absolute rights at the next due diligence filing. He

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does not believe there is sufficient evidence or basis. Mr. Geiger then reviewed the water rights for Moores' pond and the plan for refilling the ponds if they are depleted for any reason. General discussion continued on water rights, water calls and supply, timing for applying for absolute rights, and the priority of the District's rights. Following discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to authorize the filing of an application before June 30, 2022 for finding of reasonable diligence to continue the District's conditional appropriative rights of exchange decreed in Case No. 15CW3117.

Mr. Zancanella reported the new Water Commissioner for this area, Joe "Raymond" Zupancic, has requested an onsite review of the District's water system to include all structures and the well system to take place sometime in June. The State is requesting additional accounting of the District's water use. The Board discussed this unique request with Mr. Zancanella who informed the directors that Mr. Zupancic is seeking to understand the water systems within his jurisdiction.

Minutes Ms. Johnston confirmed that revised minutes had been emailed out prior to the meeting and should replace the minutes in the packet. The Board reviewed the revised minutes and Director Eck went over the revisions and comments she submitted. The Board requested that a note be included in the minutes that states that people attending remotely by telephone can hear and be heard by all participants. There was also general discussion on the diversion channel and if it was represented accurately in the minutes. Following discussion and upon motion duly made and seconded, it was

RESOLVED to approve the February 24, 2022 minutes with revisions suggested.

Board Vacancy

The Board discussed the vacancy following the May 3 election and the letter of intent submitted by John Horan-Kates to fill the vacant seat with a term expiring May 2023. Following discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to appoint John Horan-Kates to the Lake Creek Metropolitan District Board of Directors until the next election in May 2023.

Election

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Of Officers Following discussion, and by motion duly made and seconded, it was unanimously

RESOLVED to elect the following officers:

Kathleen Eck	President/Chairman
John Horan-Kates	Secretary
Anne Bourke	Treasurer
Hatsie Hinmon	Vice Pres/Asst Secretary/Asst Treasurer
Anne McGonagle	Asst Secretary/Asst Treasurer

The Board requested that Management update all bank accounts to include all Board members as signers. Accounts payable approvers will be the Treasurer with the President as a backup.

SDA

Workshop Ms. Johnston advised the Board of the date and time of the workshop to be presented by the Special District Association (SDA). Directors Eck, Hinmon, Bourke, and Horan-Kates requested Management register them for the June 15 workshop in Eagle-Vail.

Water Operations Report

Mr. Zancanella advised the Board of recent activity on the Kelly property. He reviewed the original 2015 conditions survey that included a spring ditch across the road that feeds from the Tabb property prior to Kelly changes. He then showed the revised survey submitted in 2021 for the new garage that shows the original pipe that runs under the driveway and feeds onto the Kelly property, then continues down the ditch. The original survey provided to the Board does not show the diversion of the creek that was dug out by the Kellys.

The Board continued its discussion of the diversion of East Lake Creek made by the Kelly's in the summer of 2014, noting that the restoration effort which was intended to restore the area of the creek, which had been dug out and diverted by the Kelly's, to its original condition. It was noted that the area to be restored is most likely on the Spector property, as the Spector, Eck and Woodard property lines extend across the entirety of East Lake Creek to the other side of the creek. The restoration effort, which included placing rocks into the area where the diversion begins (which is on the Spector property), does not appear to be effective. The diversion now runs all year and Director Eck commented that they are not able to access their property across the creek. There was further discussion on the precedential impact of the Kelly diversion. Director Eck volunteered to have her husband, Dr. Jack Eck, contact Mr. Spector to discuss the current condition of the diversion. She will report back to the Board.

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Capital Projects

Update

The Variable Frequency Drive Pumps (VFD) are approaching the end of their useful life and the fans have been replaced. An estimate is being prepared for replacement of all 3 VFDs. The installation of the new Vault has been postponed until fall due to run off. Mr. Zancanella reviewed the water usage graph and trending overall is looking normal. Although total water production is down, the unaccountable water, which should be around 10-12% for a system the size of the District's, is high at over 20%. Possible reasons for the high unaccountable water are water meters may need to be replaced since they are at the end of their useful life or there are undetected leaks in the system. General discussion continued on capital projects, projected costs, timing to fix the various components of the system and how to prioritize the projects such as replacement or construction of a new well which should take precedence over meter replacements. Mr. Marchetti and the Board discussed the advisability of holding a work session to review the capital plan, determine the priority and cost of capital projects and other appropriate topics, including the possible issuance of bonds, availability of grants and other funding sources.

Water

Features

The Board tabled this discussion until the next meeting.

Financial

Statements

Mr. Marchetti reviewed the April 2022 financial statements. It is not a property tax reassessment year however the residential assessment rate is being lowered moderately by the State Legislature. The District is levying the maximum amount per its voter authorization and it is all being used for operations and capital replacement since the District does not have any debt at this time. Water rates were raised for 2022 and expenses are tracking as expected so far. Mr. Marchetti called out the rapid depletion of the fund balance projected through 2023 resulting from the high amount of capital projects. There was additional discussion on having a special work session to review the capital plan, determine necessary projects and their priority and how to pay for them. There was general discussion on bond rates and potential grants, other funding sources need to be looked into to complete the projects.

Electronic Funds

Transfer

Policy

The Board tabled review of the policy until next meeting.

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Accounts

Payable

Mr. Marchetti reviewed the accounts payable list included in the packet. Following discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Accounts Payable List as presented.

Accounts

Receivable

Ms. Johnston reviewed the accounts receivable report and reported that the past due account on the report has been paid in full. There are no other accounts of concern at this time.

Other

Financial

There was general discussion of property that is under contract, and the potential for the new owner to request inclusion in the District. Following a short discussion, the Board agreed it would consider the request at the time it is made.

Landscaping

Proposal

The Board reviewed the proposal from Whittaker Landscape Services for irrigation service for the summer. Ms. Johnston confirmed that the proposal had been sent to the Board via email for review. Upon motion duly made and seconded, it was unanimously

RESOLVED to ratify the Irrigation proposal dated March 11, 2022 by Whittaker Landscape Services.

LCMHOA

Update

Director McGonagle gave an update on Association business explaining there is little to report since no meeting has been held since February at which the Ferguson new home project was rejected. She announced that the 2022 annual meeting was scheduled for June 21 at 4 pm and the annual owner picnic was scheduled for July 23, 2022 at 5 pm at the Wheeler's residence.

Calendar

The Board reviewed the meeting calendar and confirmed the next meeting would be August 11 at 4:00 pm. The Board also scheduled a Capital Projects Work Session for June 30, 2022 at 1:00 p.m.

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Adjournment There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 2nd day of June, 2022.

Respectfully submitted,
/s/ Kendra Nicholson
Kendra Nicholson
Secretary for the Meeting

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Minutes of the Special Meeting of the Board of Directors of Lake Creek Metropolitan District June 30, 2022

A special meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on June 30, 2022 at 2:00 p.m., at the offices of Marchetti & Weaver, LLC, 28 Second Street, Suite 213, Edwards, Eagle County, Colorado with an option to attend via electronic Zoom meeting <https://us02web.zoom.us/j/85085733693>, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Kathleen Eck
- Ann Bourke
- Anne McGonagle
- Hatsie Hinmon
- John Horan Kates

Also in attendance:

- Ken Marchetti, Marchetti & Weaver, LLC
- Beth Johnston, Marchetti & Weaver LLC
- Kendra Nicholson, Marchetti & Weaver, LLC, secretary for the meeting
- Tony Zancanella, Zancanella & Associates

Call To Order

The special meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order at 12:12 p.m. by Director Eck on June 30, 2022 noting a quorum was present, All participants were able to hear one another clearly. There were no conflicts of interest disclosed.

Changes To Agenda

None

Public Comment

There was no public comment.

Jurisdiction and Responsibilities

Mr. Marchetti briefly discussed the District's water rights and a concept to create a Lake Creek Metro District Constituents Guide to Water Rights to describe the District's water rights in layman's terms. Director Eck reviewed some of the history of diversions in Lake Creek emphasizing the importance for the board

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members to understand the jurisdiction and responsibilities of the board. The purpose of this meeting is to do a high-level overview of the different aspects of the water system in Lake Creek. Mr. Zancanella explained the original development irrigation was agricultural use and subsequently an augmentation plan was put in place. He described the wells, pump house and water storage tanks. Mr. Zancanella reviewed the Lake Creek map and where the wells and pumps are located. He described the vaults and how they work to reduce the water pressure in the system. There was discussion about the distribution of SFE's (single family equivalent water units) and if there's enough for future developments. Director Eck stated that there are only so many SFE's and the Board's priority is to make sure there are enough to satisfy future demand. Director Bourke mentioned concern about the ability to produce enough feed for livestock if irrigation is limited. Director Eck stated aesthetics are also a concern if irrigation becomes more limited. Mr. Zancanella presented the maps that show the irrigated acreage. Mr. Zancanella reviewed the various water rights in Lake Creek owned individually outside of the District's water rights.

Needed Infrastructure & Capital Projects Funding

Review of the capital long range projection and discussion of the capital spending plan for 2022 including discussion of the generators and the easements needed to put them in. Mr. Zancanella went over the types of generators and the pros and cons of each. Mr. Zancanella mentioned that the District may be able to apply for certain grants for these projects.

Following discussion and upon motion duly made and seconded, it was unanimously

RESOLVED to pursue an application for a grant from the State Revolving Funds program.

There was a board discussion about completion of the fire hydrant installation plan. The current budget only includes one hydrant at the top of Eagle Crest and Mr. Zancanella suggested the addition of a second hydrant in that location although easement issues will need to be resolved. Upon motion duly made and seconded, it was unanimously

RESOLVED to install a second hydrant on Eagle Crest Road.

Director Eck asked what jurisdiction the Metro Board or the HOA board have over new diversions on Lake Creek. She described issues with a diversion that was

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installed in the past few years. After discussion, it was determined that this issue involved both the HOA and the Metro District and the two organizations could work jointly on potential resolution.

Adjournment There being no further business to come before the Board, by motion duly made and seconded, it was unanimously

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 30th day of June, 2022.

Respectfully submitted,
/s/ Kendra Nicholson
Kendra Nicholson
Secretary for the Meeting

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Minutes of the Regular Meeting of the Board of Directors of Lake Creek Metropolitan District August 11, 2022

A meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on August 11, 2022 at 4:00 p.m., via electronic Zoom meeting, <https://us02web.zoom.us/j/82929454620>, phone only US 1 253 215 8782 Meeting ID: 829 2945 4620, in accordance with the applicable statutes of the State of Colorado.

Attendance

The following Directors were present and acting:

- Hatsie Hinmon (Zoom)
- Anne McGonagle (Zoom)
- John Horan-Kates (Zoom)
- Kathleen Eck

Also in attendance:

- Tony Zancanella, Zancanella & Associates (Zoom)
- Vance Holzmann, Zancanella & Associates (Zoom)
- Ken Marchetti, Marchetti & Weaver, LLC (Zoom)
- Kendra Nicholson, Marchetti & Weaver, LLC, secretary for the meeting

Absent and Excused:

- Ann Bourke

Call To Order

The meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order at 4:03 p.m. by Director Eck noting a quorum was present. There were no conflicts of interest disclosed.

Agenda

There were no changes to the meeting agenda.

Public Comment

There was no public comment.

Minutes

The Board reviewed the Minutes from the June 2 and June 30, 2022 meetings which were included in the Board packet. Upon motion duly made and seconded, it was

RESOLVED to approve the June 2, 2022 Minutes

FURTHER RESOLVED to approve the June 30, 2022 Minutes

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**Summary of
Division
Engineer
Tour
July 19th 2022**

Three (3) representatives of the Water Division 5 Engineer's office (Jana Miller, Vikki Devine, and Joe Zupancic) as well as Directors Eck, Bourke, Hinmon, Horan-Kates, and McGonagle and Tony Zancanella, Vance Holzmann and Paul Westhoff from Zancanella and Associates and Beth Johnston and Kendra Nicholson from Marchetti and Weaver attended a tour conducted by Tony Zancanella on July 19, 2022 of portions of the Lake Creek Metro District's water system. The tour included the Brooke Place Pump House, Eagle Crest water vault, the Kelly diversion, Moore's Ponds and various other places within the District. The primary purpose of the tour was to show the Division 5 Engineer's office the operation of the District's water system and explain the water accounting procedures used by the District.

While touring the Kelly diversion Director McGonagle asked Mr. Zancanella about the history of the diversion. Mr. Zancanella stated that the Kellys provided a survey to the Division Engineer showing the channel for their water and that some of the area was a braided stream section. Mr. Zancanella also conveyed that Ms. Kelly stated that water runs through the channel only during runoff when the water is high in the main channel of East Lake Creek and does not run through the channel after August. [However, Ms. Kelly's statement is not an accurate statement.] Director Hinmon stated that she had recently been to the area and that water was still running through the channel. Mr. Zancanella then stated that an agreement was in place that had been approved by several parties to restore the creek bank. Director Eck responded that the parties involved in the restoration agreement were Mr. Spector, the Kellys and Dan Barry, a Lake Creek resident who was on the HOA Board at the time. Following further discussion, Director Horan-Kates stated that he needed to better understand the issue, and Director McGonagle stated that she had a file on the subject to review.

The question of extra water usage with the installation of water features came up during the tour and Jana Miller stated that the augmentation ponds aren't something that the State is investigating at this time. Mr. Zancanella stated that they still need to update the accounting to the new State forms. He also stated that all points of diversion are currently metered, which the State officials liked to see. The District releases an estimated amount of water to cover Tabb's water feature, which satisfies that diversion. Jana Miller of the District Engineer's office stated that the Green Mountain Reservoir water right is a protected water right, which would be good for the District so it doesn't get shorted. Under the District's Decree which

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provides for multiple points of diversion, Mr. Zancanella stated that the one concern is the Tabb's water feature and the fact that, according to Mr. Zancanella, Mr. Tabb will not allow it to be metered. The Board decided to discuss this issue in more detail with legal counsel. Tab has filed for multiple water rights. Mr. Zancanella stated he will put together a map of the water rights within the District that are not owned by the District. Director Eck said she believes it would be appropriate for the Board to revisit the issue of private water rights within the District, an issue that has been discussed on prior occasions by the Board.

Water Operations Report/Capital Projects

Mr. Zancanella reviewed the water production report. The Board discussed the unaccounted for water usage. Director Hinmon stated that the unaccounted water may be the result of faulty meters and they may need to be replaced to fully account for the water usage. Mr. Zancanella stated that a request for a loan to pay for new meters has been made to the State. Under the terms of the loan, if granted, fifty percent (50%) of the loan amount would be forgiven. Mr. Zancanella brought up placing another hydrant at the top of Eagle Crest, which he believes is the best location, as it would be on top of the vault which is currently in place near the McGonagle's property. Director McGonagle stated that insurance companies are starting to drop insured properties due to fire risk in the area. Following discussion, the Board agreed to continue the placement of fire hydrants in those areas which are not adequately served by existing hydrants, including the location by Director McGonagle's property. Mr. Zancanella then stated he would need to price a different type of hydrant than those currently in place in the District as those are no longer available or have a long lead time for delivery.

Financial Statements

Mr. Marchetti presented the financial statements included in the packet.

2023 Budget

Mr. Marchetti reminded the Board that this is not a reassessment year, so property taxes will stay about the same for 2023's budget. He reviewed the budget for 2023 and mentioned that several of the capital projects will be moved forward from 2022 and 2023. Mr. Zancanella stated some of the larger projects may move into 2024 due to permitting issues and landowner permissions. The Board needs to decide the type of generator and specific location to be installed at the top of Eagle Crest. The generator is needed to keep pressure in the system in the event of a fire. Mr. Zancanella described the different types of generators and the best placement. Director Eck reminded that Board that an additional hydrant should be installed near the top of Jackman Place. Mr. Zancanella said he would follow up with homeowners to see if he can get an easement. A new hydrant is required to be installed for the District to be in compliance with the 500' rule.

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Creamery Lateral Discussion

Director Eck stated the Spector's caretaker, Tony Lamb, asked who is responsible for cleaning out the Creamery Lateral headgate which needs to be cleaned out daily. Mr. Zancanella stated that they discussed in the past taking the screen off that is causing the issue, as it was put on to protect the pump on the Woodard property. Another option would be to divert water so that there doesn't need to be the same level of maintenance. He stated that the area may need more maintenance. Following discussion and after hearing Mr. Zancanella's opinion that the screen is really not necessary, the Board decided to have the screen removed to see if that solves the issues. The Board requested the affected homeowners in that area be notified that the screen will be removed.

Accounts Payable

The Board reviewed the Accounts Payable list. Following discussion and, upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Accounts Payable List as presented.

Legal

No legal issues were discussed at the meeting.

Future Meetings

The Board confirmed the next meeting for October 11, 2022 at 4:00 pm

Adjournment

There being no further business to come before the Board, upon motion duly made and seconded it was unanimously

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 11th day of August, 2022.

Respectfully submitted,

Kendra Nicholson
Secretary for the Meeting

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Minutes of the Regular Meeting of the Board of Directors of Lake Creek Metropolitan District October 11, 2022

A meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on October 11, 2022 at 4:00 p.m., at the offices of Marchetti & Weaver and via electronic Zoom meeting, <https://us02web.zoom.us/j/82929454620>, phone only US 1 253 215 8782 Meeting ID: 829 2945 4620, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Hatsie Hinmon
- Anne McGonagle
- John Horan-Kates
- Kathleen Eck
- Ann Bourke

Also in attendance:

- Tony Zancanella, Zancanella & Associates (Zoom)
- Vance Holzmann, Zancanella & Associates (Zoom)
- Chris Geiger, Balcomb & Green, P.C. (Zoom)
- Blake Peterson, Balcomb & Green, P.C. (Zoom)
- Ken Marchetti, Marchetti & Weaver, LLC (Zoom)
- Kendra Nicholson, Marchetti & Weaver, LLC, secretary for the meeting

**Call To
Order**

The meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order at 4:04 p.m. by Director Eck noting a quorum was present. There were no conflicts of interest disclosed.

Agenda

There were no changes to the meeting agenda.

**Public
Comment**

There was no public comment.

Minutes

The Board reviewed the Minutes from the August 11 meeting which were included in the Board packet. Director Bourke asked about the statement in the minutes that the Kelly's diversion channel did not run after August. Director Bourke presented recent photos which showed water running through the diversion channel in recent days. Mr. Marchetti stated the minutes reflect what was stated by Ms. Kelly but a clause can be added noting that Ms. Kelly's statement was inaccurate. Director Eck requested the full list of attendees of the tour and when Ms. Kelly's statement was made be included in the minutes. Upon motion duly made and seconded, it was

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Lake Creek Metropolitan District October 11, 2022 Meeting Minutes

RESOLVED to approve the August 11, 2022 Minutes with suggested edits.

Water Legal

Chris Geiger reviewed the Memorandum on page 34 of the Board packet. He said there is a filing from June for operation of exchange-replacement releases from Wolford Mountain Reservoir and Eagle Park Reservoir under the District's supply contracts with the Colorado River Water Conservation District. There has been a filing submitted stating that the water being released under the exchange-replacement agreement is being used by the District.

Mr. Geiger then reviewed the Eck / Benbow statement of opposition. This is an ongoing case.

Mr. Geiger then reviewed the Pilgrim Downs Water Court case and the proposed settlement they have offered. Pilgrim Downs is looking to consolidate water rights into one pond. The evaporation consumptive use of the Pilgrim Downs ponds were not being calculated with current standards so under this application Pilgrim Downs will have to reduce the irrigation use from the ponds to bring the evaporation consumptive use up to current standards. Pilgrim Downs also agreed to abandon the irrigation uses of the six consolidated ponds and they agreed to upgrade its measurement and diversion devices and improve its accounting. And Pilgrim Downs has agreed that the operation of its ditches to fill the ponds does not provide it with flow-through water rights to operate its delivery ditches as artificial stream channels. Each of these conditions benefits the District and to litigate for more benefits would be costly and the outcome uncertain. As a result, Balcomb & Green recommend that the District stipulate to Pilgrim Downs' August 26, 2022 settlement proposal.

Director Bourke asked Mr. Geiger to explain consumptive use credits. Mr. Geiger explained how the evaporative effects of the ponds are computed, which is based on a formula that takes into account the surface area of the pond and the elevation of the pond. When there is irrigation that is no longer being used, it can be converted to consumptive use credits. Director Eck asked if the District is going to be asked to be part of the case, Mr. Geiger stated it may happen at some point but is not expected. Director Eck asked if Mr. Geiger is confident that the District has enough water to cover any water call that could happen. Mr. Zancanella said he believes the District does have enough water, but that some of the un-adjudicated ponds in the District (ones without their own water rights) may not be covered, but those aren't part of the District's system. When a call happens, those ponds won't be required to be drained but they will not be able to be added to while the call is on.

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Following discussion, by motion duly made and seconded, it was resolved with four directors voting aye and director Hinmon abstaining

RESOLVED to authorize Balcomb & Green to proceed with the Pilgrim Downs stipulation as presented.

Mr. Geiger reviewed the District's legal ability to limit future water adjudications, as requested by the Board, and explained the District's limitations therein. After researching other Districts, Balcomb & Green offered potential rules and regulations the District could adopt to further limit water uses within the District's boundaries beyond what the current rules and regulations allow. The Board took the matter under consideration and will come back with questions and ideas at the next Board meeting.

Water Operations Report/Capital Projects

Mr. Zancanella provided an update of the Brook Place PRV replacement, noting it is more complicated and costly than originally anticipated, with much of the cost overage resulting from the necessity of digging a significantly deeper hole. He has revised the amount on the budget to adjust for the generator up at Eagle Crest. Mr. Zancanella explained PFAS Testing – called forever chemicals, basically Teflon. It was in fire suppression foam years ago. It isn't a State required test at this point. The Board decided to do more research about the test and the chemicals themselves before making a decision. Mr. Zancanella stated that ground water systems, like the Lake Creek District, don't have as much required testing as a surface water system. Director Eck asked for more information on the wells and metering on Tabb's property. Mr. Zancanella stated he is not aware of any well on Tabb's property but that Tabb has his own separate water rights and is using those water rights rather than the District's so he is not reporting his metering to the District.

Financial Statements

Mr. Marchetti presented the September financial statements included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the September financial statements as presented.

2023 Budget

The meeting was published as the public hearing for the 2023 budget and the meeting was opened for public comment on the budget. Mr. Marchetti explained Colorado's residential assessment rate has been reduced from 7.15% to 6.95% and since it is not a reassessment year the District's overall assessed value has decreased by 3%. The mill levy rate will stay the same and the levied property taxes will go down by 3%. The discussion then

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Lake Creek Metropolitan District October 11, 2022 Meeting Minutes

turned to a potential water user rate and tap fee increase. It was decided that more research will be needed to come to a decision but that the Board could proceed with approval of the budget.

Following budget review the public hearing was closed and upon motion duly made and seconded, it was unanimously

RESOLVED to adopt the budget as proposed, to certify the mill levy rate at 10.458 mills and to appropriate the budgeted funds for expenditure in 2023 as presented in the formal budget resolution incorporated herein by this reference.

Accounts Payable

The Board reviewed the September Accounts Payable list. Following discussion and, upon motion duly made and seconded, it was unanimously

RESOLVED to approve the September Accounts Payable List as presented.

Eagle County Hazard Mitigation

Mr. Marchetti stated that the District is on the list to be included in Eagle County's Hazard Mitigation program. This program will require the District to identify potential hazards and if the process become too burdensome it can withdraw. This program can be helpful with procuring Federal grants to be used for recovery from a hazard if it ever becomes necessary.

FAMLI Coverage

Mr. Marchetti explained Colorado's new Family and Emergency Medical Leave program and that the District has the opportunity to opt out of the program. Since the District doesn't have employees other than the Board members, the program is not necessary for the District.

Following discussion and upon motion duly made and seconded it was unanimously

RESOLVED to opt out of the FAMLI coverage.

Future Meetings

The Board confirmed the next meeting for November 10, 2022 at 4:00 pm

Adjournment

There being no further business to come before the Board, upon motion duly made and seconded it was unanimously

RECORD OF PROCEEDINGS

Lake Creek Metropolitan District October 11, 2022 Meeting Minutes

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 11th day of October, 2022.

Respectfully submitted,



Kendra Nicholson
Secretary for the Meeting

RECORD OF PROCEEDINGS

Minutes of the Regular Meeting of the Board of Directors of Lake Creek Metropolitan District November 16, 2022

A meeting of the Board of Directors of the Lake Creek Metropolitan District, Eagle County, Colorado, was held on November 16, 2022 at 3:00 p.m., at the offices of Marchetti & Weaver and via electronic Zoom meeting, <https://us02web.zoom.us/j/82929454620>, phone only US 1 253 215 8782 Meeting ID: 829 2945 4620, in accordance with the applicable statutes of the State of Colorado.

Attendance The following Directors were present and acting:

- Hatsie Hinmon
- Anne McGonagle (Zoom)
- John Horan-Kates
- Kathleen Eck
- Ann Bourke

Also in attendance:

- Tony Zancanella, Zancanella & Associates (Zoom)
- Blake Peterson, Balcomb & Green, P.C. (Zoom)
- Ken Marchetti, Marchetti & Weaver, LLC
- Kendra Nicholson, Marchetti & Weaver, LLC, secretary for the meeting

**Call To
Order**

The meeting of the Board of Directors of the Lake Creek Metropolitan District was called to order at 3:06 p.m. by Director Eck noting a quorum was present. There were no conflicts of interest disclosed.

Agenda

There were no changes to the meeting agenda.

**Public
Comment**

There was no public comment.

Minutes

The Board reviewed the Minutes from the October 11th board meeting and upon motion duly made and seconded, it was unanimously

RESOLVED to approve the October 11, 2022 Minutes

Water Cases

Blake Peterson stated they're getting close in the Eck/Benbow final proposed settlement which will offer protection to the District. They are looking for a Resolution from the LCMD Board to authorize Balcomb & Green to move forward in reaching a final proposed settlement with the opposers and other parties.

There was a motion to allow Balcomb and Green to proceed with the settlement. Upon motion duly made and seconded, it was unanimously

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Lake Creek Metropolitan District November 16, 2022 Meeting Minutes

RESOLVED to approve the resolution to allow Balcomb & Green to proceed with a settlement in the Eck/Benbow case

Mr. Peterson stated that the District is now in the 21-day protest period for its ruling granting a finding of diligence for its conditional exchange water rights, which means the water referee's ruling is temporarily subject to protest. Mr. Peterson stated they don't expect any protests and do expect the water court to approve the ruling because there were no statements of opposition filed and the Division Engineer recommended the application be approved. He also said there are no other updates on the Pilgrim Downs case. It is anticipated that the water referee may enter a ruling soon.

Director Eck asked what is the definition of a water feature? Mr. Peterson stated there is no clear-cut definition of a water feature. They can be understood to be a collection of different water structures, i.e., pools, hot tubs, artificial streams, etc. Director Eck then asked whether a small fountain would be considered the same as a large irrigation ditch? Also, does it make a difference the source of the water? Mr. Peterson stated that yes, potable vs. non-potable water sources are different and a water feature is not the same as an irrigation ditch. Potable water is worth more and it may make sense to differentiate between domestic (potable) and non-potable water. He said the Board may want to distinguish between a water feature using domestic water vs. non-potable water. Director Eck asked can the District restrict the use of water features or is it more on the HOA? Mr. Peterson answered that District jurisdiction includes all water coming from the District water system. Director Bourke stated some Districts do restrict the use of domestic (potable) water but not of the non-potable water. She also stated she believed if the District tries to restrict the use of domestic (potable) water for outdoor watering, it won't work since not all properties have access to non-potable water. There was a Board discussion about the implementation of an outdoor watering schedule designating odd vs. even numbers on alternating days. Director Hinmon stated that another option would be to limit the amount of water allowed to be used but doesn't see that being a viable option for the District. Mr. Peterson suggested the District maybe measure the demand vs. the current water supply and implement a schedule only when restrictions are needed. Mr. Zancanella stated that the District needs to look closely at any restrictions on raw water diversions since there are junior water rights users within the District. Director Eck asked if pasture vs. lawn watering was taken into consideration? Mr. Peterson stated it had not been part of the consideration in the suggested regulation changes. Mr. Peterson also stated that water courts have historically gravitated towards awarding .5 CFS to irrigate 25 acres, or 0.1 CFS for 5-acre parcels. Mr. Zancanella stated District residents can irrigate as they need under any junior water rights. The features consuming water through evaporation like ponds or water walls etc. that

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Lake Creek Metropolitan District November 16, 2022 Meeting Minutes

have the high evaporation factors are more the concern at this point. He also stated that District water conservation is a good idea to allow the District to be able to get grants going forward. There is a suggestion that the Board grandfather in existing water features in the Balcomb & Green water rules and regulation proposal. Director Bourke asked how the Board will handle and enforce these changes? Director Eck stated residents must submit plans before building and pay tap fees to the District before construction begins. Mr. Marchetti asked about the timing of changing the rules and regs, can it wait to early 2023? Mr. Peterson stated it's up to the District to dictate the timeline and they can work with any timing the Board would like to set. Director McGonagle stated she'd like to have language in the regulations covering any water features sooner than later. Mr. Zancanella asked about grandfathering in any current water features. The Board agreed that is OK to do. Director Eck asked what is modification? Mr. Peterson stated modification or substantial improvement is a change to any water source i.e., making a pool larger. Enforcement of the rules will be up to the District. The changes in the rules will help put the responsibility on to the homeowners to report to the District any changes to be made. Mr. Peterson mentioned the District could choose to restrict only in times when there is demand that can't be met by the existing District water supply. There was a Board discussion about the current rules and regulations, how they were created when they were adopted. It was decided that the rules were copied from other water districts and in some cases may not make sense to the Lake Creek Metro District. Director McGonagle said it may make more sense to restrict in times of water shortages, like stated in proposed 4.6.2.3 in the Balcomb & Green proposed regulations.

Mr. Peterson stated that the new rules and regs cannot be adopted until a public hearing is held. It is also important to have the exact verbiage in the proposed regulations at the time of adoption. The date of grandfathered water features will also need to be moved forward. Section 4.6.2.3 needs to move into 4.6.1 as well. Mr. Zancanella stated the District could get more Eagle Park water rights to cover any new water features. There was a discussion about taking payment for water rights from residents who would like to add water features. It was decided that defeats the goal of water conservation. The Board asked legal counsel who has drafted the water rules and regulations in the past. Mr. Peterson stated that it has been done in part but not entirely by legal counsel. Director Eck said that the work has been started by and is understood more by legal counsel and the Board agreed that it makes sense for Balcomb & Green to draft the revisions.

2023 Water Rates

2023 Water Rates – Mr. Marchetti reviewed the July water usage presented with the Board members. Director Bourke stated that she would like to increase the fees based on the fact that it will help to keep the budget balanced and help keep the District in a good financial position. Mr.

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Lake Creek Metropolitan District November 16, 2022 Meeting Minutes

Marchetti stated that inflation has increased by 8% and the utilities are also tending to move in that direction. Director Eck mentioned that there are quite a few capital projects planned for replacements and upgrades. She also stated that the District has a responsibility to make sure there's sufficient funds collected to cover the projects required on the aging system in place. Mr. Marchetti suggested changing the tier structure to raise more in the 3 and 4 tiers and less on the lower tier 2. He also suggested changing the tier structure around. Director Eck asked if there will be enough funding if the raise in rates are not done. Mr. Marchetti stated that the District is in good shape financially with the current reserves and he believes the rate increases will bring in enough funding.

After Board Discussion there was a motion to accept the water rate increase proposal and upon motion duly made and seconded, it was unanimously

RESOLVED to approve the Water Rate Increase Resolution as proposed

Water Operations Report/Capital Projects

Mr. Zancanella stated he's looking for Board approval of the Ewing Trucking invoice for the PRV replacement project which totaled \$155,275.00 which was a higher amount than the original proposal. They ended up having to dig much deeper than anticipated and there was a change order from the original proposal.

Mr. Zancanella then advised the Board that they hit the wrong line doing a water tap for a fire suppression system for 2288 E. Lake Creek Rd. (Cozzens), the line that was severed was located at 2300 Lake Creek Rd. Mr. Marchetti suggested that the District accept responsible for the incorrect locate. The Board will address the issue at the next scheduled meeting.

Financial Statements

Mr. Marchetti presented the October 31, 2022 financial statements included in the packet. Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the October 31, 2022 financial statements as presented.

Accounts Payable

The Board reviewed the November Accounts Payable list. There was a discussion about adding the Ewing Trucking PRV replacement invoice. Following discussion and, upon motion duly made and seconded, it was unanimously

RECORD OF PROCEEDINGS

Lake Creek Metropolitan District November 16, 2022 Meeting Minutes

RESOLVED to approve the November Accounts Payable List with the addition of the Ewing Trucking PRV replacement invoice

**2023 Meeting
Calendar**

Upon motion duly made and seconded, it was unanimously

RESOLVED to accept the 2023 Board Meeting Calendar as presented.

Adjournment

There being no further business to come before the Board, upon motion duly made and seconded it was unanimously

RESOLVED to adjourn the meeting of the Lake Creek Metropolitan District Board of Directors this 16th day of November, 2022.

Respectfully submitted,



Kendra Nicholson
Secretary for the Meeting