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# RECORD OF PROCEEDINGS

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## 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