

Reminder:

- The gates must always be closed after each use per the Court Order.
- All pets must be on leash and under control.
- Members will be fined for violations. See www.beaverlakes.org/documents/ for more information.



Special Water Rights Meeting

July 13, 2019 – 8:00 A.M.

Board Members Present:

Rich Boon, Bob Dixon, Eric Flora, Karen Runowski, Floyd Strader, Adam Wiens

Board Members Absent:

Ken Berendt, Andy Olear

Lot Owners Present:

Aaron Oglesby, Jennifer Severski, Sherry Kuekes, Mark Ward, Jonathon Bratz, Demetria Ray, Ursula Gilgulin, John Henry, Karen Lewis, Ryan & Miranda McNamee, Tim & Anita Mihaylov, Jeff & Kim Pierron, Lila Land, Jim Perkins, Ed & Georgie Gardiner, Dena Strader, Bradley & Marsha Allen, Steve Petersen, Ken & Beth Donoher, Ed & Mary Kuiper, Kristine Prickett Vadala, Susan Wood, John Boak, Rob Bodine, Laree Morgan, W. DuBrosky, Brian Runowski, Mark Larsen, Marty Stevenson, Carlos & Donna Aponte, Mitzi Yant, Glenn & Leona Brenchley, Jean & Dan Wilkie, Warren Flint, Dan Batwinas, Tim Ratterman, Margret Sjoden & Jeff Anderson, Gayle Flora.

Caretaker:

Mark Larsen

Agenda

1. Open meeting Bob, President
 - a. All members please sign in
 - b. Board members present
 - c. Counting ballots and proxies
2. Proposal to Procure Water Rights Karen
3. Adjourn Bob

Minutes

1. Open meeting: Bob Dixon, President, opened the meeting at 8:10 am. Bob, President
 - a. Board members present: Rich Boon, Bob Dixon, Eric Flora, Karen Runowski, Floyd Strader, and Adam Wiens.
 - b. Board members absent: Andy Olear, Ken Berendt.
 - c. Two BLE members who are not Board members volunteered to count ballots and proxies for this special water rights meeting and the membership meeting that followed.
2. Proposal to Procure Water Rights Karen
 - a. Bob explained the process of voting and proxies, e.g. a person who sent a proxy cannot vote again in person and if multiple BLE members are present representing the same property, only one can vote.

- b. Karen expanded on the information provided in the mailing to all members regarding potential purchase of permanent water rights.

We currently lease water rights for the lakes. The lease started in 2000 and expires in 2030. There isn't an automatic renewal clause so BLE would have to negotiate a new lease to continue leasing after 2030. Originally, we paid \$132/acre-ft and currently pay \$255/acre-ft due to an exculpation clause in the lease that allows the lessor an annual increase. If they continue to increase the charges per the lease it will be about \$385/acre-ft by the end. We have no way to know what the cost would be for a new lease.

Several months ago Karen initiated Investigations of the potential to purchase senior water rights potentially in lieu of continuing to lease. She found a Home Owner Association (HOA) in Buena Vista that has surplus permanent water rights and is willing to sell some of their senior water rights. These water rights are labeled Bale Ditch water rights. It was noted we were told there are other organizations attempting to purchase these rights and will be competing with BLE. Karen noted that the rights haven't been changed from agricultural to augmentation so this will need to be part a purchase and transfer process. There appears they have about 82 acre-feet available to sell. All purchases of water rights go to water court and there are potential objections by people downstream which may cause the water court to reduce the amount available for purchase. BLE needs about 45-50 acre-ft, so we will likely get more than needed which we could use, lease, or sell.

Karen also contacted the Colorado Water Conservation Board who loans money to organizations such as BLE at low interest rates for the purchase of water rights. We expect the cost of the mortgage to be about \$35,000/year for the 30-year life of the loan (not including legal or engineering fees). Currently we're paying about \$13,000/year for the lease which will continue to increase and must be paid as long as BLE keeps the lakes if we do not purchase permanent water rights.

We need approval from the membership to expend money for legal fees as well as commit to a mortgage for the permanent water rights. The purpose of this meeting is to obtain those approvals. Once approved, the next step will be for our water attorney to put together an offer and get it accepted. If it's accepted, the continuing legal fees could be funded with a special assessment, BLE capital accounts, BLE operating budget, or a loan from Mutual of Omaha. Karen noted if at any point an issue arises that makes it impractical or not cost effective to continue, we will terminate the process.

A member asked if our offer would be per acre-ft or total regardless of amount approved by the water court? Karen indicated she would prefer the offer per acre-ft, but it will need to be negotiated.

A member asked about the renegotiation of lease and could it increase the cost? Karen indicated it would likely increase significantly.

A member noted that several years ago the lakes were dry and purchasing water rights is extremely valuable.

A member asked if there are other options to purchase water rights. Karen indicated she had contacted several other entities, including Lake County, but hasn't found any other water rights that are for sale. If

we don't get this, we will probably have to continue our current lease and renegotiate it as we near 2030.

A member asked if changing the rights from agricultural to recreational will change the seniority of the water rights? Karen doesn't believe it will but she needs to ask the attorney once we get them on contract. A member noted that our current lease is junior to all other water rights.

A member noted this proposal is exchanging a lease that is increasing in cost for an asset which will increase in value. Also the cost will go away in 30 years when the mortgage is paid off.

A member asked for clarification of some financial areas. Bob noted we could raise the dues to pay attorney fees or a special assessment which would require membership approval. Bob also noted we have some capital accounts that could be used if this is determined to be higher priority than other capital needs.

A member summarized discussions held on permanent water rights 10+ years ago and the figures given at this meeting are low cost compared to what they were told at that time. Additionally, they were unable to find any permanent water rights for sale at that time.

Bob read a letter from Jeffery Clemens sent with his ballot:

"Please read aloud at meeting: 11 June 2019

I apologize for not being present as I can't miss work to make the meeting. First of all, I would like to have meetings changed to Saturday or Sunday evenings, not Saturday morning. The current meeting time discriminates against those of us who work or live out of town primarily, and over represents full time local residents. This will be very important for the current vote.

This proposal is poorly written. Is there a single proposal or two? How are votes counted? From the letter it appears that a 20% quorum of the 180 members is sufficient for a vote, and that a 50% vote will pass the measures (?). This means that 18 members can decide to spend what I estimate will be \$2 million dollars, that's 2 million dollars of other people's money! BLE has just increased it's (sic) dues by over 50%, for unclear reasons other than "dam maintenance", and this is the worst possible time to ask for more funds. It is unclear just what is being asked for, a couple hundred thousand here, up to a \$700,000 loan that will take decades to pay back. By our budget we are paying about \$7500 per year for water rights, but that will increase to \$7500 PER MONTH depending on purchase price and financing arrangements. Each of us will owe another \$500 PER YEAR. I do not understand why this needs to be addressed now, from the letter our water rights are guaranteed through 2030. Who is this "Bale Ditch Company"? How do they have the water rights to sell, who owns this company and who stands to benefit financially? Hopefully not one of our voting members. The transaction is not going to go through unless it is with Bale Ditch Company per the letter, which is very suspicious. Beaver Lake Estates and it's HOA and directors do not want numerous lawsuits and a legal (criminal) investigation for possible embezzlement.

The only use of the water rights as I understand the law is to store water for a beneficial purpose. This means the beaver lakes, the darn, and the fishing. Since I use none of these amenities I should not be charged for maintenance. Leave that to the members who want the beaver lakes and use them for some recreation. I suggest the water rights be abandoned, the lakes allowed to dry up, and the darn be demolished. Over \$50,000 yearly to maintain a dam, to keep a lake can't even use a toy boat on and keep the lakes stocked with fish is a poor use of my dollars.

I move that this vote be tabled indefinitely, until actual cost figures are available. I also move that those who use the amenities be the ones paying for the amenities. I move that a cost comparison be made available concerning buying the rights vs continuing the current situation, and that an explanation be make (sic) for the exclusive offer to "Bale Ditch Company", at what is no doubt top dollar.

I request the names, addresses, phone numbers and Email addresses of all board members for the last ten years be made available to all, as well as full copies of ALL HOA bylaws and regulations. I also request a full outside audit of the organization. This letter will be filed as a legal document.

[signed]

Jeffrey A Clemens, BLE resident"

There were motions proposed in the letter but when requested at this meeting nobody seconded them so the motions failed. Bob noted several items in the letter are incorrect and had been explained in this meeting as described above in these minutes, e.g. Bale Ditch has the only permanent water rights available that we are aware of, the Board knows of no BLE members that have an interest in "Bale Ditch Company", and the cost for the dam this year is not an annual expense rather it was one-time this year.

Bob noted there are 74 members present at this meeting either in person or by proxy. We need 60 for a quorum so there was a quorum. We need 41 votes at this meeting to approve continuing pursuit of water rights. Proxies held:

- Floyd 3,
- Bob 15,
- Adam 2,
- Eric 2,
- Karen 6,
- Rich 1,
- Ken and Andy had 7 (4 yes, 3 no) but they were not present so the proxies could not be used.

Bob requested a vote to approve the BLE Board to proceed with engaging legal counsel for purposes of obtaining senior water rights. The vote from was proxies 23 yes, 7 no, 1 abstention; from those present 35 yes, 2 no, 2 abstention. The motion carried by vote of 58 yes, 9 no, and 3 abstentions.

Bob requested a vote to approve proceeding with permanent water rights acquisition. The motion carried with 57 yes, 7 no, and 4 abstentions.

A member asked if we have a guarantee they will accept our offer prior to incurring attorney fees. Karen noted we will need to pay our attorney to generate an offer but that cost will be relatively small. Once that's accepted, we will proceed with the purchase and taking it to water court which will be the bulk of the legal expenses. Bob stated there are no guarantees this plan will move to completion and could potentially fall apart at any point, but the Board will do everything possible to keep expenses to a minimum at each stage.

3. Adjourn: The meeting was adjourned at 9:18 am.

Bob

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Future Meeting Dates for 2019:

- September 7 – Board Meeting 8:00 am
- November 23 – FY 2019-2020 Budget Meeting 9:00 am