

Reminders:

- *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.*



Board Meeting (Virtual)

November 21, 2020 –9:00 A.M.

Agenda

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|--|-----------------|
| 1. Open meeting | Adam, President |
| a. Identify members signed into virtual meeting | |
| b. Board members present | |
| c. Excused absences | |
| 2. Approval of Minutes Posted on BLE Website for May 16, 2020 | Board |
| 3. Fire Mitigation Encouragement & Thanks Tim Ratterman for Chipping Day | Board |
| 4. Treasurer Report | Ken, Treasurer |
| 5. Caretaker's Report | Mark, Caretaker |
| a. Progress Report | |
| b. Equipment Status | |
| 6. Architectural Controls Committee (ACC) Report | Marty |
| a. ACC Guidelines –submission requirements per Lake County Planning | |
| 7. COVID Update and Procedures at BLE | Board |
| 8. Ratification of Collections Foreclosure | Adam |
| 9. Budget Meeting | Board |
| 10. Cabins (operating season) | Board |
| 11. Lot 91 Real Estate Listing | Ken |
| 12. Fishing Committee Update | Tim Ratterman |
| 13. Water Rights Update | Karen/Adam |
| a. Special Assessment Status | Ken |
| 14. Morgan STR Case Update | Adam |
| a. STR next steps | |
| 15. Board Meeting Dates for 2021 | |
| 16. Other Business as Needed | Board |
| 17. Adjourn | Adam |
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Minutes

1. Open meeting Adam, President

This meeting was held virtually due to restrictions on the number of in-person attendees allowed.

- Identify members based on sign-in identification:
Lisa McKenna, Lila Land, Sabrina Gurule, Leona & Glenn Brenchley, Christopher Kearns, Alaina Gingras, Tim Ratterman, Curtis Over, Nancy Berendt, Bob Dixon, Jim Perkins, John Boak, Linda Keller, Jean Wilke, Ed Kuiper, Marty Stevenson, Brian Runowski, Scott Magill, Khristine Prickett, Ken Donoher, Rich Boon, Chris Ruskin, Jennifer Severski, Charles Swarts, Larree Morgan, Martin Whalen
- Caretaker present: Mark Larsen
- Board members present:
John Barber, Ken Berendt, Eric Flora, Ute Herzfold, Kim Pierron, Karen Runowski, Adam Wiens
- Excused absences
All Board members present

2. Approval of Minutes Posted on BLE Website for May 16, 2020 Board

Eric moved to approve the minutes as posted, Adam seconded. Motion was approved unanimously.

3. Fire Mitigation Encouragement & Thanks Tim Ratterman for Chipping Day Board

Tim Ratterman reported a very successful fire mitigation and chipping day was held with a lot of dead wood chipped and/or removed. Ed Kuiper relayed a recent fire in Colorado Springs was quickly extinguished with no homes burned which the fire department attributed to successful fire mitigation over the past several years. All members are encouraged to continue fire mitigation actions for the safety of all members.

It was noted that tree removal for any reason, including fire mitigation, requires prior ACC approval.

4. Treasurer Report Ken, Treasurer

Ken summarized the status of the financial situation, highlighting items over and under budget. Members can review posted financial reports for details. Jim Perkins asked if capital improvements planned but not performed would automatically roll to the next year. It was indicated that is likely, but each year's budget is established based on the current priorities.

5. Caretaker's Report Mark, Caretaker

- Progress Report
Water lines in buildings have been blown out and antifreeze put in the traps. The lower lake is refilling.
- Equipment Status
The loader has been repaired and is working well; we have not received the bill but it is expected to be large. Other equipment is being continuously maintained and repaired. The snowplow developed several significant cracks which Mark has welded to delay purchase of a new plow for a few years.

6. Architectural Controls Committee (ACC) Report Marty

- In lieu of reading the list, the following was provided by the ACC after the meeting:

2020 BLE Architectural Control Committee Applicants

Name	Location	Description	Action/Date
Mark/Christine Richter	2:29	New construction – house & garage	Approved 1/24/20
Stein Bronsky	2:18A	Amended, rustic metal siding (garage)	Approved 1/28/20
Sean/Jenny Convery	2:74	Amended, new construction – house	Approved 3/20/20
Ed Batterson	1:6:10	New construction - garage	Approved 3/13/20
Patrick Frank	1:9:17	Gutters, dog run, clearing, fire pit	Approved 3/30/20
James/Susan Reinhart	1:8:3&4	Shed	Approved 4/20/20
Jeff Leach	1:6:20	Sagebrush clearing/ site prep	Approved 5/8/20
Don/Margaret Bobb	1:5:5&6	New roof, siding & deck	Approved 5/21/20
Bob Dixon	2:20	Outdoor storage shelter	Approved 6/1/20
Ed Kuiper	2:50	Firewood shed	Approved 6/2/20
Lacy Dunham	1:2:12	Repaint house	Approved 6/4/20
Ben/Jenna Bartosz	1:2:3&4	Landscaping – dirt berm for privacy	Approved 6/16/20
Greg/Debbie Trewitt	2:3	New construction – garage	Approved 6/18/20
Marty Stevenson	1:7:6,7,8	Pine fencing	Approved 6/19/20
Jamie Becker	2:92	Restaining, hot tub, pergola	Approved 6/28/20
Brian/Karen Runowski	1:2:7,8,9	Replace roof (shingle to metal)	Approved 7/1/20
Steve/Anna Petersen	1:7:1	Tree removal / site prep (garage)	Approved 7/1/20
Ken Berendt	2:26	Deck cover	Approved 7/5/20
Steve/Anna Petersen	1:7:1	New construction – garage	Approved 7/10/20
Bob/Virginia Dixon	2:20	Rusted metal wainscot	Approved 7/13/20
Stewart/Connie Clark	1:9:12&13	New construction – house & shed	Approved 7/23/20
Richardson/Siebenaller	1:3:3&4	New roof (shingle to shingle)	Approved 7/23/20
Dena Strader	2:78	Shed	Approved 7/14/20
Ute Herzfeld/Helmut M	2:35	Outbuilding	Denied 8/25/20
Mike Hacskaylo	2:48	Replace deck	Approved 8/31/20
Jack/Tracy Walker	2:10	Roof repair	Approved 9/15/20
Liam OCallaghan/Gwen Rudy	2:65	Replace roof shingles	Approved 9/24/20
Vince/Sabrina Gurule	2:94 &95	Driveway build	Approved 10/14/20

- ACC Guidelines Update

Ken presented a proposed modification to the ACC guidelines to include a requirement for documentation in same form required by the Lake County Building Department. Adam moved to approve the change; Karen seconded. Motion passed unanimously. The revised guidelines will be posted on the BLE web site.

7. COVID Update and Procedures at BLE

Board

Ken indicated the lodge and cabins will remain closed due to COVID and Winter. This will be re-evaluated in the Spring. Ken also encouraged everyone to wear a mask if unable to socially distance from others. Ute relayed she has encountered people that say they are not worried and not wearing masks. Please be considerate of others and wear a mask.

8. Ratification of Collections Foreclosure

Adam

The Board proposed foreclosing on a property with significant past due debts owed to BLE. Adam moved to proceed with foreclosure, Kim seconded. Ute asked if the owners are behind due to COVID-related issues. Ken and Adam are aware of the details and feel certain it is not COVID-related with some debts pre-dating COVID. Motion passed with 6 ayes and Ute abstained.

9. Budget Meeting

Board

- Ken presented a budget worksheet showing past years' actual expenses and average of the past 3 years for reference. Ken noted the income from dues is lower because more members are purchasing adjacent lots and paying a single dues payment for both. This results in the number of members going down from 176 to 172.
- Ute asked about the dues increase last year, which some believed was intended to be temporary. Adam indicated the increase was for long-term capital improvements and was intended to build capital for capital projects over multiple years. The Board will continue to evaluate dues each year based on priorities and projects required. The dues may go down as projects are completed.
- Karen noted the actuals for the current year is only half the year since our fiscal year is from May 1, 2020 through April 30, 2021.
- Ute asked for clarification on the Caretaker salary and potential for a raise. Eric indicated salaries and raises should only be discussed in an executive session of the Board. Bob Dixon concurred it should be an executive session and the proposed budget of \$49K has additional money included that will allow for a Caretaker raise if they Board chooses.
- Chris Kearns asked about hiring a second caretaker. Adam indicated we use other labor but can't hire another caretaker due to cost.
- John requested increasing the Contract Labor from \$11K to \$15K to help with several projects that will require outside help.
- Karen explained the Water Expense needs to remain at \$60K this year due to the continued water lease and expenses from the budget and the Special Assessment fund. Water Rights Legal Fees were removed from the budget as these will now be paid from the Water Rights Special Assessment Fund.
- Tim Ratterman summarized items previously approved for lake and fishing expenses but not yet completed. These items were added to the upcoming budget plus funds to mitigate suckers in the upper lake (see Fishing Committee item below). Fish stocking was raised from \$3,000 to \$4,500 per year to reflect expected cost.
- The Board walked through each line item of the proposed budget with adjustments up/down based on expected costs while balancing the overall budget.
- The budget will be ratified at the Board meeting January 23, 2021. Karen noted it is a difficult process to balance the expenses needed, addressing as many member's desires as possible, and keeping dues as low as possible.
- Karen provided a summary the planned Water Rights accounting as that contract moves forward. Karen and Ken will work with the bookkeeper to delineate the expenses that come from the Special Assessment.
- The Board then reviewed the long-term capital expense spreadsheet showing future needs including long-term road maintenance, dam maintenance, cabin upgrades, equipment replacement, etc. Items planned for the upcoming year are included in the budget and removed from this sheet. The Board maintains this spreadsheet throughout the year as things get done or new items arise.
- Adam moved to accept the budget as modified and presented in this meeting, John seconded. Motion was approved unanimously. This budget will be posted on the BLE web site for review by members prior to the ratification meeting on January 23, 2021.

10. Cabins (operating season)

Board

Kim proposed to extend the operating season through October since we had several requests that we had to turn down. Bob Dixon and Adam indicated extending through October would cover hunting season which would get additional rentals/income. Mark noted preparing for the winter takes a significant amount of time during October and may present a conflict for him. Adam noted we are considering changes that would minimize Mark's time on roads and equipment during that time. Kim added there are also ways to have others do some of the cabin support that would reduce Mark's time. Adam requested the cabin committee develop a plan for overall cabin processing that allows the season to be extended.

11. Lot 91 Real Estate Listing

Ken

Ken indicated it has been listed and has an offer of \$43K that should close in December.

12. Fishing Committee Update

Tim Ratterman

Tim Ratterman provided an update to fishing. Greg Brunjak, a well-known and award-winning fish biologist, has provided BLE advice in the past and is an expert on fish habitat in the Upper Arkansas Valley. Greg worked with Dan Wilkie to net fish in both lakes to determine the presence of suckers. 80 were found in the upper lake. None were found in the lower lake. Suckers compete with trout for food and naturally reproduce in lakes with exponential growth rates, ruining our lakes as trout habitat. Greg recommended we develop a plan to remove the suckers from the upper lake before they take over that lake and prevent them from getting into the lower lake.

At Greg's recommendation Kendra Holmes from Aqua Sierra provided three options to get rid of the suckers:

1. Use short-acting poison to kill all fish in the upper lake, including the trout. This is the most aggressive option but is expensive, requires restocking the trout, and there's risk sucker eggs might survive.
2. Drain the upper lake for an entire winter, which has the same drawbacks as option 1
3. Electroshocking the upper lake in the June in shallow areas where the suckers tend to spawn. The shocked fish could be netted from the surface, suckers removed, and trout returned to the lake. Additionally, fyke nets, can be deployed to catch fish that are deeper. In addition to shocking/netting, predatory brown trout or tiger trout can be added to the lake to eat suckers. This option costs about \$5,000 per year for the first 2 years of electroshocking then continued consultation with Aqua Sierra an additional 1 to 3 years for an active five-year management plan targeted to exhibit diminishing suckers each year. The community would need to continue trapping suckers for the foreseeable future, but would not likely require active, electroshocking approaches after the first 2 years. This option reduces the cost and spreads it over multiple years but is slower.

There was general support for continuing to pursue the multi-year approach of option 3. Tim noted Aqua Sierra would do the shocking of fish using their equipment. They could teach us how to use fyke nets which can be purchased by BLE and used beyond our engagement with Aqua Sierra.

13. Water Rights Update

Karen/Adam

Karen reported that things are going very well with the Special Assessment. After over a year of negotiations, we are very pleased BLE is now under contract for Permanent Water Rights and in the initial due-diligence period looking at details of the water rights. This will be an outstanding long-term benefit to BLE and long-term cost savings once the purchase is complete. Karen continues to pursue the Colorado state water loan options, which would carry low interest rates, although the state indicates the probability is low due to state budget issues caused by COVID. Adam thanked Karen for tremendous efforts. Karen thanked Adam for the legal support and Ken for working the finances. Ken noted that most members have paid, with \$279K received so far and the Board approved 16 payment plans for members who were not able to pay all at once. Finally, Adam thanked the community of passing and paying the special assessment to allow this to proceed.

14. Morgan STR Case Update

Adam

Adam summarized several motions to the court requesting summary judgements by each party. BLE was awarded an initial judgement confirming BLE is a pre-CCIOA (Colorado Common Interest Ownership Act) organization. This judgement will continue to allow additional flexibility for BLE. A second round was awarded to Mr. Morgan which overturned the vote due to the initial voting notice not including a ballot due date. Mr. Morgan's suit also challenged 7 specific votes but there will not be a ruling on this since the overall vote was overturned. A settlement to the overall lawsuit has been verbally agreed and is pending signature by Mr. Morgan. Once it is completed, it will be posted on the BLE web site along with related documentation. The BLE attorney drafted a Notice of Invalidation of the covenant change which means BLE has reverted to the 2012 version. This notice has been signed and recorded with Lake County. The Board hoped to have everything posted prior to this meeting but are awaiting finalization of the settlement.

BLE needs to determine where to go from here. Since most of the members voted for an STR ban, even though it was overturned on a procedure issue, Adam suggested BLE consider holding another vote that follows required procedures.

Adam reported the Board received an email from Khristine Prickett and others (see below attachment to these minutes). The following responds to the requests/questions in the letter:

1. Request for accounting of the legal expenses and settlement cost to BLE. Adam indicated that BLE only paid the insurance deductible, which was \$2,500. There were also some small expenses to mail the voting materials. Most of the expense is covered by insurance.
2. Will our insurance rates go up or be cancelled? Rates generally go up but will not know until it is renewed. We have not received any indication of cancellation.
3. Posting of information. Adam indicated the rulings are posted by the courts and in public records.
4. Adam indicated the volunteer Board works hard and feels the letter attacked the Board. Curtis Over clarified they feel the vote was mis-administered which resulted in losing the lawsuit. Curtis believes there were attempts by the STR Committee prior to the vote to avoid problems but were not addressed. Ute noted the Board members attempt to support the majority of the community even if some members have differing opinions. Karen added we are all neighbors at BLE and the Board was facilitating the community to vote; it wasn't a Board-driven STR ban, it was requested by a majority and a majority of the community voted in favor of the ban.
5. Will there be other challenges by STR owners to receive lost revenue? Adam believes the time period is closed for additional suits, but he can't offer legal advice nor predict what others may do. Curtis Over is concerned if there is another vote, BLE may be liable for lost revenue if it is overturned again. Curtis asked if there was an opportunity to determine an alternative to the STR ban. Curtis and Khristine Prickett suggested a special meeting specifically to discuss impacts and alternatives for STRs.
6. STR next steps:

Adam requested community comments. Several members supported holding another vote. Khristine Prickett suggested a moderated meeting to address this specific issue rather than at the end of an already long meeting like this one. Adam suggested allowing time for people to discuss within the community verbally and via Nextdoor prior to a meeting. He suggested the earliest opportunity for another vote is Spring 2021. Curtis Over did not feel today's meeting adequately addressed potential financial exposure to the community. Adam indicated we are unable to identify all potential financial impacts since we cannot predict all possibilities. Nancy Berendt suggested the people opposed to another vote organize conversations regarding alternatives. Larree Morgan indicated he feels the Board did not fulfill fiduciary duties and felt they showed favoritism to the group favoring the STR ban.

Bob Dixon (BLE Board President at the time of the vote) disagreed, people on both sides were given time to talk and provide statements included with the vote to present their position. Bob also noted 60% of the members that voted were in favor of the ban. It was noted it is unusual for HOAs to allow statements for both sides; often HOAs provide recommendations to the members how to vote. Adam asked Larree Morgan if there is another vote, does he support having both pro and con statements with the ballot. Larree indicated he does support that. It was agreed to hold a special meeting in January prior to the Board meeting. Laree Morgan expressed thanks to the Board for the many things they do but feels the STR issue was handled poorly. Linda Keller indicated the pro-STR people want to be heard and suggests having a meeting with a neutral mediator. She noted it is extremely important for everyone to be heard and we listen to each other. Ed Kuiper feels the approach to the vote was fair and indicated there were issues with the pro-STR side also, e.g. members received materials against the ban that had no contact information which does not allow conversation. Adam reiterated we should not debate the past and focus on how to move forward. Karen asked what the agenda would be, e.g. discuss impact to the community, how STRs might be managed, etc.? Khristine Prickett suggested a committee set up an agenda to address how to move forward. Adam suggested each side be given time to present positions then open discussions. Since some feel the Board has been biased, the Board should not adjudicate what's presented at the Special Meeting. Members wishing to have something presented should provide it to Ken Berendt, who will acknowledge receipt without evaluation then display at the meeting as received. Karen and Adam noted the person who wishes to present must be present at the meeting and the Board will only facilitate the conversation. Following the Special Meeting, the Board will determine the next steps based on member input, e.g. additional vote, additional STR rules, or no action.

15. Board Meeting Dates for 2021

- Dates were established as shown below

16. Other Business as Needed - None

Board

17. Adjourn – Adam adjourned the meeting at 12:20PM

BLE Office Contact Information:

- BLE Web Site: www.beaverlakes.org
- E-mail Address: beaverlakesestates@gmail.com
- Phone: 719-486-0978
- Address: 585 Empire Valley Drive
Leadville, CO 80461

Future Meeting Dates for 2021:

- January 23, 9AM – Special STR Discussion and Budget Ratification
- March 13, 9AM – Board Meeting
- May 15, 9AM – Board Meeting
- July 17, 9AM - Annual Member Meeting followed by Member Picnic
- Sept 18, 9AM – Board Meeting
- Nov 20, 9AM – Board Meeting for Budget Determination

Attachment – Letter from Kristine Prickett et. al.

November 20, 2020

Dear ELHA Board of Directors:

Please read this letter at the November 21, 2020 Board Meeting and add this letter to the minutes:

As dues paying members of the Beaver Lakes Estates community, we are requesting the Board give the community information relative to the lawsuit (Larree Morgan vs. Empire Lodge Homeowners Association) regarding Short Term Rentals (STR) and provide direction on the Board's intentions regarding STR policies and procedures moving forward. We are a group of members that love our community and the peace, quiet and beauty that BLE affords us. We believe that board and community members should work together, and we have grave concerns about how the lawsuit against ELHA has been handled and has turned out.

1. We would like a line item accounting of the **ALL** members' money that was spent on this STR ban endeavor; including but not limited to: a) Attorney fees for advice on rules and regulations proposed by the STR committee; b) Attorney fees to prepare the ballot for mailing; c) Printing and mailing costs to mail the ballot to all members; d) Attorney fees to defend the lawsuit and finalize the settlement; e) Essentially the members need a complete breakdown of the budget line item "Attorney's Fees" for last year and this year.
2. What amount of HOA funds have been, and will be spent on the outcome of the lawsuit including Mr. Morgan's and ELHA legal fees, damages, and insurance deductibles? Will the insurance company be paying any settlement fees? Is there a deductible? Will our rates go up? Will our policy be cancelled?
3. Mr. Bob Dixon, the former BOD president, stated in a previous membership meeting that this lawsuit will not cost ELHA homeowners any money. Does the Board still stand behind the promise that the members have not and will not incur any expense resulting from the failed effort to defend the Board's actions?
4. Why hasn't the ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, (made on August 20, 2020) against ELHA that invalidated the updated Amended Covenants (updated April 2019) that prohibited Short Term Rentals (Section 6.3, 6.22 and 7.2) been communicated/posted to the membership via the Beaver Lakes website? Why has the board attempted to keep secret from the members? It was pledged in the beginning, on the website, that we would be kept up to date.
5. Why hasn't the Notice of Resolution on Oct 21, 2020 that invalidated changes made to the BLE Covenants (updated April 2019) been communicated to the members? Why haven't the Covenants been changed to remove changes to Section 6.3, 6.22 and 7.2 based on the legal judgement?
6. Will the members or the insurance company bear the expense if other financially impacted STR owners now pursue recovery of lost rents based on the lawsuit invalidating the STR ban? Does our potential exposure continue to grow until the Covenants are corrected to remove the unenforceable ban?
7. We request the immediate dismissal of Altitude Law. They have done a tragically abysmal job of representing this homeowner's association. Assumption is they wrote and/or advised on the ballot content for the covenant change that was ruled illegal in the lawsuit.
8. We are disappointed in the continued lack of transparency regarding conversations and actions about Short Term Rentals in our community and the continued unwillingness to collaborate with community members to determine a mutually acceptable solution to this and other issues impacting our community. **THIS MUST CHANGE!**

We want to resume the previously terminated work with the BLE community to craft a successful STR regulation program that will allow personal property rights while still protecting our community and the BLE way of life.

On behalf of financially impacted BLE owners,

Kristine Prickett

Curtis Over

Jamie Becker

Marty Whalen

Suzy and Scott Magill

And others