

**THE BLUE STONE DITCH ASSOCIATION
BOARD OF DIRECTORS
SPECIAL MEETING SCHEDULED
NOVEMBER 16, 2023**

A Special meeting of The Bluestone Valley Ditch was scheduled by Marvin Fender, President and Kathy Haas, Secretary.

All board members were present and the meeting was called to order at 6:30 PM.

Meeting minutes have not been provided to Board members from 01/26/23 - the Board is still waiting to receive those from Cyndie.

All other meeting minutes were approved - 02/05/23, 03/20/23, 07/22/23 and 10/19/23 and are available upon request.

Not on the agenda - Marvin brought up the mention of a financial audit as many people have asked about it in previous meetings. Marvin said that 2 shareholders - Karen Latham and Megan Nevecki had volunteered to do a financial audit for the past 5 years. Zach mentioned that it was not a trust issue with Cyndie's record keeping, only that most businesses conduct financial audits to make sure everything is in order.

Auditing is not a one and done - it should be done every year. Zach and Kathy felt that it should be done by someone outside of the Ditch, but since the Ditch is in a difficult financial situation, a motion was made that Karen and Megan could proceed with the audit and that next year we would look into options outside of the Association. Motion passed unanimously by the Board.

Reminder of Robert's Rules for Board Meetings. In the past the board has not done a good job at following protocol and one of our goals is to give everyone a chance to speak and to move the meetings along.

Policies were discussed regarding public comments being limited. Shareholders asked why the time was limited when it had never been before and Kathy Haas stated that comments needed to be limited to allow the Board to get through agenda items in a timely manner. Marvin asked if this was a Robert Rules and it was commented that it is a common format for nonprofits. Zach agreed it was pretty typical.

Art Gurule - I have never seen this in 20 years. If someone had something to say we were never pressured for time. thinks everyone should speak their peace.

Karen Latham (speaking was timed at 15 min/25 sec) - stated that any personal information should remain out of public comments (the email that was provided), some people received empty envelopes. public commenting not enough time. 3 minutes is not enough time and seems to be a way to limit shareholders. Wanted information about the engineering study from the Secretary - money involved, the process, etc. She has doubts and questions about grants from government agencies. Asking government outside interests then they may think they can be in our business. **(Secretary provided this later in the meeting)** Asked what our current assets are. Financial information should be addressed to the Board. Proposed changes to Bylaws should be voted on by Shareholders. Felt that adding quarterly shareholder meetings is a waste of time **(Quarterly meetings would not have to be shareholder meetings - only publicly announced Board meetings.)** Feels that all meetings should be sent via US mail since not all people have media access. Feels that Zoom meetings may not be good as people may not be able to hear. **(Zoom meetings would be set up for no interruptions)** Feels that proxies should not be changed. **(This process has never been done correctly in the past)** if the board or shareholders decide that it should be 1 vote per shareholder, then we should change how shares are paid for as well. Monies should be divided equally in this case. Board members should not be compensated for their time that they serve on the Board since we were elected as a volunteer. Money that is needed for workman's comp liability should be a personal expense of Board Members. For shareholders that are delinquent, that information should be kept private so as not to embarrass people. The shares should be auctioned at the annual meeting. The treasurer is in charge of this **(not true, according to Bylaws it is the Secretary)** Safeguarding water must be a priority/sales of outside water shares should be held within the ditch and not the general public - should be people who use water and own land within the ditch. HOAs and subdivisions should not be able to purchase shares unless they are for AG use. Subdivisions should be required to submit an irrigation plan. Municipalities should be limited to purchase only as AG use as well. The town of De Beque should be limited to the amount of shares they are gaining due to the annexation of property unless that water is used for AG purposes. Subdivisions should be required to submit irrigation plans/irrigation vs AG use. Weirs should not be considered unless they show the advantages to the shareholders - could cost up to \$7000 new, new weirs and headgates difficult to maintain to put weirs on all headgates would cost \$300,000 **(Assuming approx 50 headgates)** Property owners may not allow access. Any possible Bylaw changes should be redlined, should be made available to shareholders and should be voted on by Shareholders. A financial audit is prudent and no need to hire outside bookkeepers. Should have a budget. Asking shareholders to follow a water schedule would be hard. Board should create extended goals for the ditch. The Ditch Rider should write his own job description. An estimated budget should be included in a strategic plan. Planned water days will be difficult for people who live outside of De Beque. Mission - protecting our rights for agricultural use for current and future users. Plan with 1 year, 5 year and 10 year goals.

Jason Ryan - Got an empty envelope. Asked how we would meter a diversion right? How do you weir a diversion right? Communication has always been between neighbors regarding water use. **(We are what is referred to as a groundwater tributary water right)** Other remedies that may help would be to pipe the ditch and control wastewater, evaporation and saturation to save water.

Dustin Sandidge - Can appreciate Board wants improvements and changes. We should have a strategic plan. What are the motivations for looking into these agenda items? The more open the Board is maybe if people understand they would be willing.

Danny Walk - Commented whatever we did this year and how we were able to get so many people here so we must be doing something. Whatever's happening - people like it or not - something is happening.

Megan Neveki - We step on each other's toes but we make it work. Every other day watering plan won't work. Water control plan is shouting up the ditch if needed to make it work. Concerns about weirs/adobe dirt would be compromised/how does it/will it work? Keeping shares affordable and to use the land. She appreciates the work that the Board has done. Concerned about grants (If we don't use them the way we say we will, it can open a can of worms) We need to tiptoe into it.

Greg Careto - Did not receive a copy of the meeting. Does not completely understand the water rights that he has. Is proactive with the community and here to be a positive entity but needs to have a better understanding.

Diane Sandelin - Thinks we need to send something to Rich Livingston to say thank you for his years of service to the ditch. Why did we get our new attorney from Garfield County instead of Mesa County? **(This was addressed later - we made every effort to get an attorney in Mesa County and everyone of them had a conflict of interest)** What about the retainer? Is the retainer used up already? Concerned about the weirs and increasing the share amount. (Kathy commented that after hours of research most Mesa County attorneys had a conflict of interest).

Ed Olszewski gave a brief introduction of himself and his background and commented that while most attorneys up valley charge \$400 plus an hour, he fees are \$295/hour - **this is comparable to what Rich was charging.**

John Hammerich - How much is each share worth? Marvin - 1 share of water equals less than a gallon per second with a full ditch. 81 CFS is our adjudicated rights.

Tom Latham - Day to day decisions should be board. Money matters should be decided on by shareholders. Every share should have a vote. If we get grants, we will lose water rights, lining, piping etc topography won't allow - no engineer can outsmart mother nature. Good irrigation practices. Do not add headgates to accommodate more landowners. Stick with JC excavating. Encourages us to work together. If it is not broken do not fix it **(mentioned later that those determinations should be left up to the engineers)**

Kathy shared comments that were given from shareholders in the survey. Comment was made that some shareholders gave their emails they have received no notices. We have Board members that do not even have emails which makes communication difficult.

Cyndie asked why I set up emails on the website and she was informed that that was not what the intention of getting everyone's email was all about and that there is nothing currently on the website to hide. How come the questionnaire asked for an email and that it was pointed out to Kathy and that she changed it.

Public Comments from survey - Board should update mission statement. Should serve all shareholders. Encourage the board to over communicate. Incremental steps to make change. Stewardship of the water and our rights. The board's job is to make sure everyone gets water. Make sure finances are in order. Subdivisions using two headgates. There needs to be more headgates. Have odd/even days. Consistent delivery on water. More transparency on financials. Developing a strategic plan, advocating for water users, properly managing the budget. Voting should be per share. Neutral about weirs, but curious about costs. Weirs not a fan and I don't know how it would be done on a lateral shared with others. In favor of weirs. Auctioning of shares is a bad practice. Ditch on all winter not sure why but should be off if possible. Board should set a vision far into the future. Adapt to change and work with it to the best of shareholders.

Someone wanted to know if I read them in order. I offered to give them the results and her response was she got what she wanted.

Megan said that she did not want to fill out the online questionnaire because it came from Kathy's private email - that there should be a business email for the ditch.

Cyndie Graham - Asked Ed (attorney) what AG rights were under the law? If they included lawns/what can you do with agricultural water? Ed - you can irrigate and water stock (**answer was yes**) Are you talking about putting weirs on everyone's property?

Danny - 44 garden hoses/what kind of pressure does that put on the headgate - I don't think someone will put a weir on someone who owns 1 share. Weirs will come off the headgates on the main ditch? Not every lateral would have a weir. Ditch is only obligated to what is on the main ditch. AG water can also go to landscaping. That's what the problem is - nobody knows what a share is.

2 houses on the domestic right (25%) Kathy asked how it was managed. It was not answered.

.A development typically consumes less water than a hayfield.

Dustin Sandidge - was it appropriate for the Board to have met without announcing it publically? Were there any major decisions/actions made during these meetings? (**No**) All board meetings need to be transparent/more information to shareholders the better. Kathy commented that this practice has been going on for years and we are just trying to be more transparent and rectify it.

John Hilderbrandt - Irrigation right, stock right and domestic right on the ditch. We have discussed lining, piping - everything on the agenda not in order of importance. We have discussed a lot of things/tonight's agenda is a reflection of a lot of things that need to be addressed down the road. The pie in the Blue Stone is not getting bigger, the slices are getting smaller. We have a lot of unknowns and we are potentially looking at change.

Voting and shares brought up - Jason - 20 years ago my vote had the same power as Chevron. Historically that's how it has been - you are asking for a lawsuit since it has been done one way for years and now you are telling us it's another way? Zach - we just got here and after reading through the Bylaws we realized it was being done incorrectly. Positive is that all votes are equal with one vote per shareholder. One vote per share tyranny of the majority - a large volume of votes can steer the direction of the ditch and the rest of us are along for the ride. Every decision comes with a cost.

Estimated cost of weirs? Marvin talked to Kelly Lander? At the NRSC and said the estimated cost was \$6000-\$8000 per box.

Kathy talked to Ben Wade, our grant manager at CWCB and Melissa at CRD and they said the average cost \$3000-\$4000. The grants can help and/or pay for weirs to be installed. A representative engineer from the Bureau of Reclamation also offered to help with monetary grant and design ideas.

People keep talking about inconveniences in water use. Everything is an inconvenience that we have to work around. Right now, people with 40 shares have a 10 inch head gate and people with 2 shares have a 10 inch headgate.

Alden Savoka - What are common voting practices on other ditches? Ed's response was typically 1 vote per share/only usually see 1 vote per person in the case of HOA's. Also wanted to know more information about what a weir is (**Explained that it is a measuring device**)

John Haas corrected what a share of water is worth - .0405 CFS per share when ditch is full.

Greg - when I purchased my property I asked how much water I had and I was told to turn it on and let it flow - we have great rights.

Officer Reports -

Kathy Haas on the engineering grant - We were approved for a grant to re-visit the engineering study from 2009. JUB engineering out of Parachute will be doing the work. The total amount of the project is 30,800. The Ditch is responsible for \$2800, The Colorado River District contributing \$5000, and the CWCB contributing the rest \$23,000. This does not commit us to any work, this is just going to let us know what the current pressing issues are. The work is set to be completed by February 14th.

Marvin pointed out that the 2008 breach was caused by a truck and involved Encana and an oil spill. It was more to fight them than it was to just spend the money. Every bit of work done by the ditch every year has made the ditch more secure than before. Kathy's comment was at what cost to the shareholders.

There was a response from John H to Karen's comment about how board members should not get paid. The reason this was looked into is that in order to be on the ditch's workman's comp plan, each board member would have to get paid \$750 annually, the additional cost to the plan would be \$100. Cyndie said she had received further clarification and that if a board member got hurt, their salary (**or a portion of their salary**) from their other job would have to be paid. If something happens to Guy, what are we going to do? Someone said just hire another ditch rider, but no one knows anything about the ditch besides Guy.

Cyndie asked who has been handling most of the grant stuff and Kathy said she had. Cyndie said she heard Kathy was trying to get money from Mesa County and Kathy said she heard wrong. Marvin had documents in question that were shown to be approval letters from the county commissioners that were required to get the grants.

Finances - Cyndie said that balance sheet information was on the bottom of her copies. Kathy mentioned that she had found the P & L's for the past 5 years and handed out copies. Cnydie provided additional copies.

Marvin - to keep commissioners happy, Guy has been keeping a monthly log he is taking pictures of the water flows and sending them to the water commissioner. Kathy commented that at the October meeting this was not being done and that Marvin had said that it was not our job to report, it was the commissioners job to check.

Agenda items - Marvin asked if we should go over all of the Bylaws in question and Kathy responded that these were some of the issues that have come up in conversation that should potentially be addressed.

Marvin said he was guilty of making some decisions on his own and Kathy said we were all guilty of this and that is what as a board we were trying to improve on. Kathy said her goal as secretary was to make sure shareholders had as much information as they could on what they were voting on before the annual meeting.

Vote on requiring weirs - it was decided that it should be discussed by the Board and shareholders. It was encouraged that everyone should contribute their thoughts and opinions.

Kathy has a slide show that did not work but went over main points. Slide show has been made available on the website.

Highlights - pointed out that shareholders elect board members to make important decisions. How do we want the Board to manage - reactive or proactive? Zach - how do we fix a potential

problem before it becomes a problem in June or July - we should be able to look at study and make decisions based on recommendations. If we don't use our water the government will take it - this is next to impossible. We have the right to use our shares - ultimately water is owned by the people of Colorado. All ditches on the western slope except for ours use weirs to control water usage, take full advantage of grant monies. Ed says there is a lot of money flying around that has not been available historically and probably will not be around for long. The board has a legal job to deliver the water that is promised to and paid for by each shareholder.

What decisions can the board make without shareholders? Day to day decisions should be made by the board, Danny said the website seems to be effective except for the small number of people who do not use electronics. Kathy pointed out that some older people don't know how to use technology, but some young people don't know what a letter is. How do we determine what decisions are day to day and which ones are not? Should there be a dollar amount? Maybe so other than maintenance and repair. ****Suggested that it should be in the guidelines that the board has the right to spend a certain amount and then if anything goes over that budget, it has to be addressed with the shareholders. Categorize spending and then have to answer to shareholders if it goes over.

A discussion of money was brought up. As of right now, the Ditch is \$8000 in the hole. It was asked if that reflected all of the monies owed by shareholders and the answer was no. Shareholders who owe money have been notified and have until the meeting in January to pay. If they don't pay, then their shares go up for auction. One share at a time until the arrears are covered. Kathy asked how many years people went into arrears. Her concern is how as a board can we help people potentially and Cyndie said that is private information. If someone buys more shares or loses shares, how do we know that more or less water is going into a place or not and the answer is we don't know. Ed suggested this should all be documented and tracked so we know who should be using less or more. Someone asked how much we were in arrears, and Cyndie said she did not bring that amount to the meeting. One year there was a mark stating that the ditch was still owed \$25,000. Kathy said the Bureau of Rec has reached out to multiple times to try to arrange for payments to be made and they have been unsuccessful. Cyndie said we cannot get names due to the privacy act. However, if part of the remedy is to turn off the water then Guy would have to know who it is so is that a privacy act? Cyndie said they were threatened with a lawsuit and Ed (attorney) asked when that was. Cyndie could not provide that date. Ed said it was unlikely that there would be a privacy issue lawsuit since one of the remedies for nonpayment according to the Bylaws is possibly taking a shareholder to court which would be public record. Mentioned board should have power to decide on an individual basis how to handle shareholders that are in arrears. Kathy asked out of the 4 remedies who decided that we would auction the shares off? This was not answered. Cyndie said that anyone can buy the water, but that it cannot leave the ditch. Can we write something into the Bylaws that would say that the water shares have to go to someone who owns land on the Ditch. Tysca Black suggested we write something into the Bylaws that spells out what happens each year that a shareholder is in arrears. Zach agreed. Dustin commented that we should let the attorney draft something up regarding auctioning off shares before we do. He also said that those of you who have historical presence here are going to leave the ditch to the younger generation and if

you leave behind a cobblestone of truths that we have to unwind, it will be a disservice to everything that you had done. Ed said the auction does not have to be at the annual shareholders meeting. It may be better to have a special meeting for auction only. Board agreed that there needed to be clearer guidelines for shareholders as to the steps taken prior to auction.

Zach pointed out how important it is to understand each decision and how it feeds into one thing after another. Board should come up with plans and then present them to the shareholders for final blessings.

Dustin - go get the survey done, bring it back to shareholders and let everyone decide on what should be prioritized. Set up sub committees, divide and conquer and let the board make decisions - if you don't like the decisions, then do not vote them back in. Processes have to be laid down and then we have to stick with them.

John Haas pointed out that this big load of items that we are up against is a result of only having one meeting per year. He said the Silt conservancy district meets once per month. To have one or two meetings a year does not allow enough time to cover all of the things that need to be addressed.

Zach made a motion for the attorney to draft new Bylaws for the Board to review. It was unanimously approved. Ed asked to narrow it down to make it easier. **(This was decided that a committee would come up with ideas and present them to the board and then reviewed by the attorney)**

Kathy brought up the motion on weirs and Zach said we are too all over the place right now to make a big ticket decision on weirs. Kathy said for the record that by tabling it, that she is concerned that it will just go by the wayside when it does need to be addressed with the addition of extra users. Zach said when more calls start coming in about not having water then maybe we have to start looking at it then. Zach said he has never gotten any calls about this - Kathy said she has.

Danny - upside to weirs is if someone does something they are not supposed to do it is not our problem. Maybe a few lateral weirs and maybe the subdivisions make sense, but a weir on every headgate doesn't make sense.

Derrick Hansen - trying to subdivide a property right now. He is irrigating the 10 acres right now, but the properties will look like Bass Lake. He would feel punished if he has to put in a weir and no one else does. If you are going to go to measurements, do it to everyone. Kathy said that if that is the case, why don't you come to the Board and ask if the weirs can be written into the grant.

John Hilderbrant said ultimately it is our job as the board to ensure that each shareholder can reliably receive their water in a timely fashion. Irrigation should not be reactionary according to

what everyone else is doing on the ditch. Someone does not need to monitor water constantly to monitor water. You just need to know when that water is available and for what duration. We need to figure out how everyone can plan proactively to manage their water use. What people want to know is when I can use my water so I can plan. If the river drops, we are all in the same boat. 20% or more of the shareholders are not exercising their water rights.

We could measure water by putting measuring devices down through the ditch to see use along the different parts of the ditch.

Future business items were gone over and discussed as being items for future meetings.

Cydie brought up the financials - that she had not given Kathy anything. She provided a list that Kathy had been given 5 boxes of documents. Kathy said she found the P&L's for the past 5 years. Someone asked why I wrote that we needed to look at finances or a bookkeeper and Kathy said because it keeps getting brought up.

John H - at the end of the day, everyone is in this room for the same reason we want to preserve our water for us and for future generations. What we need to iron out is the best way to approach all of this in the short and long term.

Meeting adjourned 9:41 PM