

## **RECORD OF PROCEEDINGS**

**Kawanee Gardens Irrigation Company  
Annual Meeting of the Stockholders  
Wheat Ridge Recreation Center  
4005 Kipling St., Wheat Ridge, Colorado  
February 24, 2015**

### **I Call to Order / Quorum**

President Dave Devine called the meeting to order at approximately 7:15 PM.

Seventy seven and one-half shares are required for a quorum. A quorum of 85 shares was represented, 40 and one-half in attendance, and 44 and one-half by proxy. Dave Devine motioned to recognize a quorum. Dean Berggren seconded the motion. It passed on a voice vote; there were no dissenting votes.

### **II Reading & Adoption of Minutes from 2014 Annual Meeting**

A copy of the Minutes of the 2014 meeting was made available to each shareholder. President Devine allowed some time for the shareholders to read the Minutes.

Dave mentioned that the Company's website was up and running. The site is KGIC.org. Shareholders are encouraged to log on to the site for information about the Company including corporate documents, watering schedules and current news items.

Dave motioned that the Minutes be approved. Janet Mallory seconded the motion. It passed on a voice vote; no dissenting votes were noted.

### **III Reading & Adoption of 2014 Financial Statement**

Treasurer Roger Schneider read the Treasurer's Report for the calendar year 2014. A copy was made available to all the shareholders.

Roger noted that the balance in our bank account increased by about \$1000.00 primarily because our legal fees were kept to a minimum and because there were no major costs incurred for ditch improvements. A new item on the report is the cost for the website, \$121, and Dave indicated that this is not going to be a recurring item but will fluctuate from year to year. In any event, the amount is very minimal. Roger indicated that the Ag Ditch assessment for 2015 will increase by \$1.00 an inch or \$132 since the Ag Ditch carries 132 inches for our Company. Officer compensation of \$600 has remained constant for as long as Roger can remember, which is about twenty years.

Rich Keasling motioned to accept the Financial Statement for 2014. Jeff McKinney seconded the motion. It passed on a voice vote; no dissenting votes were noted.

#### **IV Discussion & Vote for Approval of Amendment XIV: Procedure for Dissolution (procedure required by IRS)**

#### **V Discussion & Vote of Revised By-laws**

Dave initiated a discussion of our current by-laws and pending changes. The Company's Articles of Incorporation provide that the Board of Directors of the Company have the power to make suitable by-laws and to amend or repeal the same, but Dave is not suggesting any change to the Articles of Incorporation.

Shareholder Armstrong suggested that our by-laws be changed so that a nonshareholder could not be elected to the Board. There was some discussion of this but most shareholders expressed the opinion that this was such an unlikely event, that a change to our by-laws was unnecessary. The discussion ended without any motion being made.

Pending changes to the Company's by-laws fall into three categories:

##### **(1) Housecleaning**

Our current by-laws have some confusing numbering as well as outdated or revoked amendments. At the suggestion of the Company's attorney, the revised by-laws conforms the numbering and removes revoked articles. No text has been deleted or changed and footnotes have been added to indicate when and what changes have been made over the years to the by-laws.

##### **(2) Article XIV Dissolution**

This new article to be added to the by-laws is required by the IRS in order to attain tax exempt status as a nonprofit ditch company. The article reads:

In the event of dissolution of the company, each member, including formers members, shall receive his proportionate share of the company's property and assets based upon patronage, insofar as is practicable, after paying or providing the payment of all debts of the company.

Roger indicated that, although the above provision would seem to be inapplicable to a company having stockholders, the IRS representative that he worked with insisted on this language. Tax exempt status was granted to KGIC on Roger's declaration made under penalties of perjury that the above provision would be added to our by-laws.

##### **(3) Article XII Amendments**

Article XII of the Company's by-laws concerns Amendments to the Company's By-law document. Dave indicated that there appears to be some difference of opinion regarding this Article. The Article currently reads:

These by-laws may be amended, added to or revoked at any meeting of the board of directors, provided at least forty days notice of any proposed change has been given to the stockholders. No change shall be made contrary to the instructions of the stockholders, evidenced by resolution regularly adopted by the stockholders.

Dave asked that the Company consider changing this Article to include language that allows for by-law changes at annual shareholder meetings. Dave said that discussing any by-law changes at the annual shareholder meeting is more efficient, transparent, and inclusive rather than making amendment changes at a directors' meeting and getting shareholder approval afterward.

A second paragraph would be added to the provision stated above:

Bylaws may also be amended, added to or revoked at the Annual Shareholder Meeting, provided no less than thirty (30) days' notice to each shareholder is provided, as provided for in Article II Section 1, and the language of any change to bylaws is included in the notice.

Considerable discussion ensued regarding these by-law changes. Several shareholders were upset because they thought the Board was not following current provisions of Article XII by giving 40 days notice of the change. Dave explained that he was not asking the shareholders to vote on these changes at this meeting, but that he would like for shareholders to vote on the process for moving forward. The process would involve sending each shareholder a postcard concerning the changes, giving them 40 days to respond, having the Board meet forty days after the notice to formalize the changes, and then the finished document would again be reviewed and voted upon at the 2016 shareholders meeting.

There appeared to be a lot of confusion amongst the shareholders over whether they were being asked to vote on the three changes or the process. Several motions were made and seconded, Pat Cress made a motion to table, and Pat made a further motion to remove his table motion. In the end, Dave made a motion to continue with the process, which Ruth Larkin seconded. This motion passed on a voice vote; two nays were noted. The Secretary (Roger Schneider) has taken a conservative position on this agenda item and concluded that the motion passed by the shareholders is the one involving the process. Therefore, no actual changes to the by-laws occurred at this meeting.

## **VI Discussion & Vote for Approval of Updated KGIC Policies & Operating Procedures**

It became clear that there was not going to be enough time for this item to be considered at the meeting. Dave motioned to table this agenda item. Roger seconded the motion. The motion passed on a voice vote. This item will be considered next year.

## **VII Discussion of Improvement & Maintenance Projects**

Vice-President Rich Keasling discussed several floods that occurred in connection with the ditch last year. All involved nonshareholders and all were caused by debris which built up on shareholder property. On Field Street, there was some minor damage to a patio. In another situation there was some overflowing on a horse property. Calls were made to 911, then the police were contacted, and then Rich was contacted. Rich said the police have no clue what to do with overflowing ditches. Rich emphasized that all shareholders should be keeping an eye out not only on their own ditch but also their neighbor's ditch.

On the main ditch at Miller Court, there is a huge cottonwood tree whose roots appear to be growing in our culvert. Rich said he will work with the City of Lakewood on this matter.

Rich said there were sections of the laterals that could use pipe, particularly about 100 feet on Lateral 2. Also, the overall intent is to eliminate corrugated pipe from the system. No cost estimates have been developed but Rich and Jeff will try to determine costs for piping additional sections of the ditch.

Pat Cress said that Don Bauer had some pipe that might work, but Jeff Bennett said he looked at that pipe and determined that it's too small.

## **VIII Vote on 2016 Assessment**

Under this agenda item Rich Keasling & Jeff McKinney said they could look at the entire ditch system as a whole and determine a cost for piping the most troublesome areas. Rich said once we get a better idea of costs, we could proceed with a special assessment.

Roger indicated that he would like the assessment for 2016 to remain at \$100.00 per share. He said that every year he has about 25-30 shareholders who do not make payment by March 1<sup>st</sup>. He said maybe some of these shareholders like to pay a late fee just to add to our coffers. But for the most part, most of these shareholders apparently have financial struggles which prevent them from making a timely payment. Roger suggested the assessment for 2016 not be increased.

After discussion, Ernie Tangye motioned to keep the assessment at \$100.00 per share. Melanie Hood seconded the motion. The motion passed on a voice vote; there was one nay.

## **IX Election of 2015 Board of Directors**

The current Directors of the Board indicated a willingness to continue to serve. Dave explained that he understood some people want a change, but that he was in the middle of four different projects and that he wanted to see them through.

Janet Mallory motioned to retain the Board. Matt Miller seconded the motion. Discussion followed.

Shareholder Armstrong said he wanted to hear about the lawsuit. Dave summarized the status of the case, mentioning the nature of the claim and stating that mediation efforts had taken place. He said he was prevented from discussing anything about the mediation. He mentioned that our insurance company was handling our defense, and that it was considering a settlement, primarily from a business standpoint.

After further discussion and with time running out on the meeting, there was a voice vote on the motion to retain the Board. The motion passed, with one nay.

#### **X New Business**

Time ran out for this item. There was no discussion of new business.

#### **XI Vote to Adjourn**

Dave motioned to adjourn the meeting. Blair Miller seconded the motion. It passed on a voice vote; no dissenting votes were noted. The meeting was adjourned at approximately 9:15 PM.