

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE
MT. CRESTED BUTTE WATER & SANITATION DISTRICT
December 9, 2021**

Special Meeting of the Mt. Crested Butte Water and Sanitation District (MCBWS D) Board of Directors was held at 3:00 pm on Thursday, **December 9, 2021**, via <https://zoom.us/my/mcbwsdboardmeeting>.

Members of the Board of Directors in attendance at the meeting were as follows:

Brian Brown Nancy Woolf Nicholas Kempin

Also present were:

Mike Fabbre, District Manager	Scott Winn, MLPC Board Member
Perry Solheim, Finance Manager	William Hamilton, MLPC Board Member
Tracy Davenport, Admin Assistant	Sheri Twilleger, MLPC Board Member
Bryan Burks, Wastewater Supervisor	Robin Smith, MLPC Board Member
Marcus Lock, District's Attorney	Mark Hamilton, MLPC's Attorney
	Multiple Members of the Public

1. Call to Order

- The special meeting of the Board of Directors was called to order by Brown at 3:00 pm and a quorum was present.

2. Citizen Comment Period

- No citizens presented comments.

3. MLPC 1995 and 2013 MOA's Discussion

- Lock sent a letter to the MLPC Board of Directors on behalf of the District regarding the two Memorandum of Agreements (MOA's) between the District and MLPC.
- The District has worked with members of the MLPC water committee and had discussions related to the MOA's and subsequent amendment. The District and MLPC water committees made significant progress through approximately a dozen meetings. MLPC recently requested that the District put a proposal together that would resolve outstanding issues.
- The letter suggested two specific proposals:
 - Option #1: Keep the agreements and amendments in full force. The District evaluated cost of service to MLPC which would result in an estimated surcharge of at least \$142.24 per month per MLPC customer based on the 2022 proposed budget. Solheim presented a spreadsheet to reflect how the surcharge would be calculated each year which is based off operations and capital expenditures and would not include past imbalance settlements.
 - Option #2: Enter a settlement agreement terminating the MOA's and sunset the existing surcharge of \$36.27 after six years. Upon ratification of the agreement, the MOA's would be null and void. Customers within MLP and within the Town of Mt. Crested Butte would be charged the same rate for water and wastewater service in perpetuity.
- District Board Member Questions/Comments
 - Woolf advised she has been on the District Board for a little over a year and is a resident of MLP in Pristine Point and a homeowner in Mt. Crested Butte. Brown and Woolf feel their duties as board members and their rights as residents are to try to find the best approach to resolve differential billing rates that have led to many years of uncertainty for residents in the entire District.
- Members of the Public Questions/Comments
 - Clarification of option #2 was requested. Specifically, what the estimated financial burden for MLPC would be if the MOA's and the corresponding surcharge are terminated. The second proposal essentially proposes that the MOA's be terminated immediately upon an agreement to be completed by Lock. The \$36.27 surcharge would remain for the next 6 years and then the surcharge would be discontinued.
 - The \$36.27 is the current surcharge and has been in place since 1995.
 - This issue received more direct attention shortly after Fabbre was hired as District Manager and Brown joined the Board. This initiated the Raffelis study and the water committee meetings.
 - Mt. Crested Butte (MCB) customers do not pay a surcharge.
 - The potential \$142.32 surcharge referenced in option #1 would be calculated each year during the annual budget process and would continue in perpetuity.
 - It was asked if the water supply to MLPC is guaranteed as MLPC is limited in development, but MCB has the potential for much more growth. The District is obligated to provide water and wastewater service to all customers within its boundaries by Colorado State law. The water supply to MLPC is not in jeopardy.

- MOA stands for Memorandum of Agreement. The original MOA was ratified in 1995 and a subsequent MOA amendment was ratified in 2013. Copies of both documents are available on the District website.
 - The variance of capital expenditures of a 6-year average vs a 3-year average was to test out the average of capital expenditures over recent years. There were fewer capital expenditures in 2018. Approximately \$77,000 is collected per year with the \$36.27 surcharge per homeowner which would not be sufficient to cover expected capital expenditures in any given year.
 - If option #2 is selected, the overall process would be to create an agreement between MLPC and the District whereby the parties approve certain elements like terminating the MOA's, sun-setting the surcharge, and address any issues to make the MOA's no longer the guide to surcharge rate setting, capital expenditure tracking or any other operating or planning decisions.
 - It was noted that with a public utility, the public taxes pay for capital expenditures on public utilities and then the utility passes along costs amortized over many years to lower the per home cost. There are many ways that public utilities are financed. The amount of property tax the District receives is not sufficient to cover capital expenditures.
 - A member of the public stated that new homeowners have effectively been asked to true-up for costs that should have been paid prior to their ownership. Neither option presented in the letter is designed to address past imbalances. The District has been paying for MLPC capital expenditures and then using the surcharge in an attempt to recoup those costs. As the committees discovered, this has not resulted in adequately covering those costs.
 - A misunderstanding by virtue of the MOA's is that MLPC is not responsible for costs in other areas of the District. This is not true, and MLPC has always been a part of a single district.
 - There is a project that is in preliminary consideration that would connect Meridian Lake Park Reservoir #1 to other water supply sources and to the MCB water treatment plant. This would be a great benefit to the security of the overall water supply of the District because it would draw upon multiple river basins as well as offer significant storage capacity.
 - The surcharge of \$36.27 for six years is palatable to the District and MLPC. The District didn't want to increase the surcharge. If capital expenditures are viewed only from the last six years, it's estimated value is \$1 million in imbalance. The surcharge amount for six years comes to roughly \$850,000 which seems like a fair way to resolve this long-standing issue.
 - The downside of option #2 to the District is less revenue will be collected. A downside to both parties is if this issue doesn't get resolved. It's better to come to a settlement compromise than to take a legal approach. Base costs increase to cover capital expenditures but option #2 would spread funds in a more reasonable way.
 - MLPC is not an "outside city" customer. It was an area that was included into the District due to issues with its former wastewater and water treatment facilities being unable to meet Colorado State health requirements as they were being operated at that time. The District itself is an entity independent of, and predating the Town of Mt. Crested Butte.
 - To approve an option would not require a vote from all MLPC owners. The MLPC board could approve it, but it was recommended that MLPC review this with their legal counsel.
 - The next step would be Lock providing a draft agreement for option #2 to be presented to the District Board for forwarding to MLPC if approved.
 - Estimated impact to tap fees should the MOA be terminated is nonexistent as there are no differential rates for tap fee charges.
- Multiple members of the public commented that they are in favor of option #2.

4. New/Old Business Before the Board

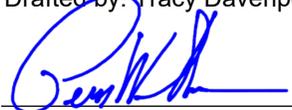
- There were no new or old items to discuss.

5. Adjourn

MOTION by Brown and seconded by Woolf to adjourn the special board meeting at 4:03 pm. Motion voted in favor.



Drafted by: Tracy Davenport



Submitted by: Perry Solheim