

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE
MT. CRESTED BUTTE WATER & SANITATION DISTRICT
JUNE 14, 2021**

Special Meeting of the Mt. Crested Butte Water & Sanitation District (MCBWS) Board of Directors was held at 5:00 pm on Monday, **June 14, 2021**, via <https://zoom.us/my/mcbwsdboardmeeting>.

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

Brian Brown Nicholas Kempin Nancy Woolf JD Crichton Jonathan Ferrell

Also present were:

Mike Fabbre, District Manager	Delrena Sides, District Customer
Perry Solheim, Finance Manager	Kathy Hooge, District Customer
Kyle Koelliker, Water Plant Supervisor	Lewis Abrams, District Customer
Bryan Burks, Wastewater Plant Supervisor	Nancy Grindlay, District Customer
Kim Wrisley, Admin Assistant	Bob Colvey, District Customer
Tracy Davenport, Admin Assistant	Patricia Mullin, District Customer
Marcus Lock, District's Attorney	Cullen Wheelock, District Customer
Jamie Watt, Hunter Ridge, LLC	Todd Barnes, District Customer
Sasa Watt, Hunter Ridge, LLC	Randy Sackett, District Customer
Michael Dawson, Hunter Ridge, LLC Attorney	Eric Sanderson, District Customer
Kendra Walker, Crested Butte News	Paul & Sue (Weber) Jankowski, District Customer
	Denise (no surname given), Meeting Observer

Call to Order

- The special meeting was called to order by Brown at 5:01 pm.
- Hunter Ridge, LLC has submitted a 2nd Petition for Inclusion that is not materially different from the 1st Petition for Inclusion.
- In response to the 1st Petition for Inclusion, the District's Board declined to waive the requirement that the property proposed for inclusion be annexed into the Town of Mt Crested Butte, Colorado set forth in section 6.3.4 of the District's rules and regulations.
- The sole purpose of this meeting was for the Board to decide whether to waive the annexation requirement set forth in section 6.3.4 of the District's rules and regulations.
- In the event the Board declines to waive the annexation requirement, the currently pending petition for inclusion will be denied pursuant to section 6.3.4 of the District's rules and regulations because the petitioner will not have complied with all requirements of the Town of Mt Crested Butte and will not be concurrently annexed through the Town of Mt. Crested Butte.
- In the event the Board waives the annexation requirement, this public hearing will be continued and the merits of the petition for inclusion will be considered on a specific date at a later meeting of the Board.

1. Public Hearing Call to Order

- The public hearing was called to order by Brown at 5:06 pm and a quorum was present.

2. Public Hearing on District Rule 6.3.4 as it relates to the 2nd Hunter Ridge, LLC Petition for Inclusion

- Hunter Ridge, LLC is proposing to include within the District a parcel of real property commonly referred to as 45 Hunter Hill Road which is a 10.458-acre tract with the legal parcel number of 3177-264-00-053.
- If Hunter Ridge LLC's petition for inclusion is granted, then this property will be included within the District and will thereafter be eligible to have water and wastewater service provided by the District.
- If the petition for inclusion is denied, then this property will not be included within the District and the District will not provide water and wastewater service to this property.
- Adequate notice of the public hearing was performed by publishing in the Crested Butte News and posting on the District website.
- The scope of the proceedings will only be for the Board to consider whether to waive the annexation requirement set forth in section 6.3.4 in the District's rules and regulations, and not to discuss the merits of the project itself.

A. Applicant's Presentation

- Dawson, attorney for the applicant, requested Kempin recuse himself from the meeting due to alleged conflicts of interest arising from his association with the Town of Mt. Crested Butte.
- Lock advised that Kempin has no legal obligation to recuse himself from the meeting.
- Watt stated that he filed the petition for inclusion for the 2nd time to receive a more informed and fair decision by being in front of the full District Board and in light of alleged conflict of interest by Kempin.
- Watt discussed the approval process for annexation through the Town of Mt. Crested Butte and that his proposal was denied instead of being approved with conditions.
- Watt played a recording of a statement made by District legal counsel, Lock, from the December 16, 2020 Special Meeting that discussed section 6.3.4. The statement asserted that the Board has the option to waive the annexation requirement.
- Watt commented on each submittal by District customers that opposed the waiver.
- Lock commented the only issue at this meeting is whether to waive the requirement of section 6.3.4.

B. District Staff Comments

- District staff had no comments.

C. Questions by the Board

- No questions were asked by the Board.

D. Public Comments

- Public Comments provided by District customers in opposition generally noted the following:
 - The property is contiguous and capable of being annexed into the Town of Mt. Crested Butte.
 - Waiver of annexation requirement would create dangerous precedence for future proposals.
 - Town of Mt. Crested Butte should have control and sole jurisdiction over development on property adjoining its boundaries.
 - Waiver will cause the District to be involved with land use regulations.
- The following District Customers spoke in opposition to waive section 6.3.4:
 - Patricia Mullin
 - Nancy Grindlay
 - Bob Colvey
 - Kathy Hooge
- Public Comment provided by a District customer in favor generally noted the following:
 - The District is a separate entity from the Town of Mt. Crested Butte.
 - Willingness for Watt to assume the costs to upgrade/repair hillside wastewater line that requires expensive improvements.
 - Maintain property values by building homes that are consistent with properties surrounding the area.
 - Wells and septic systems would be more invasive and challenging for development and potentially cause other unintended effects upon the District.
- The following District Customer spoke in favor to waive section 6.3.4:
 - Eric Sanderson

E. Applicant's Response to Public Comments

- Watt proposed to the County that the development will follow the covenants and design requirements that other developers are required to follow per the Town of Mt. Crested Butte rules.
- Dawson commented that land use regulations do not have anything to do with section 6.3.4.

F. District Staff's Response to Public Comments

- The District mission statement includes "responsible wastewater services to our community in a cost-effective manner." The cost-effective manner was presented in the original staff recommendation including potential financial impacts. The proposed inclusion has significant positive financial impacts on the District.
- Past precedence/future precedence of waiving the annexation requirement were mentioned. There are parcels including Ski Ranches and the 40-acre Kapushion parcel

West of Pitchfork that are contiguous to the Town of Mt. Crested Butte where waivers have been granted. No precedence has been set that limits independent decisions about waiving annexation.

G. Follow-up Questions by the Board

- Eligible vs capable: the phrase not capable of being annexed into the Town of Mt. Crested Butte is subject to interpretation. Contiguity is a statutory definition, not capable of being annexed is not. The Board has the option but not the obligation to waive the annexation.
- Woolf stated that the Board previously voted not to waive the annexation requirement; that this project was capable of annexation to the Town of Mt. Crested Butte and 6.3.4 is applicable. Watt came back to board because Board membership changed. The District had the authority to waive, they chose not to.
- Brown mentioned that the current discharge permit is under scrutiny and therefore holds concerns of something making its way into Woods Creek due to wells and septic systems being on the hillside parcel if the District does not waive the annexation requirement and maintain control of the development of the parcel.
- Dawson stated that water rights are not affected by potential wells on the parcel.
- Dawson commented that as far as the septic systems, the return flows are going to go into Woods Creek and will affect permitting.
- Discussion continued whether the property is capable of being annexed into the Town of Mt. Crested Butte.
- The Board was asked if it chooses not to waive 6.3.4 if that poses negative repercussion for the District with regard to the hillside wastewater line traversing the parcel. Fabbre referred the Board back to the staff recommendation identifying the problems the District has with the hillside location of the sewer line and safety concerns it generates for staff to maintain.

MOTION by Brown and seconded by Ferrell to waive the annexation requirement as referenced in the District's rules and regulations in section 6.3.4.

Roll call vote:

Woolf - Nay
Kempin - Nay
Crichton - Nay
Ferrell - Aye
Brown - Aye

Motion failed.

The petition is deemed denied for failure to comply with the requirements of section 6.3.4 of the District's rules & regulations which requires that the petitioner complies with all requirements of the Town of Mt. Crested Butte to be concurrently annexed into the Town of Mt. Crested Butte. The parcel will not be included in the District.

MOTION by Woolf and seconded by Kempin to adjourn the public hearing at 6:51 pm. Motion voted in favor.



Drafted by: Tracy Davenport



Submitted by: Perry Solheim