

20 YEARS AGO today

BY NEL BURKETT

The following stories appeared in this publication 20 years ago this week.

Town Council denies BOLT tax ballot bid

by Than Acuff

An attempt to redirect funds from the promotion of tourism to the funding of affordable housing failed to generate any support at the Crested Butte Town Council meeting Tuesday night.

Council member Ted Bosler spearheaded an ordinance to put the allocation of the Business and Occupational License Tax (BOLT) tax funds to a public vote on the November ballot. The ordinance asked voters to decide whether the revenue, an amount of \$130,000 (from both Crested Butte and Mt. Crested Butte) annually, should be redirected from the "marketing and promotion of tourism" and instead have it earmarked for affordable housing.

"Personally, I think there are a lot of citizens unhappy with the BOLT tax," explained Bosler prior to the meeting.

In 1984 voters passed the BOLT tax by a narrow margin in the hopes of boosting the

town's principal industry, tourism. According to the tax, anyone who does business in either the town of Crested Butte or the town of Mt. Crested Butte must pay anywhere from \$100 to \$1,500 annually into the fund.

In 1997, the tax came under fire as the Town Council made an attempt to put it on the ballot and let the public decide whether it should be repealed. During a volatile meeting to discuss the issue, numerous BOLT tax supporters showed up to give the council a loud and clear piece of their mind. As a result, the tax never made it to the ballot, yet it continues to fall under scrutiny.

This year, a lack of employees in the community has caused unrest for the business community at large and has spurred further discussion of affordable housing to accommodate a potential work force. Council member Bosler felt redirecting the BOLT tax might help out.

Before a packed house of business owners and Crested Butte/Mt. Crested Butte Chamber of Commerce Board members, Bosler introduced his plan and the floor was



Dressed for success, Happy Hour celebrates their men's league championship victory over Mountain Spirits Tuesday night. Tune in next week for coverage of Liquid Assets' coed title victory over the Talk of the Town.

PHOTO BY TIFFANY WARDMAN

opened for public comment.

"I drew this up and put it on the agenda because I heard a lot of grumbling about the chamber," Bosler said. "I put it out there to see what people thought."

Outspoken BOLT tax opponent and chamber board member Al Smith explained he agreed with the phased repeal of the tax but that an

immediate move may counteract some recent positive moves by the chamber.

"We've talked about the BOLT tax being an inadequate tax," he said. "I think the tax may have a limited life anyhow, as it's a regressive tax. But there are some positive things going on and some new blood. If you take away the funds immediately, that would be catastrophic." Smith suggested a sunset clause to phase the BOLT tax out over a five-year period.

Bed and breakfast owner Kirk Smith then stood up and pointed out the town's dependence on tourism. "We live and die by tourism," he said. "Tourism pays the bills. If tourism goes down and my taxes go up, I'm not going to be a very happy constituent."

Local Libertarian Moss Wagner reminded the council that the decision at hand was whether or not to put it on the ballot, not to redirect the funds at that time. "Put it to the voters," said Wagner.

After the public gave more pro-BOLT tax speeches, mayor Linda Powers directed the comments to the council. Bosler opened with an admittance of defeat and an encouragement of a public initiative.

"I know I don't have a whole lot of support from the council," he said, "and I encourage a citizens initiative because it's not going to make it on the ballot."

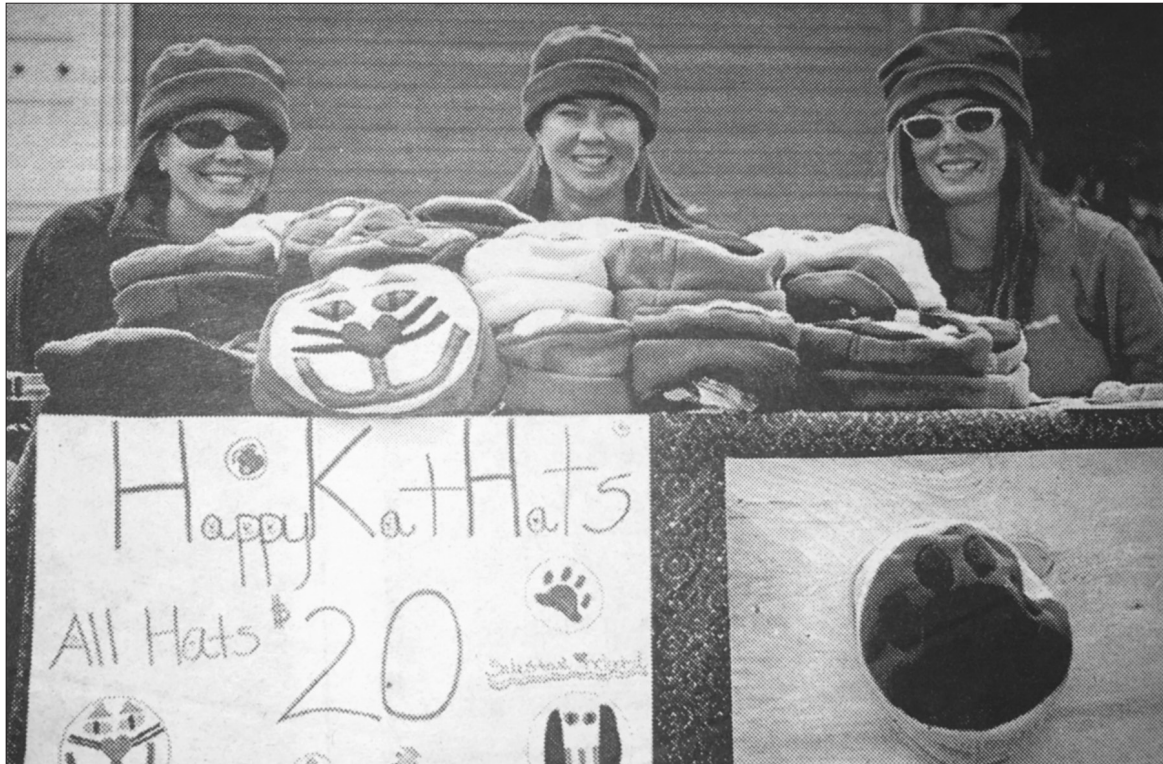
Council member Loree Mulay-Weisman rehashed the fact that we exist in an economy dependant upon tourism as she voiced her problem with the proposed ordinance.

"By taking away tourism funding for a tourist economy," said Mulay-Weisman, "we're slitting our throats." She then asked, "Can this town afford to not promote tourism? I say no."

Powers closed the discussion explaining how numerous towns similar to Crested Butte had taxes in place to promote tourism and saying it needed to be separate from affordable housing.

"It's laudable to fund affordable housing, but not on the backs of businesses," said Powers. "We will keep working on making business better and working towards affordable housing."

Nel Burkett is the curator at the Crested Butte Mountain Heritage Museum and enjoys putting the present in the context of history.



Anne Barrows, Kimberly Kaczmarek, and Christina Cucarro gathered at the People's Fair to sell their artwork.

PHOTO BY PAGE PAYNE

Legals

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—REGULAR TOWN COUNCIL MEETING—
SEPTEMBER 15, 2020 ~ 6:00 P.M.
COUNCIL CHAMBERS
MT. CRESTED BUTTE
DRAFT AGENDA

for the official agenda please go to www.mtcrestedbuttecolorado.us

WORK SESSION – 5:00 PM – Mt. Crested Butte Marketing Plan

CALL TO ORDER – 6:00 PM

ROLL CALL

PUBLIC COMMENT - Citizens may make comments on items **NOT** scheduled on the agenda. Per Colorado Open Meetings Law, no Council discussion or action will take place until a later date, if necessary. You must sign in with the Town Clerk before speaking. Comments are limited to three minutes.

MINUTES

• Approval of the September 1, 2020 Regular Town Council Meeting Minutes

REPORTS

- Town Manager's Report
- Department Head Reports
 - Community Development
 - Finance
- Police Department
- Public Works
- Town Council Reports

CORRESPONDENCE OLD BUSINESS NEW BUSINESS

• Discussion and Possible Consideration of the Intergovernmental Agreement with Gunnison County for Winter Road Maintenance – Carlos Velado

• Discussion and Possible Consideration of the Admissions Tax Committee and Appointing One Person to the Committee to Temporarily Replace Roman Kolodziej

OTHER BUSINESS

• Discussion of Attendance for October
EXECUTIVE SESSION – Hiring a New Town Manager - Personnel Matter – C.R.S. 24-6-402(4)(f)(1)
ADJOURN

For Call In Instructions please contact Tiffany O'Connell, Town Clerk at 970-349-6632 or toconnell@mtcrestedbuttecolorado.us or go to www.mtcrestedbuttecolorado.us

If you require any special accommodations in order to attend this meeting, please call the Town Hall at 349-6632 at least 48 hours in advance. Public comment on these agenda items is encouraged.

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Legals

—IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4— STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 4

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of August 2020.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

CASE NO. 2020CW39 (REF NO. 05CW234, 14CW2) Applicant Volk Ranch, LLLP., PO Box 149, Eckert, CO 81418. Application for Finding of Reasonable Diligence: Volk Sylvester CG Pond – SE1/4SE1/4NW1/4 of Section 16, T12S, R89W, 6th P.M. 2,507 feet from the north line and 2,502 feet from the west section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 13.77 acre-feet conditional for piscatorial and recreation. Volk Ragged Mountain Lake - NW1/4SE1/4SW1/4 of Section 4, T12S, R89W, 6th P.M. 992 feet from the south line and 1,455 feet from the west section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 62.00 acre-feet conditional

for of 240 acres, piscatorial and recreation. Volk Plute Meadow Pond - SW1/4NE1/4SW1/4 of Section 22, T12S, R89W, 6th P.M. 1,888 feet from the south line and 1,644 feet from the west section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 7.0 acre-feet conditional for irrigation of 30 acres. Volk Little Cellar Pond - SW1/4SE1/4NW1/4 of Section 21, T12S, R89W, 6th P.M. 2,046 feet from the north line and 1,828 feet from the west section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 4.00 acre-feet conditional for irrigation of 40 acres and piscatorial. Volk Sylvester Upper Middle Pond - SW1/4NW1/4NE1/4 of Section 16, T12S, R89W, 6th P.M. 723 feet from the north line and 2,052 feet from the east section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 27.50 acre-feet conditional for irrigation of 180 acres, piscatorial and recreation. Volk Sylvester Middle Pond - SE1/4NW1/4NE1/4 of Section 16, T12S, R89W, 6th P.M. 904 feet from the north line and 1,814 feet from the east section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 8.61 acre-feet conditional for irrigation of 180 acres and piscatorial. Volk Horse Pasture Pond - SW1/4NE1/4NE1/4 of Section 21, T12S, R89W, 6th P.M. 696 feet from the north line and 1,239 feet from the east section line. Source: Muddy Creek, Gunnison

River. Appropriation Date: 09/30/2005. Amount Claimed: 1.10 acre-feet conditional for piscatorial and recreation. Volk Green Lake Pond - NE1/4NW1/4NW1/4 of Section 22, T12S, R89W, 6th P.M. 582 feet from the north line and 1,063 feet from the west section line. Source: Muddy Creek, Gunnison River. Appropriation Date: 09/30/2005. Amount Claimed: 20.50 acre-feet conditional for irrigation of 180 acres and piscatorial. The application on file with the Water Court contains an outline of the work performed during the diligence period. **GUNNISON COUNTY.** YOU ARE FURTHER NOTIFIED THAT you have until the last day of October, 2020 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401

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deadline is tuesday at noon • legals@crestedbuttenews.com • 970.349.0500 ext. 105

—IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4— STATE OF COLORADO

TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID WATER DIVISION NO. 4

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of August 2020.

The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.

Amended Application
CASE NO. 2016CW3089 OLDCASTLE SW GROUP, INC., 2273 River Road, Grand Junction, CO, 81505, and VARRA COMPANIES, INC., 8120 Gage Street, Frederick, CO, 80516. John R. Pierce, Dufford, Waldeck, Milburn & Krohn, L.L.P., 744 Horizon Court, Suite 300, Grand Junction, CO, 81506. Matthew S. Poznanovic, Petrock Fendel Poznanovic, P.C., 700 17th Street, Suite 1800, Denver, CO, 80202.

Amended Application for Underground Water Rights, Surface Rights, Change of Water Rights, Appropriative Right of Exchange, and Request for Approval of Plan for Augmentation in GUNNISON COUNTY. Applicants filed their initial Application in this case on December 30, 2016. Applicants request to amend that Application ("Amended Application") as set out below. **Request for groundwater right:** Seahorse West Pit. **Name of structure:** Seahorse West Pit. **Legal description of pit well:** The centroid of the Seahorse West Pit will be in the SW/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,149 feet from the south section line and 146 feet from the west section line (UTM Easting 338063, Northing 4266641, Zone 13). A map showing the location of the structure is attached as Exhibit 1. **Source:** Water tributary to Tomichi Creek. **Depth of well:** 35 feet. **Regarding appropriation:** **Appropriation date:** March 1, 2002. **How appropriation was initiated:** By commencement of gravel mining operation. **Information regarding withdrawal of tributary water:** **Amount claimed in cubic feet per second:** 5.5 c.f.s., conditional. **Amount claimed in acre feet:** 84.7 a.f. annually. **Uses:** Industrial, recreation, aquifer recharge, piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit. **Name and address of owner of land on which point of diversion is located:** Pasquale Varra, 8120 Gage Street, Frederick, CO 80516-9439. **Request for groundwater right:** Vader Northwest Pit. **Name of structure:** Vader Northwest Pit. **Legal description of pit well:** The centroid of the Vader Northwest Pit will be in the NE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,816 feet from the south section line and 2,155 feet from the west section line (UTM Easting 338680, Northing 4266832, Zone 13). A map showing the location of the

structure is attached as Exhibit 1. **Source:** Water tributary to Tomichi Creek. **Depth of well:** 50 feet. **Regarding appropriation:** **Appropriation date:** September 8, 1978. **How appropriation was initiated:** By applying to Mining Reclamation Board for a mining permit. **Date water applied to beneficial use:** February 1, 1980. **Information regarding withdrawal of tributary water:** **Amount claimed in cubic feet per second:** 5.5 c.f.s., conditional. **Amount claimed in acre feet:** 16.1 a.f. annually. **Uses:** Industrial, recreation, aquifer recharge, piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, and Vader South Pit. **Name and address of owner of land on which point of diversion is located:** Applicant Oldcastle SW Group, Inc. **Request for groundwater right:** Vader Northeast Pit. **Name of structure:** Vader Northeast Pit. **Legal description of pit well:** The centroid of the Vader Northeast Pit will be in the SW/4 SE/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,267 feet from the south section line and 2,140 feet from the east section line (UTM Easting 338970, Northing 4266659, Zone 13). A map showing the location of the structure is attached as Exhibit 1. **Source:** Groundwater tributary to Tomichi Creek. **Depth of well:** 50 feet. **Regarding appropriation:** **Appropriation date:** September 8, 1978 (mining permit application date to the Mined Land Reclamation Board). **How appropriation was initiated:** Gravel Mining. **Date water applied to beneficial use:** February 1, 1980 (issue date of mining permit). **Information regarding withdrawal of tributary water:** **Amount claimed in cubic feet per second:** 5.5 c.f.s., conditional. **Amount claimed in acre feet:** 2.2 a.f. annually. **Uses:** Industrial, recreation, aquifer recharge, piscatorial, fire protection within the mining permit area for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit. **Name and address of owner of land on which point of diversion is located:** Applicant Oldcastle SW Group, Inc. **Request for groundwater right:** Vader South Pit. **Name of structure:** Vader South Pit. **Legal description of pit well:** The centroid of the Vader South Pit will be in the SE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,194 feet from the south section line and 2,242 feet from the west section line (UTM Easting 338702, Northing 4266642, Zone 13). A map showing the location of the structure is attached as Exhibit 1. **Source:** Water tributary to Tomichi Creek. **Depth of well:** 50 feet. **Regarding appropriation:** **Appropriation date:** September 8, 1978. **How appropriation was initiated:** By filing application for mining permit with Mined Land Reclamation Board. **Date water applied to beneficial use:** February 1, 1980. **Information regarding withdrawal of tributary water:** **Amount claimed in cubic feet per second:** 5.5 c.f.s., conditional. **Amount claimed in acre feet:** 30.2 a.f. annually. **Uses:** Industrial, recreation, aquifer recharge, piscatorial, fire protection within the mining permit area for the Seahorse

West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit. **Name and address of owner of land on which point of diversion is located:** Applicant Oldcastle SW Group, Inc. **Request for surface right:** Griffing No. 1 Ditch, Oldcastle Enlargement. **Name of structure:** Griffing No. 1 Ditch, Oldcastle Enlargement. **Location:** The point of diversion for the Griffing No. 1 Ditch, Oldcastle Enlargement, is located in the SE/4 NE/4 of Section 10, Township 49 North, Range 1 East, N.M.P.M., 1,333 feet from the north section line and 581 feet from the east section line (UTM Easting 339427, Northing 4265857, Zone 13). The point of diversion also was described as follows in Case No. 03CW22: whence the southeast corner of said Section 3 bears North 8 degrees East 1,485 feet. A map showing the location of the structure is attached as Exhibit 2. **Source:** Tomichi Creek. **Regarding appropriation:** **Date of appropriation:** December 30, 2008. **How appropriation was initiated:** By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. **Date water applied to beneficial use:** N/A. **Amount:** 2.93 c.f.s., conditional. **Uses:** Industrial, recharge and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds, requested below. As used in this amended application "groundwater suppression" means delivery of the requested water right into one or all of the pits to prevent or reduce groundwater inflow into the pits. **Name and address of owner of land on which point of diversion is located:** The decreed location of the point of diversion for the Griffing No. 1 Ditch is on land owned by Lost Miner Enterprises, P.O. Box 1086 Gunnison, CO 81230-1086. The actual, historical point of diversion for the Griffing No. 1 Ditch is located on land owned by Lone Oak, L.P., 43990 U.S. Highway 50, Gunnison, CO 81230-9505. **Request for surface right:** Griffing No. 2 Ditch, Oldcastle Enlargement. **Name of structure:** Griffing No. 2 Ditch, Oldcastle Enlargement. **Location:** The point of diversion for the Griffing No. 2 Ditch, Oldcastle Enlargement, is located in SE/4 NE/4 of Section 11, Township 49 North, Range 1 East, N.M.P.M., 1,646 feet from the north section line and 272 feet from the east section line (UTM Easting 341135 Northing 4265742, Zone 13). A map showing the location of the structure is attached as Exhibit 2. **Source:** Tomichi Creek. **Regarding appropriation:** **Date of appropriation:** December 30, 2008. **How appropriation was initiated:** By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. **Date water applied to beneficial use:** N/A. **Amount:** 2.25 c.f.s., conditional. **Uses:** Industrial, recharge and groundwater suppression

at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds, requested below. **Name and address of owner of land on which point of diversion is located:** The decreed location of the point of diversion for the Griffing No. 2 Ditch is on land owned by Lost Miner Enterprises, P.O. Box 1086, Gunnison, CO 81230-1086. The actual, historical point of diversion is located on land owned by Raco Land and Cattle Company, LLLP, 9888 Whistling Elk Drive, Littleton, CO 80127-6107. **Request for surface right:** McCanne No. 2 Ditch, Oldcastle Enlargement. **Name of structure:** McCanne No. 2 Ditch, Oldcastle Enlargement. **Location:** The point of diversion for the McCanne No. 2 Ditch, Oldcastle Enlargement, is located in the NE/4 SW/4 of Section 12, Township 49 North, Range 1 East, N.M.P.M., 2,522 feet from the south section line and 1,823 feet from the west section line (UTM Easting 341767 Northing 4265377, Zone 13). A map showing the location of the structure is attached as Exhibit 2. **Source:** Tomichi Creek. **Regarding appropriation:** **Date of appropriation:** December 30, 2008. **How appropriation was initiated:** By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. **Date water applied to beneficial use:** N/A. **Amount:** 2.31 c.f.s., conditional. **Uses:** Industrial, recharge and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. **Date water applied to beneficial use:** N/A. **Amount:** 2.31 c.f.s., conditional. **Uses:** Industrial, recharge and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds, requested below. **Name and address of owner of land on which point of diversion is located:** Raco Land and Cattle Company, LLLP, 9888 Whistling Elk Drive, Littleton, CO 80127-6107. **Request for surface right:** McCanne No. 3 Ditch, Oldcastle Enlargement. **Name of structure:** McCanne No. 3 Ditch, Old Castle Enlargement. **Location:** The point of diversion for the McCanne No. 3 Ditch, Oldcastle Enlargement, is located in the SE/4 NE/4 of Section 11, Township 49 North, Range 1 East, N.M.P.M., 1,892 feet from the north section line and 1,232 feet from the east section line (UTM Easting 340841 Northing 4265670, Zone 13). A map showing the location of the structure is attached as Exhibit 2. **Source:** Tomichi Creek. **Regarding appropriation:** **Date of appropriation:** December 30, 2008. **How appropriation was initiated:** By retaining a consultant to prepare an augmentation plan for the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and the Vader South Pit which relies on the enlargement requested in this claim. **Date water applied to beneficial use:** N/A. **Amount:** 0.59 c.f.s., conditional. **Uses:** Industrial, recharge and groundwater suppression at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit, and Vader South Pit, and filling and refilling of the Oldcastle Augmentation Ponds, requested below. **Name and address of owner of land on which point of**

diversion is located: Scott A. and Debra S. Yates, 2133 S. Ellis Court, Lakewood, CO 80228-5906. **Request for Storage Right:** **Name of Reservoir:** Oldcastle Vader South Augmentation Pond. **Legal description:** The centroid of the Vader South Augmentation Pond is within the foot print of the Vader South Pit and is located in the SE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,194 feet from the south section line and 2,242 feet from the west section line (UTM Easting 338702, Northing 4266642, Zone 13). A map showing the location of the structure is attached as Exhibit 1. **Source:** Tomichi Creek. **If Filled from a Ditch:** **Name of ditches used to fill reservoir and decreed filling rate:** Griffing No. 1 Ditch (2.93 cfs) and McCanne No. 3 Ditch (0.59 cfs). **Legal description of ditches:** the legal description of the Griffing No. 1 Ditch and McCanne No. 3 Ditch are described above. **Date of Appropriation:** July 31, 2020. **How Appropriation was Initiated:** The appropriation was initiated by formation of intent and the filing of the amended application. **Amount claimed:** 23 a.f., conditional. **Uses:** Commercial, Industrial, Augmentation and Exchange. **Surface area of High Water Line:** 3.9 acres. **Height and Length of Dam:** Approximately 5-foot dam and 2,500-foot perimeter. Total depth 8 feet. **Capacity of Reservoir:** 22 AF active, 1 AF dead storage, total storage 23 AF. **Name and address of owner of land on which structure is located:** OldCastle SW Group, 2273 River Rd. Grand Junction, CO 81501. **Request for Storage Right:** **Name of Reservoir:** Oldcastle Vader Northwest Augmentation Pond. **Legal description:** The Vader Northwest Pond is located within the foot print of the Vader Northwest Pit and will be in the NE/4 SW/4 of Section 3, Township 49 North, Range 1 East, N.M.P.M., at a point 1,816 feet from the south section line and 2,155 feet from the west section line (UTM Easting 338680, Northing 4266832, Zone 13). A map showing the location of the structure is attached as Exhibit 1. **Source:** Tomichi Creek. **If Filled from a Ditch:** **Name of ditches used to fill reservoir and decreed filling rate:** McCanne No. 2 Ditch (2.31 c.f.s) and Griffing No. 2 Ditch (2.25 c.f.s). **Legal description of ditches:** the legal description of the McCanne No. 2 Ditch and Griffing No. 2 Ditch are described above. **Date of Appropriation:** July 31, 2020. **How Appropriation was Initiated:** The appropriation was initiated by formation of intent and the filing of the amended application. **Amount claimed:** 27 a.f., conditional. **Uses:** Commercial, Industrial, Augmentation and Exchange. **Surface area of High Water Line:** 6.0 acres. **Height and Length of Dam:** 2,200 feet (raised perimeter of pond approximately 3-foot dam height above ground surface, total depth of water 5 feet). **Capacity of Reservoir:** 24.5 AF active, 2.5 AF dead storage, total capacity 27 AF. **Name and address of owner of land on which structure is located:** OldCastle SW Group, 2273 River Rd. Grand Junction, CO 81501.

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Legals

continued from previous page

The Vader Northwest Augmentation Pond and Vader South Augmentation Ponds are located within the footprint of the Vader Northwest Pit and Vader South Pit. If all or a portion of the pits are lined as

reservoirs, the groundwater claims and associated evaporative depletions for the Vader Northwest Pit and Vader South Pit shall be reduced accordingly. The Vader Northwest Augmentation Pond and Vader South Augmentation Pond

are collectively referred to as the Oldcastle Augmentation Ponds. **Change of Water Rights: Introduction:** This Amended Application seeks approval of changes of water rights for water rights in the Griffing No. 1 Ditch, Griffing No. 2 Ditch,

McCanne No. 2 Ditch, and McCanne No. 3 Ditch (collectively the "Changed Griffing and McCanne Water Rights") and in the Biebel Ditches Nos. 1 and 2 ("Changed Biebel Water Rights"). The Changed Griffing and McCanne Water Rights

and Changed Biebel Water Rights are collectively the Changed Water Rights. **Change of water rights:** Griffing No. 1 Ditch. **Name of structure:** Griffing No. 1 Ditch. **Date of original and subsequent decrees, amounts, and appropriation dates:**

Case No.	Amount (c.f.s.)	Priority No.	Decree Date	Appropriation Date
CA1266	2.00	39	April 29, 1904	June 1, 1878
CA1266	1.00	44	April 29, 1904	August 1, 1879
CA2079	8.00	208	April 19, 1943	June 1, 1878
CA2079	4.00	212	April 19, 1943	August 1, 1879
CA2079	11.00	287	April 19, 1943	April 29, 1904

Legal description of structure: The legal description for the Griffing No. 1 is set out in paragraph 6.B., above. A map showing the location of the structure is attached as Exhibit 2. **Decreed source of water:** Tomichi Creek. **Decreed uses:** Irrigation. **Approximate amount of water Applicants intend to change:**

Priority No.	Amount Changed (cfs)
39	0
44	0
208	2.75
212	0
287	0.17825
Total	2.92825

Description of change: Augmentation is

requested to be added as a beneficial use, in accordance with the augmentation plan requested in this case. Additionally, Applicants request to add recharge in accordance with the augmentation plan requested in this case (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. To the extent a change in point of diver-

sion is required, Applicants request a change to the point of diversion to the SE/4 NE/4 of Section 10, Township 49 North, Range 1 East, N.M.P.M., 1,333 feet from the north section line and 581 feet from the east section line (UTM Easting 339427, Northing 4265857, Zone 13). **Name and address of owner of land on which point of diversion is located:** The decreed location of the point of diversion for the Griffing No. 1

Ditch is on land owned by Lost Miner Enterprises, P.O. Box 1086 Gunnison, CO 81230-1086. The actual, historical point of diversion for the Griffing No. 1 Ditch is located on land owned by Lone Oak, L.P., 43990 U.S. Highway 50, Gunnison, CO 81230-9505. **Change of water rights:** Griffing No. 2 Ditch. **Name of structure:** Griffing No. 2 Ditch. **Date of original and subsequent decrees, amounts, and appropriation dates:**

Case No.	Amount (c.f.s.)	Priority No.	Decree Date	Appropriation Date
CA1266	2.00	39	April 29, 1904	June 1, 1878
CA1266	0.50	64	April 29, 1904	August 1, 1882
CA2079	8.00	208	April 19, 1943	June 1, 1878
CA2079	2.00	229	April 19, 1943	August 1, 1882
96CW60	2.00	Lost Miner	December 31, 1996	January 10, 1996

Legal description of structure: The decree in Case No. CA2079 stated the location of the Griffing No. 2 Ditch as "on the North bank of Tomichi Creek at a point whence the North quarter corner of Section 11, Township 49 North, Range 1 East, N.M.M., bears North 74° East 670 feet." A map showing the location of the structure is attached as Exhibit 2. **Decreed source of water:** Tomichi Creek. **Decreed uses:** Irrigation. **Approximate amount of water Applicants intend to change:**

Priority No.	Amount Changed (cfs)
39	0.33784
64	0.11261
208	1.35135
229	0.45045
Lost Miner	0
Enlargement	0
Total	2.25225

Description of change: Augmentation is requested to be added as a beneficial use, in accordance with the augmentation plan requested in this case. Additionally, Applicants request to add recharge in accordance with the augmentation plan requested in this case (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. **Name and address of owner of land on which point of diversion is located:** The

decreed location of the point of diversion for the Griffing No. 2 Ditch is on land owned by Lost Miner Enterprises, P.O. Box 1086, Gunnison, CO 81230-1086. The actual, historical point of diversion is located on land owned by Raco Land and Cattle Company, LLLP, 9888 Whistling Elk Drive, Littleton, CO 80127-6107. **Change of water rights:** McCanne No. 2 Ditch. **Name of structure:** McCanne No. 2 Ditch. **Date of original and subsequent decrees, amounts, and appropriation dates:**

Case No.	Amount (c.f.s.)	Priority No.	Decree Date	Appropriation Date
CA946	8.463	11	5/1/1894	12/31/1879
CA1266	0.25 (transferred from McCanne No. 3)	106	4/29/1904	5/1/1890
CA1266	1.0	122	4/29/1904	6/1/1898
CA1266	2.4	136	4/29/1904	9/1/1903
CA1602	1.5	188	9/3/1918	6/1/1917
CA2079	14.18	215	4/19/1943	12/31/1879
CA2079	4.0	274	4/19/1943	6/1/1898
CA2079	10.1	285	4/19/1943	9/1/1903
CA2079	3.65 (transferred from Griffing No. 1)	287	4/19/1943	4/29/1904
CA2079	3.68	309	4/19/1943	6/10/1917

Legal description of structure: The decree in Case No. CA2079 stated the location of the McCanne No. 2 Ditch as "at a point from which the quarter section corner in the center of the SW ¼ of Section 12 Township 49 North, Range 1 E., N.M.P.M., bears South 30°30' West 1320 feet." A map showing the location of the structure is attached as Exhibit 2. **Decreed source of water:** Tomichi Creek. **Decreed uses:** Irrigation. **Approximate amount of water Applicants intend to change:**

Description of change: Augmentation is requested to be added as a beneficial use, in accordance with the augmentation plan requested in this case. Additionally, Applicants request to add recharge in accordance with the augmentation plan requested in

this case (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. **Name and address of owner of land on which point of diversion is located:** Raco Land and Cattle

Company, LLLP, 9888 Whistling Elk Drive, Littleton, CO 80127-6107. **Change of water rights:** McCanne No. 3 Ditch. **Name of structure:** McCanne No. 3 Ditch. **Date of original and subsequent decrees, amounts, and appropriation dates:**

Case No.	Amount (c.f.s.)	Priority No.	Decree Date	Appropriation Date
CA946	8.463	11	May 1, 1894	December 31, 1879
CA1266	0.8	106	April 29, 1904	May 1, 1890
CA2079	3.180	215	April 19, 1943	December 31, 1879
CA2079	6.2	260	April 19, 1943	May 1, 1890

Priority No.	Amount Changed (cfs)
11	0
106	0.05631
122	0.30752
136	0
188	0
215	0
274	0.78950
285	0.5
287	0.66124
309	0
Total	2.31457

Legal description of structure: In Case No. 2079 the location of the headgate for the McCanne No. 3 Ditch was described as "at a point from which the Northwest corner of Section 12, Township 49 North, Range 1 East, N.M.P.M., bears North 34°

East 2,260 feet." A map showing the location of the structure is attached as Exhibit 2. **Decreed source of water:** Tomichi Creek. **Decreed uses:** Irrigation. **Approximate amount of water Applicants intend to change:**

Priority No.	Amount Changed (cfs)
11	0
106	0
215	0
260	0.616
Total	0.616

Description of change: Augmentation is requested to be added as a beneficial use, in accordance with the augmentation plan requested in this case. Additionally, Applicants request to add recharge in accordance with the augmentation plan requested in this case (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. **Name and**

address of owner of land on which point of diversion is located: Scott A. and Debra S. Yates, 2133 S. Ellis Court, Lakewood, CO 80228-5906. **Change of water rights:** 1.15 c.f.s. of Priority 1 of the Biebel Ditches Nos. 1 and 2 ("Biebel Ditch"). Priority 1 of the Biebel Ditch water right was decreed in Civil Action No. 946 on May 1, 1894 in the amount of 8.94 c.f.s. with an appropriation date of September 30, 1876. 1.15 cfs of Priority 1 of the

Biebel Ditch water right shall be used for augmentation in the requested plan for augmentation. The Case No. 06CW123 decree changed the location of the headgate of the Biebel Ditch to the NW¼SW¼ Section 3, Township 49 North, Range 1 East, N.M.P.M. at a point approximately 2119 feet from the south line and 1088 feet from the west line of said Section 3. In Case No. 06CW123, the Division 4 Court accepted the deter-

mination of consumptive use ("CU") credits by Duane D. Helton for the Biebel Ditch water rights. The Court held that the portion of the Biebel Ditch water rights which were not required to be used in connection with the 06CW123 Decree may be used in the Gunnison River Basin pursuant to a decreed Plan for Augmentation. See Findings of Fact, Conclusions of Law and Decree in Case No. 06CW123, at paragraph 32. CU credits shall be

established for the 1.15 cfs of Priority 1 of the Biebel Ditch by the removal from irrigation of lands historically irrigated by the Biebel Ditch water rights. The CU credits and monthly volumes of return flow water were determined for the Biebel Ditch water rights by the Court in Case No. 06CW123. The monthly volumes of return flow water and CU credits are shown below for each month in the May through September period:

	Total Diverted Through Biebel Ditch		HCU Credits Under Priority No. 1	
	Rate (AF/acre)	Total Diverted (AF)	Rate AF/Acre	HCU Credits for 38.4 Acres (AF)
May	1.10	44.2	0.38	15.3
Jun	1.25	50.2	0.43	17.3
Jul	0.88	35.4	0.37	14.9
Aug	0.18	7.2	0.26	10.4
Sep	0.37	14.9	0.17	6.8
Oct	0.22	8.8		

A total of 4.0 acre feet will be delivered during each May through October period for each historically irrigated acre removed from irrigation. A total CU credit of 1.61 a.f. is therefore established for augmentation use. A total of 40.2 historically irrigated acres shall be permanently removed from irrigation. The attached Figure 4 from

the Case No. 06CW123 decree shows the historically irrigated acres for all Biebel Ditch water rights changed in that case. Removal of 40.2 historically irrigated acres will result in 64.7 a.f. of CU credits for use in the plan for augmentation requested herein. **Description of change:** The 1.15 cfs of Biebel Ditch will be used for augmenta-

tion decreed according to the change of water rights in Case No. 06CW123 in accordance with the augmentation plan requested in this case. This Amended Application requests to change the 1.15 cfs of Biebel Ditch to allow recharge (including subsequent recharge of excess accretions to extinction) in accordance with the

augmentation plan requested in this case, augmentation by physically replacing evaporation in place as it occurs in the augmented structures described in the augmentation plan requested in this case, groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds, all of which shall occur after diversion by

exchange pursuant to the right of exchange requested below. **Name and address of owner of land on which point of diversion is located:** Lone Oak LP, 43990 US Highway 50, Gunnison, CO 81230-9505. **Historical Consumptive Use of the Changed Griffing and McCanne Water Rights:**

continued on next page

Legals

continued from previous page

HCU for the Changed Griffing and McCanne Water Rights associated with the dry up of approximately 65 acres of land on the Seahorse West and Vader properties historically irrigated by water from the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, and McCanne No. 3 Ditch are estimated to total approximately 144 a.f. (approximately 2.22 a.f. per acre). The attached Exhibit 4 includes the approximate amount of average historical consumptive use for these water rights. **Request for approval of plan for augmentation:** Name of structures to be augmented: Seahorse West Pit, Vader Northeast Pit, Vader Northwest Pit, and Vader South Pit, as described above. Water rights for the augmented structures are requested in this case. **Water rights to be used for augmentation:** The conditional water rights in (1) the Griffing No. 1 Ditch, Oldcastle Enlargement, (2) the Griffing No. 2 Ditch, Oldcastle Enlargement, (3) the McCanne No. 2 Ditch, Oldcastle Enlargement, (4) the McCanne No. 3 Ditch, Oldcastle Enlargement. Also, the Oldcastle Augmentation Ponds, the Changed Griffing and McCanne Water Rights, and the Changed Biebel Water Rights, as well as the Releases from Blue Mesa Reservoir, as described below. **Depletions:** Out of priority depletions replaced by this augmentation plan include net evaporation from exposed groundwater, aggregate production and washing, and dust suppression. **Evaporative depletions:** Evaporative calculations are based on gross evaporation rates of 40 inches per year and temperature data from the Gunnison Climate Station. The gross evaporation rate is based on the annual value from the NOAA Technical Report NWS 33 and distributed monthly by SEO Guideline (2/28/95) for sites with an elevation above 6,500 feet. The monthly gross evaporation is adjusted for freezing. The adjustment for freezing is based on when the average monthly temperature is less than 32 degrees Fahrenheit. The augmentation plan will replace net evaporation, not gross evaporation. Net evaporation rate is provided in Table 1, **Exhibit 5**, and is calculated by subtracting the effective precipitation from the gross evaporation. The Vader Pit was originally permitted in 1978. Based on information from permits and aerial photographs, two acres of groundwater was exposed prior to 1981. The two acres of pre-1981 exposed groundwater is within the mining area for the Vader Pit (see Figure 2, attached as **Exhibit 6**). For the purposes of this augmentation plan, the full buildout surface area for the Seahorse West Pit, Vader Northeast Pit, Vader Northwest Pit, and Vader South Pit has been reduced from 56.62 acres to 54.62 acres of exposed groundwater requiring augmentation under this plan to account for that two acres of pre-1981 exposed groundwater described above. In the event that the as-built surface areas of an individual pit or pits should exceed the surface area described in this application for such pit, this plan shall nonetheless be sufficient to prevent injury as long as the cumulative exposed surface area of the pits does not exceed the 56.62 acres including the 2 acres of pre-1981 groundwater exposure contemplated in this plan. In addition if the Oldcastle Augmentation Ponds are constructed or the pits are not constructed to the proposed full build out, the evaporative depletions will be reduced according to the actual surface area of the exposed groundwater. Evaporation from dewatering trenches will vary based on the size of the trenches and will be accounted for on an accounting sheet prepared by the Applicants. The calculated net evaporation of the proposed full buildout of the pits requiring augmentation is 131.1 a.f. per year, as shown in Table 2, attached as **Exhibit 7**. **Aggregate production and material washing:** Water use associated with aggregate production and sand washing that are mined below the natural groundwater level is estimated to be four percent of the weight of the material. Annual production is anticipated to be 150,000 tons of gravel, which equates to 4.41 a.f. per year of water depletions. Depletions from aggregate production is summarized in Table 2, attached as **Exhibit 7**. **Dust suppression:** The amount of water used for dust suppression is estimated

to be 1,000 gallons per day, which results in annual water depletions of 0.66 a.f. per year, as summarized in Table 2, attached as **Exhibit 7**. **Lagged depletions:** Depletions from the pits impact water that is tributary to Tomichi Creek. Based on the Glover Stream Depletion Model, the yield values of the underlying aquifer is 36,650 gallons per day per foot. Based on typical published values for unconfined aquifers, the specific yield is estimated to be 0.25. A Uniform Response Function using the Glover Analysis is provided in Table 3, attached as **Exhibit 8**. **Total water depletions:** Total water depletions from evaporation from 54.62 acres of surface area of a remediated gravel pit pond (not including pre-1981 surface area exposure) is 131.1a.f. per year (see column 2 in Table 2, attached as Exhibit 7). Total operational depletions from material removal, washing, and dust suppression total 5.07 a.f. (see column 6 in Table 2, attached as **Exhibit 7**). A monthly distribution of depletions is also provided in Table 2, attached as **Exhibit 7**. The points of depletions are provided in Exhibit 2. To avoid short term water depletion to the river while filling the gravel pits, Oldcastle will avoid filling the pits with groundwater by using surface water delivered pursuant to the Oldcastle Enlargements of the Griffing Ditch No. 1, Griffing Ditch No. 2, McCanne Ditch No. 2, and McCanne Ditch No. 3, requested above, whenever they are in priority. **Water rights administration:** This augmentation plan will replace all out-of-priority depletions during times of administration so as to prevent injury to downstream water rights. During times of a call by a downstream vested water right on Tomichi Creek, out of priority depletions covered by this augmentation plan and the amount of water available in priority to the Changed Griffing and McCanne Water Rights for use as augmentation credits shall be calculated daily and reported monthly and the amount of water available in priority to the Changed Biebel Water Rights shall be calculated pursuant to the Case No. 06CW123 decree. The HCU for the Changed Griffing and McCanne Water Rights are in the amounts shown in Exhibit 4. The Changed Griffing and McCanne Water Rights can be used for augmentation under this plan by delivering into unlined pits to generate recharge accretions that can be used for augmentation (including subsequent recharge of excess accretions to extinction), groundwater suppression, by physically replacing evaporation in place as it occurs in the augmented structures included in the augmentation plan, for direct storage, or by exchange. Changed Biebel Water Rights can be used for augmentation under this plan through recharge (including subsequent recharge of excess accretions to extinction), augmentation by physically replacing evaporation in place as it occurs in the augmented structures, or groundwater suppression, or for storage, all of which shall occur after diversion by exchange pursuant to the right of exchange requested in this case. The following is offered as a summary of the historical call on Tomichi Creek and does not limit the Applicants' obligation to replace all out-of-priority depletions during times of administration: During most years, there are no calls administered on Tomichi Creek and the Gunnison River downstream of the City of Gunnison. However, during dry years a call has sometimes occurred during the irrigation season downstream from the gravel operations from the beginning of June to the end of September. This plan will offset all out-of-priority depletions to Tomichi Creek and the Gunnison River during June, July, and August and to the Gunnison River downstream of Blue Mesa during August and September. Based on an example Water Balance (Exhibit 9), during August and September up to 11.1 AF of storage water may be needed to offset calls by the Gunnison Tunnel. This amount may be reduced by either storage or additional recharge accretions developed in the future. A water balance table is attached as **Exhibit 9**. The water balance, attached as **Exhibit 9**, provides a schedule of potential out-of-priority depletions during the non-irrigation season from a potential Redlands Power Canal call. The potential call period is based on

stream gauge records for the Gunnison River near Grand Junction when average daily discharge falls below 750 c.f.s. Total HCU credits and recharge accretions are sufficient to address demands on Tomichi Creek during the irrigation season calling period. Downstream of Blue Mesa Reservoir, up to 0.05 AF of water per month may be needed to meet a potential Redlands Power Canal call. This amount may be reduced by the development of augmentation storage or additional recharge accretions. In the future if calls are administered by the Division Engineer outside of the periods outlined in the water balance attached as **Exhibit 9**, then augmentation, replacement, or operation of the gravel pit facility to reduce or curtail out-of-priority depletions shall occur in order to avoid injury to vested calling water rights. **Augmentation replacement sources:** Augmentation replacement sources include HCU credits from the dry-up of areas historically irrigated by the Changed Griffing and McCanne Water Rights, HCU credits from the Changed Biebel Water Rights, recharge accretions from recharge water diverted into the pits, releases from the Oldcastle Augmentation Ponds, and Blue Mesa Reservoir water released to address calls below the Reservoir. In addition, Oldcastle may lower the pit ponds to bypass out-of-priority net evaporation and inflow if needed and refill the pit wells during free river conditions. If necessary, Oldcastle may supplement this augmentation plan in the future by providing substitute or additional augmentation replacement sources. **Blue Mesa Reservoir:** Calls placed downstream of Blue Mesa Reservoir will be addressed through a water supply contract for augmentation water from Blue Mesa Reservoir, which was decreed in Case Nos. CA5590 and CA6981 for 939,204 a.f., with a November 11, 1957 appropriation date. An additional 124,253 a.f., with the same appropriation date, was transferred to the reservoir in CA10045. Out-of-priority depletions to the Gunnison River downstream of Blue Mesa Reservoir equal 11.2 a.f., annually (see **Exhibit 9**). Upon approval of this augmentation plan, Oldcastle will obtain a water supply contract for Blue Mesa Reservoir in the amount of 12 acre-feet. If the call period should increase beyond historical levels in the future, Oldcastle reserves the right to increase the amount of the water supply contract to address out-of-priority depletions, as well as additional water if needed to replace out of priority depletions from filling the gravel pits. **Gravel pit recharge:** Applicants request junior conditional water rights in the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, and the McCanne No. 3 Ditch for industrial and recharge purposes (including subsequent recharge of excess accretions to extinction). The amounts proposed for recharge are provided in Table 5, attached as **Exhibit 11**. The recharge accrual calculations for each gravel pit were calculated using the URF in Table 3, attached as **Exhibit 8**. **Gravel pit drawdown:** Another option to offset out-of-priority depletions is to draw down the surface elevation of the pits, thus bypassing any out-of-priority inflow into the pits. A sample schedule of the gravel pit draw down and depletions during recovery is provided in Table 6, attached as **Exhibit 10**. Additional contract water from Blue Mesa Reservoir may be needed (up to 12 a.f.) to offset depletions during recovery for the Gravel Pit Ponds during the non-irrigation season. Drawdown will be achieved by the construction of an outlet and conveyance structure to deliver water via gravity flow from the pits to a point downstream on Tomichi Creek. **Request for approval of appropriate right of exchange:** This Amended Application requests approval of the following conditional appropriate right of exchange pursuant to C.R.S. §§ 37-80-120, 37-82-106, 37-83-104 and 37-92-101, *et. seq.* **Name of Exchange:** Oldcastle Tomichi Exchange. **Description of Conditional Augmentation Exchange:** Applicants have initiated an appropriate right of exchange of unused recharge accretions and other sources of augmentation described in this Amended Application. Recharge accretions and water directly delivered from the augmentation sources not

used for augmentation at the time available in Tomichi Creek may be exchanged as follows: **Exchange Reach:** The lower terminus for the Oldcastle Tomichi Exchange is the Seahorse West Point of Accretion (see Exhibit 2) and is located in the NW1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 55 feet from the west section line and 1,540 feet from the south section line. Also represented by the following coordinates X: 338052 Y: 4266777, UTM Zone 13 NAD 83. The Oldcastle Tomichi Exchange reach also includes other points within the reach at which recharge accretions will accrue, as well as the point at which that portion of the Excess HCU Credits derived from Changed Biebel Water Rights are available for exchange at the Biebel Ditch headgate as described in this Amended Application. The upper terminus of the Oldcastle Tomichi Exchange is the headgate of the McCanne No. 2 Ditch, described above. This exchange includes multiple "exchange from" points and "exchange to" points and may operate from between any two of the identified points regardless of whether other exchange points are not legally or physically available for use, i.e. if the senior Biebel Ditch water right is sweeping the stream and there is no exchange potential immediately downstream of the Biebel Ditch, the exchange from points located at and upstream of the of the Biebel Ditch headgate, including Biebel Ditch water itself, can be exchanged upstream to any of, or combination of, the Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch and McCanne No. 3 Ditch. Exchange to points for the exchange include the following, (legal descriptions provided above): Griffing No. 1 Ditch, Griffing No. 2 Ditch, McCanne No. 2 Ditch, McCanne No. 3 Ditch. Exchange from points for the exchange include the following: Biebel Ditch headgate, Seahorse West Point of Accretion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. Vader South and Vader NW Point of Accretion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,289 feet from the east section line and 1,104 feet from the south section line. Also represented by the following coordinates X: 338931 Y: 4266625, UTM Zone 13 NAD 83. **Date of appropriation:** July 31, 2020. **How appropriation initiated:** The appropriation was initiated by formation of intent and the filing of the amended application. **Amount:** 1.5 c.f.s., conditional. **Use:** Augmentation as described in this Amended Application, recharge (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. **Source:** Excess Recharge Accretions and Excess HCU Credits, as defined below. **Operation of Appropriate Right of Exchange:** Excess Recharge Accretions are defined as recharge accretions resulting from diversions according to the junior recharge water rights described above, and from the exchange of Excess HCU Credits into recharge as described in this amended application that are available for use in Tomichi Creek in excess of augmentation obligations under the plan for augmentation requested in this case. Excess HCU Credits are defined as HCU credits from the Changed Griffing and McCanne Water Rights in Tomichi Creek and the Changed Biebel Water Rights available at the headgate of the Biebel Ditch that are available for use in Tomichi Creek in excess of augmentation obligations under this plan for augmentation on any given day. For the exchange requested in this case, Applicants claim the point at which the portion of the Excess HCU Credits derived from Changed Biebel Water Rights that were changed in Case No. 06CW123 shall be available

for exchange is at the Biebel Ditch headgate as shown on Exhibit 2. Blue Mesa Reservoir releases exchanged upstream under the Oldcastle Blue Mesa Seahorse West Exchange as described below. On days when water is delivered to Tomichi Creek in excess of the amount required to replace out-of-priority depletions ("Excess Water"), the Excess Water may be substituted for water diverted by exchange and delivered to recharge. Excess Water delivered to recharge shall be measured and separately accounted. This exchange shall only operate on days when there is Excess Water which means the sum of daily recharge water accretions and/or daily direct deliveries are greater than the daily amount of out-of-priority depletions. The water diverted by exchange shall be fully consumable. **Deliveries into Recharge Ponds Following Exchange:** Water diverted by exchange shall be measured and delivered into recharge at the Seahorse West Pit, Vader Northwest Pit, Vader Northeast Pit and Vader South Pit and shall be accounted for separately from deliveries into recharge that may occur according to conditional water rights requested for such delivery ditch in this case. **Request for approval of appropriate right of exchange:** This Amended Application requests approval of the following conditional appropriate right of exchange pursuant to C.R.S. §§ 37-80-120, 37-82-106, 37-83-104 and 37-92-101, *et. seq.* **Name of Exchange:** Oldcastle Blue Mesa Seahorse West Exchange. **Description of Conditional Augmentation Exchange:** Applicants have initiated an appropriate right of exchange of water released from Blue Mesa Reservoir to be made pursuant to a water supply contract, described above. Reservoir releases may be exchanged as follows: **Exchange Reach:** The lower terminus for the Oldcastle Blue Mesa Seahorse West Exchange is the Blue Mesa Dam, legally described in Case No. CA10045 as a point on the right abutment being the intersection of the center line of the axis of the dam and the center line of the outlet works tunnel, whence the SW corner of Section 31, Township 49 North, Range 4 West, N.M.P.M. bears North 78°36'44" West a distance of 3,207.07 feet. The upper terminus of the Oldcastle Blue Mesa Seahorse West Exchange is the Seahorse West point of depletion located in the NE1/4 of the SW1/4 of Section 3, Township 49 N, Range 1 E, N.M.P.M. at a point 2,166 feet from the west section line and 1,459 feet from the south section line. Also represented by the following coordinates X: 338694 Y: 4266739, UTM Zone 13 NAD 83. **Date of appropriation:** July 31, 2020. **How appropriation was initiated:** The appropriation was initiated by formation of intent and the filing of the amended application. **Amount:** 1.5 c.f.s., conditional. **Use:** Augmentation as described in this Amended Application, recharge (including subsequent recharge of excess accretions to extinction), groundwater suppression, and filling and refilling the Oldcastle Augmentation Ponds. **Source:** Releases from Blue Mesa Reservoir, described in more detail above. **Operation of appropriate right of exchange:** Releases made from Blue Mesa Reservoir consistent with the augmentation plan requested in this Amended Application shall be exchanged upstream to the point of depletion for the Seahorse West Pit, as described above. (27 Pages). **GUNNISON COUNTY** YOU ARE FURTHER NOTIFIED THAT you have until the last day of October, 2020 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401

Published in the *Crested Butte News*. Issue of September 11, 2020. #091102

Legals

**—TAX LIEN SALE NUMBER 20160115—
NOTICE OF PURCHASE OF PROPERTY AT TAX LIEN SALE
AND OF APPLICATION FOR ISSUANCE OF TREASURER'S DEED**

To Every Person in Actual Possession or Occupancy of the hereinafter Described Land, Lot or Premises, and to the Person in Whose Name the same was Taxed or Specially Assessed, and to all Persons having Interest of Title of Record in or to the said Premises and To Whom It May Concern, and more especially to: Michael Rowe, Thomas Griffin and Kent Taylor
You and each of you are hereby notified that on the 27th day of October 2016, the then County Treasurer of Gunnison County, in the State of Colorado, sold at public tax lien sale to Kent Taylor the following described property situate in the County of Gunnison, State of Colorado, to-wit:
Schedule Number: 298900000030
Legal Description: THAT PART OF S2SE4 SEC 20, NW4NW4 SEC 28, NE4NE4 SEC 29 12S89W #634046 and said County Treasurer issued a certificate of purchase therefore to Kent Taylor.
That said tax lien sale was made to satisfy the delinquent property (and special assessment) taxes assessed against said property for the year 2015;

That said property was taxed or specially assessed in the name(s) of Thomas Griffin for said year 2015;
That said Kent Taylor on the 26th day of September 2019, the present holder of said certificate (who) has made request upon the Treasurer of said County for a deed to said property;
That a Treasurer's Deed will be issued for said property to Kent Taylor at 2:00 o'clock p.m., on the 16th day of December 2020 unless the same has been redeemed;
Said property may be redeemed from said sale at any time prior to the actual execution of said Treasurer's Deed.
This Notice of Purchase will be published in the *Crested Butte News* on August 28, 2020, September 4, 2020 and September 11, 2020.
Witness my hand this 28th day of August 2020
Debbie Dunbar
Gunnison County Treasurer

Published in the *Crested Butte News*. Issues of August 28, September 4 and 11, 2020. #082806

**—TAX LIEN SALE NUMBER 20160175—
NOTICE OF PURCHASE OF PROPERTY AT TAX LIEN SALE
AND OF APPLICATION FOR ISSUANCE OF TREASURER'S DEED**

To Every Person in Actual Possession or Occupancy of the hereinafter Described Land, Lot or Premises, and to the Person in Whose Name the same was Taxed or Specially Assessed, and to all Persons having Interest of Title of Record in or to the said Premises and To Whom It May Concern, and more especially to: **John W Flintham and Jason Volkerding and Richele Lewis**
You and each of you are hereby notified that on the 27th day of October 2016, the then County Treasurer of Gunnison County, in the State of Colorado, sold at public tax lien sale to Jason Volkerding and Richele Lewis the following described property situate in the County of Gunnison, State of Colorado, to-wit:
Schedule Number: 342900000007

Legal Description: UND 1/5 YELLOW JACKET #4799 TINCUP MD 15S82W B99 P261 and said County Treasurer issued a certificate of purchase therefore to Jason Volkerding and Richele Lewis.
That said tax lien sale was made to satisfy the delinquent property (and special assessment) taxes assessed against said property for the year 2015;
That said property was taxed or specially assessed in the name(s) of John W Flintham for said year 2015;
That said Jason Volkerding and Richele Lewis on the 27th day of May 2020, the present holder of said certificate (who) has made request upon the Treasurer of said County for a deed to said property;
That a Treasurer's Deed will be

issued for said property to Jason Volkerding and Richele Lewis at 2:00 o'clock p.m., on the 16th day of December 2020 unless the same has been redeemed;
Said property may be redeemed from said sale at any time prior to the actual execution of said Treasurer's Deed.
This Notice of Purchase will be published in the *Crested Butte News* on August 28, 2020, September 4, 2020 and September 11, 2020.
Witness my hand this 28th day of August 2020
Debbie Dunbar
Gunnison County Treasurer

Published in the *Crested Butte News*. Issues of August 28, September 4 and 11, 2020. #082807

**—TAX LIEN SALE NUMBER 20160176—
NOTICE OF PURCHASE OF PROPERTY AT TAX LIEN SALE
AND OF APPLICATION FOR ISSUANCE OF TREASURER'S DEED**

To Every Person in Actual Possession or Occupancy of the hereinafter Described Land, Lot or Premises, and to the Person in Whose Name the same was Taxed or Specially Assessed, and to all Persons having Interest of Title of Record in or to the said Premises and To Whom It May Concern, and more especially to: **John W Flintham and Jason Volkerding and Richele Lewis**
You and each of you are hereby notified that on the 27th day of October 2016, the then County Treasurer of Gunnison County, in the State of Colorado, sold at public tax lien sale to Jason Volkerding and Richele Lewis the following described property situate in the County of Gunnison, State of Colorado, to-wit:
Schedule Number: 342706000001
Legal Description: 1/5 INT IN: LITTLE BERTIE #4798 TINCUP MD SEC 6 15S81W B121 P13 and said County Treasurer issued a certificate of purchase therefore to Jason Volkerding and Richele Lewis.
That said tax lien sale was made to satisfy the delinquent property (and special assessment) taxes assessed against said property for the year 2015;

That said property was taxed or specially assessed in the name(s) of John W Flintham for said year 2015;
That said Jason Volkerding and Richele Lewis on the 27th day of May 2020, the present holder of said certificate (who) has made request upon the Treasurer of said County for a deed to said property;
That a Treasurer's Deed will be issued for said property to Jason Volkerding and Richele Lewis at 2:00 o'clock p.m., on the 16th day of December 2020 unless the same has been redeemed;
Said property may be redeemed from said sale at any time prior to the actual execution of said Treasurer's Deed.
This Notice of Purchase will be published in the *Crested Butte News* on August 28, 2020, September 4, 2020 and September 11, 2020.
Witness my hand this 28th day of August 2020
Debbie Dunbar
Gunnison County Treasurer

Published in the *Crested Butte News*. Issues of August 28, September 4 and 11, 2020. #082808

**—IN THE DISTRICT COURT IN AND FOR WATER DIVISION NO. 4—
STATE OF COLORADO
TO: ALL PERSONS INTERESTED IN WATER APPLICATIONS IN SAID
WATER DIVISION NO. 4**

Pursuant to C.R.S. 37-92-302, as amended, you are notified that the following is a resume of all applications filed in the Water Court during the month of August 2020.
The names, address of applicant, source of water, description of water right or conditional water right involved, and description of the ruling sought are as follows: There has been filed in this proceeding a claim or claims which may affect in priority any water right claimed or heretofore adjudicated within this division and owners of affected rights must appear to object and protest as provided in the Water Right Determination and Administration Act of 1969, or be forever barred.
CASE NO. 2020CW3051 (REF. NOS. 14CW3002, 07CW98, 00CW93) APPLICATION FOR FINDING OF REASONABLE DILIGENCE
1. **Applicant:** Pinto Trust Company, LLC, c/o Ernest H. Cockrell, Cockrell Interests LLC, 3737 Buffalo Speedway, Ste 1100, Houston, TX 77098. Copies of all pleadings to: Charles B. White, Esq., Thomas W. Korver, Esq., Petros & White, LLC, 1999 Broadway, Suite 3200, Denver, CO 80202, (303) 825-1980. 2. **Name of structure:** Gandy Pipeline No. 2. 3. **Description of Conditional Water Right:** A. **Original Decree:** On January 27, 1961, the District Court in and for Gunnison County entered a decree in Civil Action No. 5590. Subsequent decrees awarding findings of diligence: July 13, 2001, Case No. 00CW93; January 23, 2008, Case No. 07CW98; and June 9, 2014, Case No. 14CW3002. B. **Location:** The initial point of survey for Gandy Pipeline No. 2 is located at a point whence the W 1/4 corner of Section 10, Township 15 South, Range 83 West, 6th P.M., bears South 30°53'37" West 17,911.12 feet. This right has several alternate points of diversion at groundwater wells tributary to the Taylor River, as decreed in Case No. 83CW241, Water Division No. 4, on February 1, 1985. C. **Source:** Springs tributary to the Taylor River. D. **Appropriation Date:** June 1, 1960. E. **Amounts and Uses:** 0.50 c.f.s., conditional, and 0.50 c.f.s., absolute, for irrigation and domestic purposes. F. **Integrated System:** The subject water right is part of an integrated system for the purpose of supplying water to land owned by the Applicant along the Taylor River. "When a project or integrated system is comprised of several features, work on one feature of the project or system shall be considered in finding

that reasonable diligence has been shown in the development of water rights for all features of the entire project or system." C.R.S. § 37-92-301(4)(b). 4. **Evidence of Reasonable Diligence:** During the six-year diligence period, the Applicant expended significant sums relating to the development of the conditional water right described in paragraph 3 and the integrated system of which it is a part. The application contains a summary of the specific projects and work undertaken during the six-year diligence period and is available for inspection at the office of the Division 4 Water Court or via Colorado Courts E-filing. The list is not intended to be all inclusive and may be supplemented by additional evidence during any hearing in this matter. Applicant can and will apply the remaining conditional portion of the Gandy Pipeline No. 2 water right to beneficial use within a reasonable period of time. 5. **Name and address of owner of the land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure is or will be constructed or upon which water is or will be stored, including any modification to the existing storage pool:** N/A. WHEREFORE, the Applicant respectfully requests the Court enter a finding of reasonable diligence for 0.50 c.f.s., conditional, decreed to the Gandy Pipeline No. 2 in Civil Action No. 5590, District Court in and for Gunnison County; and continue said conditional water right for an additional six-year diligence period.
IN GUNNISON COUNTY
YOU ARE FURTHER NOTIFIED THAT you have until the last day of October, 2020 to file with the Water Clerk a Verified Statement of Opposition setting forth facts as to why a certain application should not be granted or why it should be granted only in part or on certain conditions. A copy of such a Statement of Opposition must also be served upon the applicant or the applicant's attorney and an affidavit of certificate of such service shall be filed with the Water Clerk, as prescribed by C.R.C.P. Rule 5. (Filing fee: \$192.00; Forms may be obtained from the Water Clerk's Office or on our website at www.courts.state.co.us). FRED CASTLE, Water Clerk, Water Division 4, 1200 N. Grand Ave., Bin A, Montrose, CO 81401
Published in the *Crested Butte News*. Issue of September 11, 2020. #091103

deadline is tuesday at noon • legals@crestedbuttenews.com • 970.349.0500 ext. 105

**—GUNNISON WATERSHED SCHOOL DISTRICT RE1J—
REGULAR MEETING
SEPTEMBER 14, 2020 ~ 5:30 PM**

This meeting will be conducted at Lake Conference room and by distance using the video conferencing platform ZOOM. Please check GWSD website for further instructions.

- 5:30** I. Call to Order
II. Roll Call
III. Pledge of Allegiance
IV. Modifications/Approval of Agenda— **ACTION ITEM**
V. Commendations and recognition of visitors
**Visitors who wish to address the Board, please make known at the beginning of the meeting via Zoom.*
VI. Administrative Action Summaries
A. FY20 Year End update-Mrs. Mills
B. Superintendent Summary-Dr. Nichols
1. Successful Students
2. Strong Employees
3. Engaged Community
4. Healthy Finances
5. Functional Facilities
VII **Action Items**
A. Consent Grouping

Note: Items under the consent grouping are considered routine and will be enacted under one motion. There will not be separate discussion of these items prior to the time the board votes unless a Board Member requests an item be clarified or even removed from the grouping for separate consideration.

- The Superintendent recommends approval of the following:**
1. Board of Education Minutes
a. August 10, 2020—Regular meeting
2. Finance*
Approve for payment, as presented by the Business Manager, warrants as indicated:
a. General Account # 38657-38753

- b. Payroll Direct Deposit # 44390-44697
3. Personnel*
a. Alyssa Geist-1st grade Teacher-GES
b. Timothy Parr-7th grade Math-GMS
c. Chris Rush-Math Teacher-GHS
d. Zoe Smith-Elementary Teacher-Pathways
e. Valarie Foltz- 1st and 2nd grade Educational Assistant-GES
f. Lindsay Hetherington-General Educational Assistant-CBES
g. Elaina Jauregui-SPED Educational Assistant-Achievement Center
h. Christina Karr-SPED Educational Assistant-Achievement Center
i. Lilly Westbay-SPED Educational Assistant-GES
j. Olivia Wogen-Permanent Substitute-CBCS
k. Katy Tuckerman-SPED Educational Assistant-Achievement Center
l. Amy Galey-Middle School Athletic Director-CBMS
m. Elesa McCrery-Media/Library EA-GCS
n. Jenny Stillo-Secondary Spanish-CBCS
o. McKenna Sheperd-Food Service-CBCS
p. Katelynn Martinez-Assistant Cross Country Coach-CBMS
q. Resignation of Marie Cuccaro-Food Service Cashier-GCS
r. Resignation of Beth Tagliareni-Media Specialist-CBCS
4. Correspondence
B. New Business
1. First reading of policy:
a. JB-Equal Educational Opportunities

- The Superintendent recommends approval of the following:**
C. Old Business—**ACTION ITEM**
1. Second reading of policies:
a. AC- Nondiscrimination/Equal Opportunity
b. IC-ICA- School Year/School Calendar/Instruction Time
c. GBAB-Workplace Health and Safety
VIII. Comments from the Public
**Visitors who wish to address the Board.*
IX. Items introduced by Board Members
X. Board Committee Reports
A. District Accountability Committee- Mr. Taylor
B. School Accountability Committees- Mr. Martineau, Mrs. Mick, Mrs. Brookhart
C. Gunnison County Education Association Negotiations- Ms. Fullmer
D. Gunnison County Education Association 3X3- Mr. Martineau
E. Fund 26- Mrs. Mick
F. Gunnison Valley Community Foundation- Mrs. Mick
G. Gunnison Memorial Scholarship- Mr. Taylor
H. Health Insurance- Ms. Fullmer
XI. Forthcoming Agendas/Meeting Dates and Times
A. Monday, September 28, 2020—District PD Day
B. Monday, October 5, 2020—Regular meeting@5:30
CBCS
C. Monday, October 26, 2020—Work session@5:30 Lake
D. Monday, November 9, 2020—Regular meeting@5:30
CBCS
XII. Adjournment
Published in the *Crested Butte News*. Issue of September 11, 2020. #091106

Legals

—TOWN OF MT. CRESTED BUTTE— ORDINANCE NO. 8 SERIES 2020

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, APPROVING A PUD FINAL PLAN FOR THE HILLSIDE SUBDIVISION AND AMENDING THE ZONING MAP OF THE TOWN OF MT. CRESTED BUTTE, COLORADO WHEREAS, following public hearing and opportunity to comment on August 4, 2020, the Town Council considered the PUD final plan application to rezone from single family residential to planned unit development an unnamed 2.01 acre tract located in the NE ¼ of the SW ¼ of the SE ¼ of Section 26 (parcel #317726400004)

and an unnamed .594 acre tract located in the N ½ SE ¼ Section 26 (parcel #317726400043) all in Township 13 south range 86 west, 6th principal meridian, County of Gunnison, State of Colorado, in the Town of Mt. Crested Butte, Colorado, and also known as the Hillside Parcel and 40 Hunter Hill Rd, which properties are now subdivided as the Hillside Subdivision; and WHEREAS, the Town Council approved the final plan application on August 4, 2020. NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, ORDAINS THAT:

Section 1. The real property described herein shall be zoned Planned Unit Development (PUD).
Section 2. The official zoning map of the Town of Mt. Crested Butte, Colorado, shall be amended to reflect the zoning of the property as PUD.
INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED on the first reading at the regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held August 4, 2020.
PASSED, ADOPTED AND APPROVED ON

THE SECOND READING at a regular meeting of the Town Council held the 1st day of September 2020.
TOWN OF MT. CRESTED BUTTE

S:/ Janet R. Farmer
By: Janet R. Farmer, Mayor
ATTEST:
S:/ Tiffany O'Connell
By: Tiffany O'Connell, Town Clerk

Published in the *Crested Butte News*. Issue of September 11, 2020. #091104

—TOWN OF MT. CRESTED BUTTE— ORDINANCE NO. 7 SERIES 2020

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AMENDING CHAPTER 22, COMMUNITY HOUSING, OF THE CODE OF THE TOWN OF MT. CRESTED BUTTE, COLORADO

WHEREAS, the Town of Mt. Crested Butte, Colorado is a Colorado home-rule municipality; and WHEREAS, Town staff and Town consultant Willa Williford, of Williford, LLC, have undertaken review of the Town's community housing code and the Town's community housing guidelines in order to clarify and refine both documents and aid the Town in obtaining community housing; and WHEREAS, the Town Council has provided input to staff into the development of the revised code and community housing guidelines; and WHEREAS, staff recommends the following amendments to Chapter 22 of the Town Code.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO ORDAINS AS FOLLOWS:

Section 1. Chapter 22 Community Housing, of the Town of Mt. Crested Butte Municipal Code is amended to read as follows:

Chapter 22 COMMUNITY HOUSING ARTICLE I. IN GENERAL

Sec. 22-1 Purpose.

It is essential for the Town of Mt. Crested Butte to ensure the provision of housing that is *affordable* to residents and employees of Mt. Crested Butte through preservation of existing dwellings and as a part of new development. The purpose of this chapter of the Code of the Town of Mt. Crested Butte is to establish regulations and incentives through which *Community Housing* will be produced and preserved in accordance with the goals and objectives as contained in the Housing Element of the Town of Mt. Crested Butte's Master Plan. The *Community Housing Guidelines* complement this chapter and provides more detailed guidance for development, rental, and sale of Community Housing. In case of conflict between the *Community Housing Guidelines* and this chapter, the chapter shall prevail.

Sec. 22-2 Definitions.

When used in this chapter and the *Community Housing Guidelines* the following words and phrases shall have the specific meaning as defined in this section:

Accommodations shall mean any hotel, lodge, townhome or condominium with an on-premises front desk and centrally-managed room cleaning service, that offers rooms or groups of rooms designed for or adapted to occupancy by guests, available for short-term rental of less than thirty (30) days, and accessible from common areas without having to pass through another accommodation unit or residential unit.

Accommodations room shall mean a room or the smallest combination of a group of rooms that can be rented on a short-term basis as an accommodation and that contains at least one (1) sleeping area. Lock-off rooms are to be considered a separate room.

Affordable shall mean when the amount spent by a household on rent (not utilities charged separately) or mortgage payments (principal, interest, and taxes) does not exceed thirty (30) percent of the household's gross combined income.

AMI shall mean the median annual income for Gunnison County, as adjusted for Household size, that is calculated and published annually by the Department of Housing and Urban Development (HUD) or any successor index.

Category 1 shall mean a household making < 80% of the local AMI as published annually by HUD.

Category 2 shall mean a household making between 81% and 120% of the local AMI as published annually by HUD.

Commercial Square Feet shall mean the total floor area of a structure or portions thereof that are not for residential occupancy, including garages, within the enclosing walls measured to the outside surface of the building's enclosing exterior walls.

Community housing shall mean units restricted for occupancy by *eligible households* that meet size, for-sale price, and rental requirements and that are deed restricted in accordance with a covenant approved by the town council of the Town of Mt. Crested Butte. *Community Housing Guidelines (the Guidelines)* shall mean the document that contains the procedures and guidelines for complying with the requirements of Chapter 22 of the Code of the Town of Mt. Crested Butte.

Deed restriction shall mean an enduring covenant placed on units that identifies the conditions of ownership and occupancy of the units to *eligible households*, and may control the prices of for-sale units, initially and/or upon resale. A template *deed restriction* is included in the *Guidelines*.

Density bonus shall mean an increase over the maximum number of units and/or square footage normally permitted in any zone district.

Development shall mean the entire plan to construct or place one (1) or more dwelling units on a particular parcel or contiguous parcels of land within the town including, without limitation, a planned unit development, site review or subdivision approval. Excludes dwelling units constructed by a school, hospital, local government or similar public institution for the exclusive use of its employees, patients, or enrolled students.

Eligible household shall mean a household that is comprised entirely of one (1) or more residents who meets each of the following: (1) employed in Gunnison County working an average of at least thirty (30) hours per week (2) Earns at least eighty percent (80%) of their adjusted income from a business, government, or organization operating in and/or serving the County and its residents (3) has gross income that does not exceed guidelines established annually based upon the *AMI*; eighty (80) percent of the household's income must consist of wages and salaries earned within Gunnison County or distribution of profits from business operations within Gunnison County unless the household is headed by a retired resident.

Existing unit shall mean a unit located within the town, which existed prior to the *development* which requires *Community Housing*.

Free market units shall mean residential units upon which there are no restrictions on the occupancy, price or resale.

Gross income shall mean the total income of a household derived from employment, business, trust or other income producing assets include wages, alimony and child support, distributions and before deductions for expenses, depreciation, taxes and similar allowances.

Household shall mean one or more persons who intend to live together, on a property as a single housekeeping unit. *Housing Agency* shall mean The Gunnison Valley Regional Housing Authority, or any comparable governmental agency selected by The Town of Mt. Crested Butte, Colorado responsible

for the administration of *community housing*.

Housing Expense shall mean the amount paid for rent plus utilities, or for the principal, interest, taxes, insurance and any homeowner association dues. It includes all payments necessary to prevent loss of the right to own or occupy a property through failure to pay in a timely manner.

Housing fund shall mean the fund in which monies collected shall be deposited and from which they shall be expended, to plan, design, construct, purchase, maintain and administer community housing units.

HUD shall mean the U.S. Department of Housing and Urban Development. *Inclusionary zoning* shall mean the mandatory provision of community housing units, or financial contribution to the *housing fund*, as a requirement for development approval.

Income limits shall mean the income amounts on which the eligibility of households is based expressed as percentages of the *AMI* and in absolute dollar amounts, updated annually and contained in the *Community Housing Guidelines*.

Infrastructure shall mean water, sewer, telephone, natural gas, electric, cable television and any other utility installations; streets, curb and gutters; storm drainage systems.

Interim covenant shall mean a covenant placed on lots or parcels that conveys the conditions of the deed restrictions that will be filed upon community housing units built on the lots or parcels. *Off-site* shall mean a location for community housing units other than the parcel, lot or PUD where the residential or commercial development that generates the requirement for community housing units is located.

Maximum Resale Price shall mean the maximum purchase prices that may be paid by any purchaser of a property, other than the initial purchaser who acquires the property from the GVRHA or a developer, that is determined in accordance with the provisions in Part IV of the *Guidelines*. The Maximum Resale Price is not a guaranteed price, but the highest price an owner may obtain for the sale of the property which includes considerations paid to the owner.

Plat shall mean a map and supporting materials of described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

Qualified Employer shall mean business, nonprofit, government agency or essential service provider whose business address is located within Gunnison County, employs persons who reside in Gunnison County, has fulltime employees who perform work in Gunnison County, and whose business taxes are paid in Gunnison County. *Residential Square Feet (RSF)* shall mean the total floor area of a residential structure, including garages, within the enclosing walls measured to the outside surface of the building's enclosing exterior walls.

Unit shall mean a structure or portion of a structure, other than a mobile home, that is designed, occupied or intended to be occupied as living quarters and includes facilities for cooking, sleeping and sanitation; but not including hotels, motels, clubs, boarding houses, or any institution where human beings are housed by reason of illness or under legal restraints.

Duplex unit shall mean a unit within a single building containing two (2) units and under a single roof.

Multi-family unit shall mean a unit within a *development* consisting of three (3)

or more residential units in one (1) or more buildings with a predominately attached design, including apartments, condominiums and townhomes. *Seasonal Employee* shall mean an employee who is hired into a position for which the period of employment is six months or less.

Seasonal Housing Unit shall mean a dormitory-style unit with a shared kitchen, bath and living room with a minimum of two private bedrooms and a maximum of four private bedrooms containing a minimum of 220 square feet of living space per bedroom intended primarily for occupancy by Seasonal Employees.

Single-family unit shall mean a unit located on a separate lot or tract that has no physical connection to a building located on any other lot or tract. *Zoning administrator* shall mean the town manager or designee whose duty it is to enforce the zoning regulations of this chapter.

Sec. 22-3 Location.

It is preferred that community housing be provided on the same site as the *development* that triggered the requirement for the units to be developed. Alternative off-site locations within Mt. Crested Butte may be allowed if one or more of the following conditions exist:

(1) Disturbances from short-term vacation accommodations and commercial and incompatible civic uses that cannot feasibly be buffered from the community housing units.

(2) The number of community housing units to be built off-site or existing units to be acquired is at least fifteen (15) percent greater than the number required.

(3) The units to be built off-site or existing units to be acquired exceed by at least fifteen (15) percent the minimum and average size requirements, offer amenities not required but desired, and/or offer superior energy efficiency/utility savings.

(4) The location of the *development* for which *community housing* units must be included is not served by transit or convenient to employment centers.

(5) The off-site location or location of existing units to be acquired is convenient to transit and employment centers, and in proximity to other primary residences such that a sense of neighborhood is fostered.

(6) Off-site development and existing units to be acquired must be approved in accordance with the procedures defined in the *Guidelines*.

Sec. 22-4 Quality standards.

Community housing units shall meet local building codes and be built to a standard that will enhance durability over time. Energy efficient designs, appliances and heating systems are encouraged so that the long-term affordability of community housing is enhanced. See the *Guidelines* for additional detail on quality standards. Proposed existing units to be used to satisfy the community housing requirements must comply with the safety requirements of the current editions of the applicable building codes, shall be in a clean condition, and resemble a residence with an age of five (5) years or less.

Sec. 22-5 Homeowner's association dues and assessments.

If a *community housing* unit is developed for sales purposes as part of a *development* that has a homeowner's association, then any documents creating the condominium association or homeowners association shall state that the *community housing* unit shall only be assessed monthly dues and other shared assessments not to exceed those in the *Community Housing Guidelines*, as updated periodically.

Sec. 22-6 Community Housing Plan required.

An applicant for any new residential or commercial development within the Town of Mt. Crested Butte shall submit a Community Housing Plan or statement of exemption to the Town of Mt. Crested Butte for approval.

(1) The community housing plan shall include the elements listed in Appendix D of the *Guidelines*.

(2) The community housing plan shall be submitted to and approved by the Town of Mt. Crested Butte prior to, or concurrent with, application to the Town of Mt. Crested Butte for the free-market portion of the initial development plan. For development of single-family residences, the *zoning administrator* shall have the responsibility for approving or denying the community housing plan. For developments that only require planning commission approval, the planning commission shall have responsibility for approving or denying the community housing plan. For developments that require town council approval, the town council shall approve or deny the community housing plan. Any amendment to the community housing plan shall require the approval of the planning commission or town council, whichever body approved the initial plan.

(3) The town manager shall certify its approval, approval with conditions, or denial of the community housing plan. Such approval, approval with conditions, or denial shall be based on compliance with the provisions of this chapter and the *Community Housing Guidelines*.

Sec. 22-7 Community Housing Guidelines.
The town manager of the Town of Mt. Crested Butte shall publish the *Community Housing Guidelines* for the development and management of community housing including the provision of incentives to developers. The *Guidelines* shall be updated annually to reflect changes in income limits, fees in lieu, and initial sales prices.

Sec. 22-8 Methods for providing housing.

Applicants shall satisfy the housing minimum requirements established in this chapter by submitting a community housing plan, pursuant to the requirements of Article I, section 22-5, Community housing plan, specifying how community housing requirements are to be addressed. The following options are allowed:

(1) Construction of unit(s) on the site where the *development* that generates the employee housing demand is proposed.

(2) Construction of units off-site or acquisition of existing units, as a less preferred method, subject to the approval of the town council of the Town of Mt. Crested Butte and any other applicable provisions of this Code, provided that such land, site, or structure has not been previously restricted to employee or community housing. Such off-site units or existing units may be permitted where the town council of the Town of Mt. Crested Butte determines that the goals and objectives for community housing can be adequately addressed through off-site development or acquisition of existing units.

(3) Payment of cash in-lieu in any case where the number of units required is a fraction and in other cases subject to the approval of the Town of Mt. Crested Butte in accordance with the *Community Housing Guidelines*.

(4) A combination of options listed above in subsections (1), (2), and (3). The *Community Housing Guidelines* (Section II (D.)) provide more specific detail on compliance methods for different residential uses.

continued on next page

Legals

continued from previous page

Sec. 22-9 Credits for community housing units built prior to required date.

If certificates of occupancy are issued for community housing units prior to the time that they are required under this chapter, Article II, Inclusionary Zoning, or Article III, Employee Housing Mitigation, credit for the units can be applied to future commercial or residential development. Each community housing unit produced will count as credit for one (1) unit that can be applied to requirements in effect at the time that the application for the free-market residential or commercial development is submitted.

Sec. 22-10 Incentives.

Developments that contain community housing units may be eligible at the town council's discretion for the following:

(1) A reduction in parking requirements based on the availability of public transit, offsite parking and the potential to share parking spaces with commercial users. Parking usage patterns can be taken into account when determining the amount of parking required.

(2) A density bonus allowing an increase in the density of allowable square footage and/or units of both free market and community housing.

(3) A possible increase in the allowable height of buildings provided that view corridors are not obstructed. Applicants within the Downtown Development Authority (DDA) boundaries are encouraged to work with the DDA on public facilities and community housing.

Secs. 22-11—22-20 Reserved.

ARTICLE II. INCLUSIONARY ZONING

Sec. 22-21 Purpose.

The purpose of this section is to mitigate the impact of free market housing construction on the limited supply of available land suitable for such housing, thus preventing the Town of Mt. Crested Butte's zoning regulations applicable to residential development from having the effect of excluding housing that meets the needs of all economic groups within the Town of Mt. Crested Butte. This is accomplished through the establishment of community housing requirements for such development that requires the set-aside of a portion of new residential development for community housing purposes as a condition of approval.

Sec. 22-22 Applicability.

Community housing shall be required as a condition of approval for all development of new residential units, including single-family subdivisions and duplex dwellings and multi-family structures. For developments that involve demolition of existing units, the minimum requirements of this article shall only apply to the incremental increase in the number of units, if any, above the number demolished regardless of the amount of square feet constructed.

Sec. 22-23 Exemptions.

The following development is exempt from the requirements of this article:

1. Community housing. Development of community housing as defined herein is exempt from the requirements of this article.

2. New single-family dwellings within existing subdivisions platted prior to the adoption of the regulation (January 31, 2003), where the finished residential square feet is less than 2,700 square feet while excluding the first 600 square feet of garage space.

3. Accessory dwellings. Attached or detached accessory dwelling units on single-family lots shall be exempt from the requirements of this article.

4. Existing agreements. All residential developments for which agreements for the development of employee living spaces or community housing had been executed prior to the adoption of the ordinance enacting this article shall be exempt from the requirements of this article unless major alterations to approved PUDs as defined by section 21-510 are made.

5. Additions and remodels. Additions to and remodels of existing residential units.

6. Accommodations.

All development of new residential developments shall set aside units for community housing, as follows:

Fifteen (15) percent of all new single-family, duplex, and multi-family units built shall be developed as community housing for sale to eligible households;

Sec. 22-25 Deed restriction.

Any community housing required by this article shall be deed restricted, in accordance with a deed restriction enforceable in the State of Colorado, as approved by

the town council, to rental or ownership and occupancy by eligible households with incomes below one hundred twenty percent (120%) of the AMI, herein defined as Category 2. A sample deed restriction is provided in the Guidelines.

Sec. 22-26 Unit type and bedroom mix.

The type of unit and bedroom mix of community housing units shall generally be in proportion to the unit type and bedroom mix within the free market development for which the inclusionary requirement is applicable. Exceptions may be allowed when the free market development contains units with four (4) or more bedrooms and the applicant can demonstrate that the market demand for community housing units with four (4) or more bedrooms is not sufficient.

Sec. 22-27 Size standards.

Community housing units developed in accordance with the minimum requirements of this article shall comply with the following minimum and average size requirements by unit type:

Multifamily	Size in Square Feet
Studio	450
1 Bedroom	600
2 Bedroom	850
3 Bedroom	1,000
Minimum Average	850
Single-Family Detached	
2 Bedroom	1,000
3 Bedroom	1,300
4 Bedroom	1,500
Minimum Average	1,300

Sec. 22-28 Timing of occupancy.

At least eighty percent (80%) of the community housing units required by this article shall be ready for occupancy prior to or concurrently with the date of the certificate of occupancy for fifty percent (50%) of the free market units being developed. The remaining community housing units must be completed prior to the date that eighty percent (80%) of the free-market units are completed. If the free market units are to be developed in phases, then the community housing units can be developed in proportion to the phasing of the free market units. The phasing proposal must be approved as part of the Community Housing Plan.

Sec. 22-29 Dedication of lots in lieu.

In lieu of the provision of the minimum number of required community housing units and at the discretion of the town council of the Town of Mt. Crested

Butte, the developer may dedicate an equal number of lots to the Town of Mt. Crested Butte. The lots may be off site but within the municipal boundaries of the Town of Mt. Crested Butte provided that the conditions stipulated in Article I, section 22-3, Location, are satisfied and there are no covenants or other restrictions placed on the lots that would limit their appropriateness for community housing.

Secs. 22-30—22-40 Reserved. ARTICLE III. EMPLOYEE HOUSING MITIGATION

Sec. 22-41 Findings.

New residential, commercial and accommodations development generate additional employment and the need for additional housing. Consistent with the desire to have new development mitigate impacts attributable to such development, the Town of Mt. Crested Butte finds it necessary to require such development to provide community housing. Maintaining permanent and long-term housing in proximity to the source of employment generation serves to maintain a healthy community in which a variety of types and sizes of housing is available to meet the needs of those who live and work in the community. It also serves to reduce regional traffic congestion, and to minimize impacts on adjacent communities. Housing must be affordable to the local labor force in order for the local economy to remain stable.

In order to maintain the priorities stipulated above, to compensate for market conditions, and to ensure that new residential, commercial and accommodations development mitigates a portion of the need for community housing generated by such development in the Town of Mt. Crested Butte, these regulations will be utilized to require new development to mitigate a portion of the community housing need generated by such development.

Sec. 22-42 Purpose.

The purpose of this article is to create housing for employees that is affordable, the need for which is generated by new residential, commercial and accommodations development in Mt. Crested Butte. This housing is created through the establishment of employee housing mitigation regulations for such develop-

ment that requires the construction of community housing or payment of fees in lieu as a condition of approval for all development.

Sec. 22-43 Applicability.

The requirements of this article apply to all new, residential and non-residential development within the Town of Mt. Crested Butte except as provided in section 22-44, Exemptions.

Sec. 22-44 Exemptions.

The following are exempt from the requirements of this article:

(1) Redevelopment or remodeling that does not increase the square footage of the development by more than five hundred (500) commercial square feet or five hundred (500) residential square feet;

(2) The change from one use to another;

(3) Community housing units as defined and regulated by this Chapter 22 of the Town Code of the Town of Mt. Crested Butte; and,

(4) Existing agreements. All residential and commercial developments for which agreements for the development of employee living spaces or community housing had been executed prior to the adoption of the ordinance enacting this article shall be exempt from the requirements of this article unless major alterations to approved PUDs as defined by section 21-510 are made.

Sec. 22-45 Minimum requirements.

a) Deed restriction. Any community housing units required by this section shall be subject to Category 1 deed restrictions as described in the Community Housing Guidelines, and in accordance with a deed restriction enforceable in the State of Colorado, as approved by the town attorney.

b) Housing guidelines. The community housing units shall be developed in accordance with and subject to the Town of Mt. Crested Butte Community Housing Guidelines, adopted by the town council of the Town of Mt. Crested Butte on January 21, 2003, and amended periodically.

c) Calculation of minimum community housing requirements. The minimum community housing requirement for development in all zoning districts shall be determined according to the following formula:

Commercial	Factor	Calculation
Size of Development		Commercial Square Feet (CSF)
Jobs Generated	2.9 per 1,000 square feet	2.9 x (CSF/1,000)
Employees Generated	1.3 Jobs per employee	Jobs Generated /1.3
Households Generated	1.8 employees per unit	Employees generated/1.8
Units Required	15% Mitigation Rate	Households Generated x 15%
Accommodations		
Size of Development	Factor	Calculation
Jobs Generated	.5 per Room	# of Accommodation Units
Employees Generated	1.3 Jobs per employee	# of Accommodation Units x .5
Households Generated	1.8 employees per unit	Jobs Generated /1.3
Units Required	25 % Mitigation Rate	Employees Generated/1.8
		Households Generated x 25%
Residential		
Size of Development	Factor	Calculation
Employees Generated	Unit addition size	# Units
	≤ 2000 RSF: .12 FTE	# units by appropriate job generation rates at left
	2,001 – 4,500 RSF: .19 FTE	
	4,501 RSF or more: .48 FTE	
Households Generated	1.8 employees per unit	Employees Generated /1.8
Units Required	30% Mitigation Rate	Households Generated x 30%

When calculating the number of commercial square feet to which the minimum requirements apply, the gross floor area of bathrooms, storage areas, garages, mechanical rooms, staircases, elevators, loading docks, and distribution or processing areas in which employees are present on average no more than ten (10) percent of time that the space is used for commercial operations shall be excluded.

For additions of five hundred (500) square feet or greater, the employee generation rate shall be based on the size of the addition rather than the total size of the unit or development on which the addition is being made.

Sec. 22-46 Deed restriction.

Any community housing required by this article shall be deed restricted, in accordance with a deed restriction enforceable in the State of Colorado, as approved by the town council, to rental or ownership and occupancy by eligible households with incomes equal to or less than eighty percent (80%) of the AMI, herein defined as Category 1. A sample deed restriction is included in The Guidelines

Sec. 22-47 Unit type and bedroom mix.

The type of unit and bedroom mix of community housing units shall generally be responsive to market demand generated by Category 1 households.

Sec. 22-48 Size standards.

Community housing units developed in accordance with the minimum requirements of this article shall comply with the following minimum and average size requirements by unit type:

Multifamily	Size in Square Feet
Studio	400
1 Bedroom	550
2 Bedroom	800
3 Bedroom	950
Minimum Average	800
Single-Family Detached	
2 Bedroom	950
3 Bedroom	1,250
4 Bedroom	1,440
Minimum Average	1,250

Sec. 22-49 Timing of occupancy.

At least eighty percent (80%) of the

community housing units produced under this article shall be ready for occupancy prior to or concurrently with the date of the certificate of occupancy on the residential, commercial or accommodations development that generates the demand for community housing. The remaining units can be phased to coincide with employment generation as it occurs over time as measured by performance indicators specified in the community housing plan.

Section 2. If any provision of this ordinance, or the application of such provision to any person or circumstance, is held to be unconstitutional, then the remainder of this ordinance, and the application of the provisions of such to

any person or circumstance, shall not be affected thereby.
INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 4th day of August 2020, on first reading, and introduced, read, and adopted on second and final reading this 1st day of September 2020.
TOWN OF MT. CRESTED BUTTE, COLORADO
S: Janet R. Farmer
By: Janet R. Farmer, Mayor
ATTEST:
S: Tiffany O'Connell
By: Tiffany O'Connell, Town Clerk

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—MOUNTAIN EXPRESS BOARD OF DIRECTORS MEETING—
AGENDA

WEDNESDAY, SEPTEMBER 17, 2020 ~ 9:00 A.M.
VIRTUAL MEETING ONLY

- I. Roll Call
- II. Reading and Approval of the Minutes of August 19, 2020 Meeting
- III. Managing Director Report
 - A. Operations
 - 1. Current State

- 2. Future Facing
- B. Financials
 - 1. Current State
 - 2. Future Facing
- IV. Unfinished Business
 - A. Whetstone Industrial Park Project Update

- B. Strategic Plan Update/ Innovations
- V. New Business
- VI. Unscheduled Business
- VII. Schedule Next Board Meeting
- VIII. Adjournment
- MX Board Meeting Remote Access**

Thu, Sep 17, 2020 9:00AM
Please join my meeting from your computer, tablet or smartphone. <https://global.gotomeeting.com/join/641911317>
You can also dial in using your phone. United States (Toll Free): 1

866 899 4679
United States: +1 (571) 317-3116
Access Code: 641-911-317
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