

DUGGAN & HUGHES, LLC
ATTORNEYS AND COUNSELORS AT LAW

Daniel R. Hughes
Evan C. Bramhall
J. Alexander Zimmerman

457-B Pennsylvania Avenue
Greer, South Carolina 29650
Telephone: (864) 334-2500
Facsimile: (864) 879-0149

Mailing Address
Post Office Box 449
Greer, S.C. 29652

August 11, 2025

Via Fax (864) 878-5009 and Certified Mail

Bethlehem Roanoke Water District
Attn: Jason E. Hall, General Manager
PO Box 853
Pickens, SC 29671

**Re: Annexation of Property within Bethlehem Roanoke Water District
TMS No. 4180-00-46-1109**

Dear Mr. Hall:

I am the city attorney for Pickens. I understand there have been several efforts made by the City to discuss an annexation petition of certain real property located at the intersection of Mauldin Lake Road and Wolf Creek School Road and within the Bethlehem Roanoke Water District (BRWD) and the provision of water service to said property.

I am hopeful to open the dialogue for conversation between the City and BRWD as the City moves forward with annexation. I want to specifically address your letter dated July 16, 2025 in which you state that BRWD “will not relinquish or transfer its right to provide water service within our currently established boundaries.”

The City recognizes that the subject property is within the boundaries of BRWD, and the City further recognizes that state law provides certain protections for BRWD. However, state law also provides that municipalities have the right to determine whether to provide services in annexed area pursuant to a plan (See S.C. Code §5-3-310). The City intends to exercise that right.

S.C. Code §5-3-310 provides as follows (emphasis added):

When all or part of the area of a special purpose district as defined in Section 6-11-1610 or a special taxing district created pursuant to Section 4-9-30 or Section 4-19-10, et seq. or an assessment district created pursuant to Chapter 15 of Title 6, or any other special purpose district or special taxing or assessment district is annexed into a municipality under the provisions of Section 5-3-150 or 5-3-300, the following provisions apply:

(1) At the time of annexation or at any time thereafter the municipality may elect at its sole option to provide the service formerly provided by the district within the annexed area. The transfer of service rights must be made pursuant to a plan formulated under the provisions of Sections 5-3-300 through 5-3-315.

(2) Until the municipality upon reasonable written notice elects to displace the district's service, the district must be allowed to continue providing service within the district's annexed area.

(3) Annexation does not divest the district of any property; however, subject to the provisions of item (4) below, real or tangible personal property located within the area annexed must be transferred to the municipality pursuant to a plan formulated under the provisions of Sections 5-3-300 through 5-3-315.

(4) In any case in which the municipality annexes less than the total service area of the district, the district may, at its sole discretion, retain ownership and control of any asset, within or without the annexed area, used by or intended to be used by residents within the district's unannexed area or used or intended to be used to provide service to residents in the unannexed area of the district.

(5) Upon annexation of less than the total area of the district, the district's boundaries must be modified, if at all, by the plan formulated pursuant to the provisions of Sections 5-3-300 through 5-3-315. The plan must specify the new boundaries of the district.

The foregoing law grants the City the right to provide service to the annexed area pursuant to a plan, and therefore, contrary to your position, BRWD does not have right to deny the City the right to provide water service upon annexation. The SC State Attorney General's Office agrees: "By its plain language, section 5-3-310 establishes that an annexing municipality has the sole discretion whether to assume the responsibility for providing services currently provided by a special purpose, special taxing, or special assessment district. (2012 WL 1377689 (S.C.A.G. Mar. 30, 2012)(emphasis added).

If the City and BRWD cannot agree to a plan, then the law provides a method for formulating a plan for services through a 3-member committee with mandated participation by BRWD. If a plan cannot be agreed upon, then a party can request for the Court to intervene. See S.C. Code §5-3-311. Importantly, S.C. Code §5-3-311(7) provides that the absence of a finalized plan may not alter or delay the effective date of annexation.

Based upon the foregoing, the City has the right to annex and provide service and BRWD has the obligation to participate in formulating a service plan.

Furthermore, it makes more economical and engineering sense for the City to assume service to the subject property. This is an important consideration since the plan required by S.C. Code §5-3-311 must "balance the equities" between the residents and taxpayers both inside and outside the annexed area. It is my understanding that BRWD does not currently provide service to the subject property and would incur significant cost to build the infrastructure necessary to provide service. On the other hand, the City's water system is ready and capable of providing

service without significant cost.

Based upon the foregoing, BRWD has an obligation to confer with the City to develop a plan to establish the transfer of service rights as required by state law. It is the City's hope that this plan for transfer of rights can be accomplished in a mutually agreeable manner in the very near future. The City wants to keep and maintain its good relationship with BRWD.

Upon review of this letter, please reach out to me to discuss. I respectfully request a response within ten (10) days of this letter. The City is committed to working with you in good faith to resolve this matter, and I am hopeful that will happen.

Sincerely,

DUGGAN & HUGHES, LLC

A handwritten signature in black ink, appearing to read "Daniel R. Hughes", with a long horizontal flourish extending to the right.

Daniel R. Hughes
dhughes@dugganhughes.com

DRH/tab

cc: Mayor Isaiah Scipio and City Council (via email)
Tim O'Briant (via email)