

Mesa County Federal Mineral Lease Board Meeting

July 25, 2013

A notice of this meeting of the Mesa County Federal Mineral Lease Board was posted on July 23rd, 2013 at Grand Junction City Hall, 250 N. 5th Street, and at 544 Rood Ave, Grand Junction CO.

Attendees:

County Attorney David Frankel

Mesa County Commissioner Steve Aquafresca

FML Treasurer David Ludlam

FML Chair Craig Springer

Noted: A quorum is present for this meeting.

Previous Mesa County Federal Mineral Lease meeting took place on February 13, 2013. Minutes from that meeting are attached.

Chair Springer called meeting to order at 4:30 PM.

Chair Springer called attention to draft audit for board consideration.

Discussion ensued relative to approval of final draft audit.

Commissioner Aquafresca expressed concern that final draft was not delivered from DALBY but upon recognizing there was no variation on draft and final, was comfortable approving final draft.

Chair Springer addressed the issue of discrepancies within the audit surrounding check sequences. Explained to board that the out of sequence checks were a result of use of temporary checks upon board being established.

Treasurer Ludlam moved that the Mesa County Federal Mineral Lease District approve resolution MCFMLD 2013-1 **A RESOLUTION TO ACCEPT THE 2012 FINANCIAL STATEMENTS AND INDEPENDENT AUDITORS REPORT FOR THE MESA COUNTY FEDERAL MINERAL LEASE DISTRICT.**

Commissioner Aquafresca qualified resolution that the board needed to be sure that there were no discrepancies between final draft audit and approved audit.

Resolution seconded by Commissioner Aquafresca. Resolution adopted unanimously.

Chair called for other business. Treasurer Ludlam encouraged sending a letter to the CO Attorney General and the Department of Interior objecting to sequestration of Mesa County Federal Mineral Lease District monies. Board unanimously agreed that a letter should be sent. David Frankel will prepare draft letter for consideration at August board meeting.

Treasurer Ludlam asked "Can we approve a letter over the phone?"

David Frankel responded that per the terms outlined in the bylaws, a quorum needs to be physically present.

Commissioner Aquafresca and David Frankel discussed their visit to the Garfield County Federal Mineral Lease District lunch. More organized and well established structure. It was suggested that the Mesa County FML reciprocate by inviting them down here as well as potentially other counties with FML's. Weld and Park Counties also have Federal Mineral Lease District's.

Garfield County FML has 2 grant cycles per year. Cap at \$1 million per cycle. In effort to spread out money they do a micro grant program- max of \$25,000 in order to fund many small projects. FML can have micro grant or regular grant programs for monies. Municipalities should prioritize 1 big project and present for grant funds.

[Extend ability of district to get more projects complete upon income of new funds- possibly not be able to generate return.]

If statute allows board to hold funds then they are investable. When holding money in the future the Mesa County FML should put a bid out formally to local bank.

Take Garfield County FML up on discussion for this. Administering number of grants takes effort so Garfield County has staff and building space. Also require certain matching to fund for applicants.

For August meeting, create vehicle to establish revolving loans fund based on Utah board.

Garfield County will share their pre-established matrix for scoring grant applications.

Motion to adjourn. Treasurer Ludlam so moved. Commissioner Aquafresca seconded.

Meeting adjourned at 5:00 PM.

Mesa County Federal Mineral Lease District Meeting

February 13, 2013

Craig Springer called meeting at 1:32.

Agenda covered

Call for additions or changes.

DLudlam moved to approve agenda. CSpringer seconded. Motion passed.

DLudlam moves to approve minutes. CSpringer seconded. Motion carried.

DFrankel- Mineral lease funds have come to county gov't. In 2011 statutory amendments made to provide for creation of mineral lease districts. If county created district it would re-direct funding the county received from state and local affairs. In June of 2011- payments issued in August 2011 came to this district in amount of 1.6 mill dollars. In Sept 2011- named president and secretary, adopted by laws, grant program established, and grant applications reviewed. In 2012, CMU application was best applicant received and granted to pay for faculty, salaries, funding, and research. Total established 3.2 mil endowments- 1.6 from FML and 1.6 from CMU.

Legislature took up amendment to establish a greater degree of FML independence in regards to the Dept. of Interior. Legislature took up changes to statutes, reformed through a new resolution establishing the new statutes, terms staggered of board members, added levels of detail. Board resolution reformed district and stated mineral lease funding would continue.

Aquafresca- is old district still intact or has it been eliminated?

Frankel- Mesa County re-formed this district and allowed it to continue to exist with a board of 3 and would serve staggered terms. Once district re-formed, Aug 2012 1.9 mill dollars is funding that district received and currently has in account. District has better degree of independence, perpetual existence, sue and be sued, hold property, use funding in cooperation with other counties, can hold money over annually, This essentially established that the monies would not have to be used within the bounties of the given district. This district reformed bylaws to recognize (Sept 2012). Hoping that the DOI will be happy with new statutes established in 2012. This district needs to determine distribution for current funds and be prepared for receiving funds for 2013 (possible 1.6 mil) and should know July or Aug. should know about PILT prior to this, in June.

Aquafresca- DOI began to establish a different policy in that they began to deducting a sum equal to FML from PILT payment. In the first year, Mesa CO had 1.6 deducted and it is currently in appeal. Should know in the matter of a couple weeks as to the DOI decision- likely by the end of Feb.

DLudlam- because of the nature of the grant going to the subdivision of the state that that was what moved the county appeal forward.

DFrankel- strongest appeal that county could have in light of how the districts around the states spent their money. To be used to offset and address the impacts of mineral lease projects. Be mindful of funds and for given county, best that ML distribute wouldn't go to county function.

If they are spent for County Function (roads the CO builds, funding the Sheriff's office- anything the county would normally pay for) then the PILT reduction would be appropriate.

Aquafresca- decisions from the DOI have been disappointing to this point. Federal grant disbursement said it should be used to offset mineral lease impact.

30 USC 191- Funds to be used by states and subdivision- socially or economically impacted by development of mineral leased (planning, construction and maintenance of public facility, provision of public service)

Aquafresca- does it use the term mitigate energy impacts?

Frankel- based on the wording it's about addressing the energy impacts

CR- based on mission statement (read mission statement)

Frankel- GarCO derived from 30 USC 191. Now that we have clarified our website and included the sidebars to guide appropriate applicants only strengthens district and compliance with federal requirements.

Derrick- update on 1.6 and where it is and what it's doing.

Get funds in bank, match, and grow endowment to be able to put out for projects

Last Nov. RFP to community- have \$160 avail, what to do?

Responses broken by committee

Proposals from applied research (100K)

Applied workforce (60K)

New proposals coming in every day. When it was launched there were deadlines and these are the responses to date.

Applied research meets Friday. Workforce meets Monday. Making decision in the next couple of weeks.

Back of paper shows the members- a broad representation.

CSpringer- Are you seeing more, less or anticipated interest at this point?

Derrick- Did not know what to expect, committees have met and as we've talked through it we weren't sure as to what to expect.

The applicants are a cross section of what is out there. Some are great and show what we wanted to try and get some students into the field in order to create progress.

Math and science- bring college and HS students together- semester long program to expose to experts from agencies, industry, focus on policy and works for both sides of the energy industry.

Would be willing to share applications and accept feedback. Email to FML?

Ludlam- how do you determine if there are some that don't meet the requirements? Would you carry funds forward?

Derrick- if any of these don't meet the criteria then it would roll over and have it available for grants the following year.

Aquafresca- to DFrankel- do Fed requirements trickle down to specific spending activities such as these?

DFrankel- grant award to university- CMU providing public services with funding- ideally those public services would be in furtherance of our mission statement and not departing from our mission in making the grant award. The purpose of having our mission statement mesh with the federal requirements is so that the projects selected with funding will carry through.

Ludlam- when we got apps in it's easy to make a narrative to define energy impacts- depends on the perspective taken. Things tied to energy development? Measurable impact? What we were facing such as mental health issues, and other things to tie back.

Aquafresca- social impacts- mental health needs and nexuses to area

Employment needs from energy industry (or unemployment) activities

Economic

Ludlam- is it meant to be broad or should it be more specified?

Aquafresca- district could, but county cannot

Frank- consequences would be if the district is funding something that the county should be funding. Creates broad area to define what the projects impact will be on the energy industry.

Chris- in last grant cycle- new development- did surveys

Additional support- had helpful definitions. Had community support. Tied back to community and what community wanted to invest in. Has statute, broad, let's talk about ways to define that and not just what community wants.

Ludlam suggesting that we need to be careful. County funding something and we come in and take over, that doesn't fly.

Der- conversation about contract between two entities about funding, severance at time- not going to trickle down to grants, but that the December made my board of establishing board and the judgment made at time the app was made in conformance with statutory. Once the FLM gave it to CMU then the FML is not liable, then CMU- according to agreement- must judge grants that meet agreement.

Aquafresca- Federal requirement is to mitigate or offset (equalize) energy impacts. Not to create energy impacts or more activities that would result in further energy impacts.

CBlyle- Not to fund R & D?

Aquafresca- well, if the R&D was to mitigate impacts it would pass

DLudlam- so working on reducing impact of production as opposed to something else.

How to distinguish between discretionary- by endowment that it's been funded for a time- defensible to have district fund something that was viewed as discretionary. Roads and bridges- different scenario.

Aquafresca- questions and concerns come from the goal of county to regain FML deduction from PILT payment.

Springer- intent behind this meeting- discussing laying the foundation for what FML will look like in the future. Making the assumption that we're NOT getting the PILT deduction. Intent for this meeting is to have a free flowing discussion about what this things needs to be going forward and establishing a solid structure. If you have anything to through it out there, this is the meeting to do it in.

Moving forward- have decision to make- proceed with grant cycle for 2013? Or wait to see if there is a PILT deduction?

Two arguments- are we doing the community any good to be in a non-interest bearing account or would it be better to have it out and doing some good?

Aquafresca- I think the FML will have achieved a great deal of good if the PILT payment is full, will know in June if this is how it will be, but we won't know until then.

Derri- favorable response on the appeal will that roll forward?

Frankel- the appeal is on the 2011 structure but it may not help us for June of 2013- probably best to consider separately.

DLudlam- you were on the cusp of getting the info from the DOI- should we move forward or should we wait?

Frank- since the December decision letter, we haven't had the additional communication on the PILT. Pleased and optimistic, they reviewed the structure of our statute- not 100% lock, could always change between now and June. Found that it provided sufficient independence that a PILT deduction would not be appropriate. Hoping to establish independence so that the PILT deductions wouldn't occur.

Ludlam- previously planned on waiting on December of PILT deduction with idea of having a larger grant cycle the next year. Should still have meetings still and presume that it will work and that we will have 1.5-2.5 depending on activity. Would like to set up mechanism that we don't have to spend, that we have a two tiered approach (urgent needs accounts and long view account) sent in memo- hoping to spark discussion and what you think of this moving forward. 75% of monies spent in that year and 25% going into reserve account (name) and over time the monies in the reserve account would build and then we could invest and then use that for municipal projects but still be able to fund annual projects.

CSpringer- If you built this fund would you have constraints as to what to use yearly or would there be a way to backfill bad years?

Ludlam- only revenues per year used and rest maintained in account

Aquafresca- not unreasonable proposal- deserves serious consideration but only after we know one way or the other if MesaCO gets full PILT payment or not- will know after June. Hoping that DOI will look favorably with restricted FML and that MesaCo gets full PILT payment.

IF activities of this new district do not meet the favor of the interior, and again have the sum equal to the FML payment then suggest taking a different track.

DLudlam- what are the options regarding giving the money back to the county

Frankel- this board could dissolve the district and upon dissolution you should have options as to how the funds should be distributed- should be within your discretion after the June decisions get made.

Ludlam- the concept- the county has never touched them money- DOLA to district.

Frank- if a deduction remains in June, you'd have 1.9, you could send the 1.9 through DOLA and return it to the county or directly.

Springer- if that happened, the only thing that would make sense would be to dissolve the district. We're trying to maintain independence from the county to be in compliance, but if we just give it back there's no part in continuing the district.

Frankel- statute states that if you dissolve you pay debts prior to distributing funds

Mar- My thought is that DOLA wouldn't need to be involved- to go back through there would be complicated. Would think that you just write a check and we're done

Frankel- reminded of UT model. Suggestion that Mark Bunet is the fund's manager for UT impact board- has similar proposal to fund disbursement. Have created revolving fund throughout the state. Have a 'rainy day' fund and even if mineral lease dollars cut off from gov't that it could continue due to public deposit protection act constraints regarding interest. Often banks cannot invest these public funds like they can with private funds.

Mar- when funding came initially- it was hard to find someone to take it due to funding constraints.

DLudlam- so you'd establish small loans instead of district fund grants?

Frank- counties don't get deducted on PILT when

EX- 0% loan- plan to sustain this fund because it gets paid back.

Ludlam- intrigued by loan fund possibility and would like to look into it.

Frank- UT has been doing this for 30+ years.

Aquafresca- between now and June will get info on appeal for the 1.6 mil deduction and in June we'll know of interiors final decision.

Der- which ones kept intact?

Frank? Rio dis. Weld maybe?

Derri- we'd be happy to have round table or work session- invite folks from UT or other dis to share what others are doing- host on campus.

Aquafresca- suggest we take you up on this after June. June decision will be direction setter.

CSpringer- agrees

DLudlam- agrees

CSpringer- do we want him to look into what we should do if we close down the district or do we wait?

DLudlam- if we optically sit here and wring out hands, it makes it look like it's not worth it- I think we need to keep doing things in the manner of making progress and not planning for the worst but rather planning for the best

Aquafresca- to take action would be premature prior to June and possibly catch attention of December maker and nudge them. Also would not recommend expending resources. TO plan and research- fine, but would not suggest spending resources.

DLudlam- solicited proposal for insurance to board- shows that we're moving forward. Think agreement to not do grant cycle- keep Chris for her fee, keep insurance for realness of us.

CSpringer- our expenditures- reimburse for David and Marsha, insurance and Chris and \$1000 for audit.

Aquafresca- cost of insurance?

DLudlam- will get back to you

Chris- \$100 - \$300 per month for 1 meeting a month

Aquafresca- yes, minimal costs would be good to maintain progress.

DLudlam- liability insurance- bought from home loan.

Chris- made logo and update the website.

Aquafresca- have cause that says should this district cease to exist- have

DLudlam moves that the MesaCO FML establish a basic board of dir. Liability

Aquafresca- second.

Motion carried.

CSpringer- three criteria- sub of state, inside mesa co and mitigating energy impact

DFrankel- when statues updated- removed boundary constraints

DLudlam- like AGNC or regional approach?

DFrankel- if sub of state outside of mesa county you have the ability to consider

Deri- please consider it- judge on merits of application and not county boundaries

CSpringer- energy mitigation.

Chris- removed word 'mitigation' but used word 'enhance'

DLudlam- comfortable revisiting on this- mitigation is brought that compelling projects will fit under umbrella.

CSpringer- wherever we can, we need to comply with statute. Meeting schedule of this board? Every other month.

Sure

No issues in statue?

DFrankel- next meeting is second Wednesday in April- chair can set special meeting with notice. Then after that is Sept. NO need for special meeting.

CSpringer- Cris- dealt with items you wanted us to touch on?

Cris- No- the big picture of what we do w/ this money should be a topic. I would be uncomfortable if we decide in June- PILT de. Comes in, and we launch a grant cycle, we should have a reason to answer what we are doing after the June decision. IF we end up with 3.5 mil in bank, we need to have been thinking about what this district should do. What do we mean mitigate?

CSpringer- underneath broad criteria that Stat of co that you want us to refine it?

Cris- want to have legal and never stray from that, but want to have goals and direction for impact on community- makes grant process easier. Last grant cycle we had goals and could use scoring sheet to see how things apply. We will have money, people will apply for it, need to have something that's consistent on how we will help the community.

Aquafresca- having understanding from goals of 30k foot level. Perhaps that would be a good agenda item for April.

CSpringer- Cris work on that, be prepared.

Aquafresca- motion to board adjourned. CSpringer- Seconded. Motion passed. Meeting adjourned at 2:47 PM.