



P.O. Box 3039 • Grand Junction, CO 81502
E-Mail: info@mesaFML.org Web: www.mesaFML.org

BOARD OF DIRECTORS MEETING

Date and Time: 2:30 PM on Wednesday, April 25, 2018

Location: Home Loan Building, 205 N. 4th Street, Grand Junction, CO 81501, in the Community Room on the Basement level

In attendance:

David Ludlam
Craig Springer
John Justman
Chris McAnany
Dusti Reimer
Scott Olsen
Benita Phillips
Mike Bennett
Sam Atkins
Karen Kllanxhja
Tanya Travis
Derek Wagner

Meeting Minutes:

- I. Call to order at 2:41 p.m. by David Ludlam.
- II. History and Background of Anvil Points.
 - a. Bonnie Peterson with Associated Governments of Colorado called in and gave a history and background of Anvil Points and how they worked with legislators to get HB 1249 in place for the money to go to the counties without going through the state formula for distribution.
- III. Overview of Rankin Legislation (HB 1249).
 - a. C. McAnany releases the excess money to the four affected counties. The point of this is to flow to Federal Mineral Lease Districts, where they exist, to get the direct distribution of the percentages specified. There is a provision in federal law called the PILT act that compensates counties that have federal lands in their jurisdictions. Counties cannot tax those lands. The Federal government does give back, through a formula, a payment to the counties to off set this. There is a provision that does say if you receive a PILT payment, you cannot receive monies from other sources. If you do, you will receive a reduction in your PILT payment. Mesa County's average is about \$3.4 million a year. Now that the district has received the money, it falls under the mineral lease district jurisdiction. The issue is what to do with those funds, and if or could Mesa County request funds from the district, what would happen? The short question is no one knows.

The authorities do not have an answer. The laws do say that if that money had been disbursed directly to the county, it would have been subjected to the deduction in PILT the following year. The question is—could the county request all or some of the money. My short answer is this would create a PILT off-set. Direct payments that circumvent the restriction under the PILT act, could result in an off-set. We've talk with people at the Interior and the State and they seem unsure how to treat it. There is a risk and the Board will have to make decision based on those restrictions. Anvil Points disbursed \$1.7 million and the Mesa County receives about \$3.4 million a year. One additional thing, we were successful in getting investment authority legislation passed last year. You are allowed to invest up to 50% of that funding, if you decide to invest those funds, pursuant to that legislation.

- b. J. Justman said that when they had the announcement at CMU, said they were going to the Solicitor General to get a direct answer as to whether this would affect the PILT off-set. I don't expect a decision like that to be made anytime soon.
- c. C. McAnany said there are some older court opinions that are not from the Solicitor General, but the Comptroller of the Currency that has weighed in on the issue. They have a little something for everyone. Some things could be pointed to that could help the counties, and there are somethings that wouldn't help our position at all. The risk is not for the Mesa County Federal Mineral Lease District. The risk is for Mesa County, should they decide to try and receive the funding for risk of an offset.
- d. J. Justman said that Attorney Frankel who filed an appeal to have their offset returned was only successful one year, out of the two that it had happened. Obviously, the Federal Mineral Lease District money doesn't go to the county but does go to fire departments and special districts in the county. This indirectly does help the county. Sometimes the county does help them out. I believe the small mini grants help them get their needs taken care of for them to get the job done. A county in New Mexico has the most oil production in the state, but their money doesn't flow back to the counties where the production happens.
- e. C. Springer said the concern he has, is if they ask for direction from the county, we potentially run the risk of blowing up the district, because we run the risk of looking like we are run by the county commissioners.
- f. C. McAnany said the whole reason for the mineral lease district formation was to set up a separate body politic from the county government. The law says if the money is controlled by the county it triggers the off set by federal law. But if it goes to a third party that manages its own destiny, the off set it not triggered. Anything we do that undermines the district, poses a risk for the county at large. At least as to the PILT.
- g. C. Springer said if that money came to the county in a different way, it wouldn't bother him. But, the fact that the money did come to the mineral leasing district, means we need to be very thoughtful. If we do something that causes a PILT offset for the county, then we have messed up. I agree with John Justman, if we are doing our job right here, then hopefully we are benefiting the people of Mesa County with that windfall. We are going to benefit the people with that money. If we aren't thoughtful with that money and the county gets a PILT deduction, then it didn't benefit anyone but the Federal government because they got to keep the money.

- h. J. Justman said he thinks whether its \$100,000 or \$100 million, why would you risk the offset next year? It is not worth it to risk that, in his opinion. This district was set up for a particular reason. He would rather stay on that same path, rather than risk it.
- i. C. Springer to Chris' point, what makes it more cumbersome, is that we can't really ask the county for their opinion about what we should do with this money, because we run the risk of eyes somewhere seeing that and saying that the Mesa County Federal Mineral Lease District is just a puppet of the county commissioners. We have to be careful.
- j. J. Justman said he agreed 100%. He is certainly not interested in doing that.

IV. General public comment and discussion.

- a. D. Ludlam opened public comment with reading what the Board of Directors had received in writing from the public. This included a joint letter from City of Fruita, City of Grand Junction and Colorado Mesa University with their suggestion and support of the money being invested into the permanent fund. That letter is available for public review. The Clifton Sanitation District supported the permanent fund concept, not necessarily the specific Anvil Points money. Benita Phillips had submitted in writing notes to the Board, which we anticipate her giving verbally here today. Are there any verbal comments for the workshop?
 - a. Benita Phillips asked if the district invested 50% of the funds, what would happen to the interest of that money if the PILT offset kicked in?
 - b. C. McAnany said for a PILT offset to occur there would have to be a disbursement held by the district to the county. Presumably the district can hang onto any interest incurred.
 - c. B. Philips asked where is the interest of the money before it came to the district?
 - d. C. McAnany said it was held by the federal government and then the state.
 - e. B. Philips asked if C. McAnany could talk with the county attorney to discuss the ins and outs about everything.
 - f. C. McAnany said they do talk, but they need to make their own decisions.
 - g. B. Philips asked if there was any precedent set where money was taken back from the District?
 - h. C. McAnany said yes, money has been taken away from the County. The risk doesn't fall on district.
 - i. B. Phillips stated if the federal mineral lease district gave away all the money to grants, then the county would just have to bear the brunt of an offset. But, if they invest half of the money and granted away the other half, how would the county deal with that?
 - j. C. McAnany said that the county would only experience and offset if they were given money by the mineral lease district.
 - k. B. Philips said this is a round robin.
 - l. C. Springer said you mitigate this by making sure you don't get a PILT offset.

- m. J. Justman said this is why the county has never received any money from the mineral lease district because we don't want to risk the PILT offset.
- n. Tanya Travis asked if there were any other restrictions for how you can fund projects. Are there restrictions for use only for remediation?
- o. C. McAnany said the law says we can use it for planning, construction and provision of public services. All the grant requests fall into those categories one of those three ways.
- p. C. Springer said even if some of those funds are ear marked for the permanent fund, those funds can still only be used for these three purposes.
- q. J. Justman said nonprofits are not eligible.
- r. T. Travis said that all these projects seem like they are benefiting the county. All these projects seem to serve the county.
- s. C. Springer said if we are doing our job correctly, then we are helping to serve Mesa County.
- t. D. Ludlam asked for any other suggestions?
- u. S. Olsen said he works with EB5 for the government. Foreign investors put money in and this money can only be used for qualified expenses. Other funds that get brought in and can be spent anywhere. The recommendation is to have a separate bank account for the EB5, but they have come out and said as long as you can keep track what was spent on EB5 and what was separate you can have it in one bank account. Can we say the \$1.3 million we had in our bank account before are separate funds and the \$1.7 Anvil funds are separate and keep track and use it for grant funds and other expenses first until that Anvil points bucket is empty? How distinct do we need to have this county purposes?
- v. C. McAnany said he doesn't know why we couldn't do that. If you just want to keep that separate and keep track of how you're spending it with the other districts funds, there is no reason why the Board couldn't do that.
- w. S. Olsen said that way we can front load any possible expense that comes through that isn't Mesa County, we can empty that first.
- x. C. McAnany said that if we make any grants of any source of money, whether it be from Anvil points or the regular disbursement we receive each year. If we make a grant to Mesa County, there is a risk of a corresponding offset. It is not confined to the Anvil Points issue. It just brought it to the front, because it was a large sum.
- y. Michael Bennet said he did join in with Tim Foster and Greg Caton joined in support that they would like to see the funds be distributed to the permanent fund. Coming off of the meeting earlier today, each grant cycle there are typically more and more projects that are worthy of funding that do not make the cut each cycle. I see a couple options, we could use this money now to have a much larger pool for a future grant cycle. We have many projects that could make a lasting impact, but I also see this as an opportunity to use a large sum of money to establish that permanent fund that will fund many more projects for

the future. We are all still at the mercy of whatever the funding level is currently available, but to be able in the future, to have a significant source of funds be available consistently for the long-term would be a much better benefit to the community. This would create stability to know there will be continued funds for future cycles.

z. S. Olsen asked if there is anything in that original house bill that separates the 50% from what we receive or the Anvil Points?

aa. C. McAnany said it says you can invest up to 50% of your funding. This could be, if the Board were so inclined, they wanted to invest 50% of their bank account, they could do that. It is entirely up to the Board how much or how little they want to invest.

bb. D. Reimer wanted to just ask an outlining/clarifying question. Right now, the District does not accept grant applications from Mesa County because we would potentially jeopardize the Mesa County Federal Mineral Lease District and Mesa County. The county could potentially receive the PILT offset but also, my understanding is that the Federal Mineral Lease district could also jeopardize its status by giving these funds to the county, because we were supposed to stay separate from the county. I know this is paralleling some of the questions that have just been asked, if there is a separate account of just Anvil Points money, that the county could draw from, is it basically the same thing? This money, even though it's Anvil Points money, could implode the district if we gave it to the county?

cc. C. McAnany the Anvil Points money is no different in character than the other money we get every year. The same concerns and restrictions apply to both sets of funds. If the district creates grants to the county it could create problems for the county in subsequent years.

dd. D. Reimer said but this could create problems for the mineral lease district too. We could potentially be jeopardizing our District status by giving the county money.

ee. C. McAnany said correct.

ff. Derek Wagner wanted to support Michael Bennet and his comments and also wanted to point out the irony here of the Anvil Points money and situation. People are working to try and separate these funds and keep them in a separate lock box, and that is what happened at the Interior and then 30 some years ago go by before they finally get released. Your attorney is correct, these funds are mineral lease funds and are no different than any other money that you receive. I think you have an incredible opportunity to invest this in your permanent fund and make some significant impacts for the future of Mesa County. We have been having meetings with the seven-county infrastructure coalition with the people in Colorado and in Utah. You should see what Utah has been able to do with their community's investment of their funds. They are running circles around Colorado. I know a lot of us as applicants are encouraging you to invest this money, even though that means in the short term there is less money available to us, but we see the long-term future of this and how it will be a huge benefit.

- gg. D. Ludlam said he would like to know if there are any of the smaller entities are as in support as the larger entities.
- hh. D. Ludlam said he would like to have some final action with this in our May meeting. Do we have any proposed actions from our Board?
- ii. J. Justman said he agrees with Chris McAnany that these are federal mineral lease dollars. They came from the same source.
- jj. C. Springer said he would be in favor, if Chris can make a determination if we can invest it all, that the citizens of Mesa County are best served by us investing that money in permanent fund. If you can find out what the maximum amount we can put into that permanent fund, would be the best thing we can do.
- kk. D. Ludlam said he agreed with C. Springer. He would like to be scolded for investing for the future. He would like to know if there is a gray area where we could invest it all.
- ll. J. Justman said he is not the attorney, but it doesn't look like we could get into trouble by investing 50%.
- mm. D. Ludlam said that our preferred action would be two votes for 100% of the funds invested into the permanent account if it is allowed, and three votes for 50% invested into the permanent fund for next month. This is the action that would be posted for public comment for the next 30 days.
- nn. C. McAnany said we have \$1.3 million currently in the bank account and then Anvil points has \$1.7 million. You have a total of \$3 million, which you could then take 50% of that total amount and invest that.
- oo. C. Springer said if you are following that train of thought, then we could wait until our fall disbursement and add that in and invest 50% of the total amount.
- pp. D. Reimer asked if we could only invest up to 50%, would the remaining money be adding into the fall 2018 grant cycle or set aside until 2019?
- qq. C. McAnany said you could.
- rr. C. Springer said he liked the idea that the beginning of the year, everyone knows how much we are going to give away. That we keep the fall grant cycle the same.
- ss. D. Ludlam said that we would like to get this in writing and have D. Reimer sent this out for public comment. We do not need to take action, because we do not have a motion.
- tt. C. McAnany said he would bring this back in writing and for approval.

V. **Unscheduled business.**

- a. D. Ludlam said that the Board has always had a focus on funding items that were not instantly depreciating assets and items. We have always used the squad car as an example, but we would look at the permanent fund as an opportunity to use a revolving investment that can help fund these items. Without this, it is hard to take one-time use monies and spend it on an item that will lose value almost immediately, versus and brick

and mortar project that will have long-term value. D. Reimer if you could incorporate this in your education materials with your presentations, I would appreciate it.

VI. Adjournment.

VII. Motion to adjourn from C. Springer, second by J. Justman. Voted. Approved.

Meeting Adjourned at 3:38 p.m.