



P.O. Box 3039 • Grand Junction, CO 81502  
E-Mail: [info@mesaFML.org](mailto:info@mesaFML.org) Web: [www.mesaFML.org](http://www.mesaFML.org)

## **BOARD OF DIRECTORS MEETING**

**Date and Time:** 2:00 PM on Wednesday, February 20, 2019

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

In attendance:

Quint Shear  
Craig Springer  
John Justman  
Dusti Reimer  
Nancy Harward  
Matt Rosenberg  
Benita Phillips  
Patrick Coleman

### **Meeting Minutes:**

- I. Call to Order at 2:00 pm by Craig Springer.
  - a. Motion to approve the agenda Q. Shear. Second J. Justman. Voted. Approved.
- II. General Public Comment.
  - a. None.
- III. Adoption of the January Meeting Minutes.
  - a. Motion to approve by Q. Shear. Second J. Justman. Voted. Approved.
- IV. Consent Agenda:
  - a. Dufford, Waldeck, Milburn, & Krohn Invoice
  - b. Dusti Reimer Invoice
  - c. Edie Bailly
  - d. Philadelphia Insurance
  - e. 2018-FM-02 East Orchard Mesa Progress Payment
  - f. Motion to approve by J. Justman. Second by Q. Shear. Voted. Approved.
- V. Staff Report.
  - a. D. Reimer said she posted to our social media pages (Facebook & Twitter) for notices on Monthly Board Meeting, Meeting Minutes Posted, Community Presentation –Lands End Fire Protection District, Quint Shear Honored by Chamber, and the Meeting Agenda

Posted. The district also ran a Facebook ad with the video that was produced by Lightbulb Media that gave an overview about what the district does in our community. The video results were:

- a. 6,409 Video Views
  - b. 1 Page Like During Promotion (11 additional in the last week/up to 250 Followers)
  - c. 3 Comments During the Promotion (Currently at 12 comments)
  - d. 11 Shares During Promotion (Currently at 24 Shares)
  - e. Spend was \$75
  - f. 32% Women 64.8% Men,
- b. D. Reimer said there were no media mentions during the previous month.
  - c. D. Reimer said there was one request for a partial payment. It was for 2018-FM-02 East Orchard Mesa Fire Protection District Fire Fighter Safety Equipment Progress Payment for \$7,199.99
  - d. D. Reimer said the invoices for the previous month were for Dufford, Waldeck, Milburn, & Krohn Invoice for \$2,910.00, Dusti Reimer Invoice for services and supplies for \$3,849.98, Edie Bailly for services from Sept. to Dec. 2018 for \$2,178.00 and Philadelphia Insurance for 2019 for \$2,275.00
  - e. D. Reimer said the upcoming events were for March 1 Spring Grant Cycle, March 14 Plateau Valley Fire Protection District Presentation and March 20 Monthly Board Meeting

#### VI. Review of Financials.

- a. N. Harward said we are currently sitting at \$2,268,619.50 at the end of January 2019 for fund balance. The permanent fund balance is sitting at \$1,392,564.66. Grants payable at the end of January because of the grants came to \$689,943.75. We had our normal legal fees and contract services in January.
- b. C. Springer said the grants payable increased in January, but we didn't have a grant cycle in January. How is it possible for the grants payable to increase? Everything that was payable should have been reflected in 12/31/18.
- c. N. Harward said since it came out, from when it was voted out, and I got the details in January. I can switch that if you'd like. It was in January when we signed the contracts, correct?
- d. C. McAnany clarified and said you're booking them as the date the contracts are signed. You might have awarded contracts in November, but we didn't sign contracts until January.
- e. N. Harward said from how she understood it, we were still discussing the amounts in December that would be awarded.
- f. C. Springer said we did discuss it in December, but it was decided in December. If we have approved those grants and the contracts are not signed, then I Agree the contract

is not legal yet, but that money should be reflected in our year end financials as a potential liability or obligation.

- g. C. McAnany said we operate on a cash basis, right?
- h. C. Springer said yes.
- i. C. McAnany said the minute the board approves them, they should go on the books as an obligation owing.
- j. N. Harward so this should go on the books in the December Financials?
- k. C. Springer said yes, and you can call it provisional if you want to. But for me, our snapshot in time, our 12/13/18 were not a clear reflection of the MCFMLD because of that.
- l. N. Harward can I restate that and send them back out?
- m. C. Springer said I am not sure that it is necessary to restate them. Or maybe it is a good idea to restate them.
- n. C. McAnany said maybe it would be a good idea to make a note that we will make it a consistent accounting practice going forward that liabilities of the district will be noted the date they are incurred, which is the date the board approves them, even if the Board doesn't sign until later.
- o. C. Springer said right, because if the contracts are never signed then the money can be rolled off of there.
- p. C. McAnany said that's right and you can always make an adjusting entry after that.
- q. M. Rosenberg said you might want to consider having the unrealized gains and losses to be reported monthly. Because there are swings there like \$65,000 these are essentially non traded securities.
- r. N. Harward asked if we should bump this to the balance sheet. The contrary account would still show that it wouldn't reflect in the net income.
- s. M. Rosenberg said you're essentially showing a \$65,000 profit this period, but it could go away. It's diluting that or not diluting. It's twisting that income.
- t. Q. Shear said how do you need to show that?
- u. M. Rosenberg said the only gap securities you would need to show are trading securities, like day trading. Essentially your assets would change from period to period.
- v. Q. Shear said that's how we showed it in my other life-was on the balance sheet and not the income statement.
- w. N. Harward said I think it's good to see.
- x. C. Springer said yes, I like that.
- y. J. Justman said he was good with it.

VII. Review of Investment Account.

- a. M. Rosenberg said we are back in the black. The one item I wanted to follow up on was increasing duration, but you guys are already at 3.5. There are some treasuries int here.

That's why the yield is making this it was below 3. I wouldn't mess with it now. Any questions?

b. Q. Shear said no, just glad to see it back.

VIII. Review and consideration of a request from Mesa County for disbursement of Anvil Points mineral lease funds deposited into the MCFMLD Permanent Fund to and for the benefit of Mesa County.

- a. C. McAnany said the Board has a copy of the letter in their Board packet from the letter of the Feb. 7, 2019 from the County Attorney requesting the district pay over to Mesa County all of the funds received from the Anvil Points settlement, which is about \$1.7 million dollars that we received last May, and another \$120,000 that we just received in the last 30 days or so. I've out lined to you the legal basis for which the funds came to the district, by way of a short summary for the record here. The Anvil Points fund represented mineral leasing funds that were held in suspense by the Department of Interior in connection with the leasing of minerals from the former Anvil Points site. Those funds were held in suspense pursuant federal law requiring that those monies be used in the environmental clean up of that site. Over time the funds accumulated the royalties accumulated in excess of the amount needed for the cleanup. Through efforts those funds were subsequently released to the state of Colorado. They were allocated pursuant to a statute that was enacted in 2018-HB1249, which lays out the history of the Anvil Points issues and where that money was to go. That share of money that was to go to Mesa County was to be allocated to a Mineral Lease District, if there was one. It was a special appropriation, it is different from the typical mineral lease monies we receive from DOLA from time to time. Like we said, it was essentially a one-time, well now two-time, disbursement. We think that the fund is now exhausted. There are a number of legal arguments that the county made in connection with the request. I can get into those today with the Board, if you request. The short response that we have to those is that at all times the District acted properly, the funds were properly transferred to the district, it wasn't an error, it wasn't some bureaucratic mix up, it was by design by the directive from Colorado Legislature. When those funds were received, the district deposited roughly half of those funds, plus some other monies that the district had, into the permanent fund, pursuant to the permanent fund resolution and policy the board enacted. So, significant portion of that money, roughly half of the 1.7 million that was sent to the district has essentially been locked up. We put it into our permanent fund and it is subject to restrictions on disbursement that are enacted in the districts bylaws. Among those restrictions the Board has to follow certain procedural steps in order to draw out the money from the principal of the permanent fund and they have to make a declaration that there is an emergency or compelling public interest to justify that action. The County has requested the District turn those funds over to the county. There are several competing things to consider. The district is a body politic, you are a separate governmental existence. You are not a county agency, or a county department or subject to direction from the County commissioners. You are a separate entity. The right and the duty to administer the funds of the district in the manner of what's the best for the people of the county and district and your fiduciary responsibility as well. What that means of course, is District money can only be spent for certain things. For grants for certain qualifying entities, for planning, construction of public facilities or for public services. That is defined by law. You are not, by our judgement, free to simply write a check to someone no strings attached. That's the first thing. The second thing is that if
- b. Interior in connection with the leasing of minerals from the former Anvil Points site. Those funds were held in suspense pursuant federal law requiring that those monies be used in the environmental clean up of that site. Over time the funds accumulated the royalties accumulated in excess of the amount needed for the cleanup. Through efforts those funds were subsequently released to the state of Colorado. They were allocated pursuant to a statute that was enacted in 2018-HB1249, which lays out the history of the Anvil Points issues and where that money was to go. That share of money that was to go to Mesa County was to be allocated to a Mineral Lease District, if there was one. It was a special appropriation, it is different from the typical mineral lease monies we receive from DOLA from time to time. Like we said, it was essentially a one-time, well now two-time, disbursement. We think that the fund is now exhausted. There are a number of legal arguments that the county made in connection with the request. I can get into those today with the Board, if you request. The short response that we have to those is that at all times the District acted properly, the funds were properly transferred to the district, it wasn't an error, it wasn't some bureaucratic mix up, it was by design by the directive from Colorado Legislature. When those funds were received, the district deposited roughly half of those funds, plus some other monies that the district had, into the permanent fund, pursuant to the permanent fund resolution and policy the board enacted. So, significant portion of that money, roughly half of the 1.7 million that was sent to the district has essentially been locked up. We put it into our permanent fund and it is subject to restrictions on disbursement that are enacted in the districts bylaws. Among those restrictions the Board has to follow certain procedural steps in order to draw out the money from the principal of the permanent fund and they have to make a declaration that there is an emergency or compelling public interest to justify that action. The County has requested the District turn those funds over to the county. There are several competing things to consider. The district is a body politic, you are a separate governmental existence. You are not a county agency, or a county department or subject to direction from the County commissioners. You are a separate entity. The right and the duty to administer the funds of the district in the manner of what's the best for the people of the county and district and your fiduciary responsibility as well. What that means of course, is District money can only be spent for certain things. For grants for certain qualifying entities, for planning, construction of public facilities or for public services. That is defined by law. You are not, by our judgement, free to simply write a check to someone no strings attached. That's the first thing. The second thing is that if

you determine that you believe that the County's request has merit. What we understand from the county is they are short of funds, they need funding for the construction for the addition to Mesa County Jail, my first observation would be this would be a qualifying project under the districts mandate. We have made grants to other public entities for a variety of public works and facilities. So, if the district were of a mind to assist the county in some fashion, that proposal doesn't seem to be problematic, if the district is satisfied that the funds would be allocated towards those types of activities that are within our legislation. The real question is what does the Board want to do. Obviously, there is a limited pot of money available. Making grants to one party obviously forecloses grants to others. You have to weigh what is it the best interest of the broader community. In terms of whether or not you have the right to dispose of this money or to grant it or appropriate it, that to me is crystal clear and is not subject to debate. I feel confident of that position and I have laid out the legal position that supports that. I'm happy to answer questions. It is really up to the Board how you want to proceed. If you are contemplating to changing your grant strategy or grant cycles, if you're planning on changing your or making your decision relative to the permanent fund balance, we need to have notices. It's a discussion item today, not set for action.

- c. Q. Shear said he asked a few questions. The process before this money was put into the permanent fund-my understanding was there workshops? All involved were made aware of this? It was discussed with the public county? Who was all invited and involved?
- d. D. Reimer said they were all open public workshops. The staff that was here did receive letters of support. That was also one of the missions that the Board has tasked me to do with all these public presentations was to one notify them that we are here to get more grant requests and the second was to inform them of the permanent fund and to ask for their support with what we were doing with it. Or to receive their comments so that they know what you were doing as a board. We did post it in the newspaper with the 30 days public comment before taking action.
- e. C. McAnany said I think we had two or three different workshops where the topic was discussed before the Board adopted a specific policy relative to the permanent fund, we adapted our bylaws to deal with what the question you're now presented with and also to talk about an investment policy and all the other practical steps that went with that. There was an open process that preceded that decision. The one thing that we have to add that is certainly lurking in the background. We were acting under the assumption that we couldn't even make grants to Mesa County, because as we have talked about with the Board previously, mineral lease money was special when it comes to the affect of county revenues, because it causes a PILT offset. We grant to Mesa County, could be potentially be treated as an offset the preceding year. That was the whole reason the district was set up. We were acting under that assumption. It wasn't until late December 18 or early January this year, that the County provided us a copy of a letter that came from the US Department of Interior that we have all now seen that essentially that if funds pass through the hands from the District and are granted by the District, that at least from the Solicitor that would not constitute an off set under federal law. That was a good thing, because that was something that would be assumed the opposite. That any dollar that would go to the county would cause a loss of other money. It has changed a big of the legal landscape of the way we have been operating. Someone else could offer a different option, and that's not unheard of.
- f. Q. Shear said when he first got on the Board, he got the impression from the first meeting that we had held back half of that money to see if the County could get that

money and the other half went into the permanent fund. What lead up to that decision to put in half?

- g. C. McAnany said that was required by law. When we pushed through the enabling legislation to invest the money it receives, one of the guard rails that was put in was that we could only invest 50% of our funding. When we received the Anvil Points, only one half of it was invested by law.
- h. J. Justman said that isn't really a requirement that we have to put half that money in there. We could put in anywhere from zero to 50%.
- i. C. McAnany said that's correct, I apologize if I was unclear on that. It is up to 50% could be invested. There were several other guard rails that were put in place in terms of investment authority, but that was one of them.
- j. Q. Shear said that letter specifically said we had to have either a contract or grant request to grant some of the money to the county. As of yet, we have neither of those things correct?
- k. C. McAnany said that's correct. We have a request letter.
- l. Q. Shear said no formal request. Just a demand letter.
- m. C. McAnany said I guess you could call it a demand letter. You could regard it as a request, but haven't offered any kind of agreement. Although, I see Patrick is here and obviously we can, if the Board so directs we can engage in some negotiations with Mesa County.
- n. J. Justman said looking back, if the County would have known in August or April we would have gotten that letter I don't think I would have been in favor of putting that half of the money in the permanent fund. Hindsight is pretty clear most of the time. Like Patrick's letter explained it was money that was created before the District was created or even thought of and goes back to old and prior federal mineral leasing money and I don't know what would have happened if no one would have had a federal mineral leasing districts. We know in talking with the Interior and explained our position to them, before we even got a check, and I'm surprised we got an answer from them, and then to get that answer in writing took another 8-10 months.
- o. C. Springer said Chris, your position is that because Mesa County had a federal mineral leasing district in place, they had no choice, but to send that money to the mineral leasing district.
- p. C. McAnany said that's right. HB1249 was a directive. It had to be sent to the district, if a district existed. In the case of Rio Blanco, I don't think they had a district, so the money went direct to the county. But, in this case we had one.
- q. C. Springer said Benita, you had a question?
- r. B. Philips asked if there was any legal precedence anywhere in the United States in regards to this. Even though the money was generated before the District was put together I think the HB should take precedence from anything that came before. That's the way it is in medicine, but I don't know.
- s. C. McAnany said it is correct the district was not created until 2011 and that some portion of these mineral lease proceeds might represent royalties prior to the formation of the district, but to me it's a distraction from the main issue it really doesn't matter what might have happened historically. The fact is those funds were not disbursed. So this is not as if the district did something that affectively diverted that money away from the county. The fact is the money was held in suspense for a period of time and it wasn't until HB1249 that a directive was made as to how that money was to be spent if it was received by the government.

- t. Q. Shear said it was pretty plain that it would go to the federal mineral lease district unless there wasn't one.
- u. C. McAnany and not to put to fine a point on it. Back in the day, before federal mineral lease districts, direct payments of mineral lease funds created those PILT offset issues for the county. That was the whole reason why the County commissioners created the district. Was to avoid having dollars come in one year only to be pulled back out the following year.
- v. J. Justman said without the legislation through the state, the money would have probably been given to the state of Colorado and DOLA and the people on the other side of the hill would have found a whole lot of other good rabbit holes to put this money into and it was because Governor Hickenlooper helped and our state legislator and our congressional people were on board that this money is going to be repaid finally to these four Northwest Colorado Counties. We were fortunate to get it through and as quickly as we got it through to protect the four counties got that money.
- w. C. McAnany said you're right, and that's reflected in HB1249 that recognized the efforts of elected officials in Western Colorado.
- x. J. Justman said the reason that Garfield and Rio Blanco got 40% is because that's where the oil shale development and impact really took place, but it also affects Mesa and Moffat because we were adjoining counties.
- y. C. Springer said Patrick, you've been patient.
- z. P. Coleman thank you. I guess a couple clarifications. The county certainly concurs with your counsel that the funds were properly sent from the state to the district. We don't have any problem with that. We think the statute was clear and the money should have come to the district. Our request and argument is that there are provision in the statutes and the bylaws that distinguish this money and the districts authority to distribute it and getting back to the solicitors letter it is correct. The department believes any funds that the Garfield or mesa mineral lease district through grants or contracts would be subject to future PILT offsets. Our suggestion, we don't think that mandates that this money be put through your grant process. We believe, like Garfield County, and we haven't heard if the mineral lease district has agreed with their approach yet, is that they have a contract that they have proposed to the mineral lease district by which the district would convey the funds to the county via that contract. I have a draft of that contract, but I can certainly forward that to your counsel if we get to that point in the discussion. The district didn't do anything wrong by receiving the funds, that was certainly the statutory mandated process. The concern the county has is the placement of the 50% of the funds into a permanent account. I don't have any emails, but the county commissioners individually have communicated to me that they thought they had an understanding with the district that the money would be placed into an interest-bearing account until we resolved the PILT offset issue. Of course, we met last spring when Garfield and Mesa Count met with the Solicitor Generals office and made our case that we didn't think a PILT offset would be appropriate and it took several months before we got the ruling in writing from them. They had assured us on the telephone that was their opinion they just needed to get I through the appropriate channels to sign off. The crux of our argument is that both the state statutes and your bylaws only discuss the boards authority to distribute money it receives from DOLA and it is mentioned several times in the statutes and the statues even mention this new money because of the statutory amendment of the house bill. If you look at your bylaws under the authority of the district it says the district has the authority to distribute all the funding the district



receives from the Colorado Department of Local Affairs. Under duties of the Board it says the district shall distribute all of the funding the district receives from DOLA and talks about to areas socially and economically impacted.

- aa. Q. Shear asked if he thinks we should send this money back to DOLA?
- bb. P. Coleman said no, no. Because it doesn't come from DOLA it is not money that can be distributed through your grant process. Your distribution through your grant process is limited to your DOLA funds.
- cc. Q. Shear said so we can receive it, but we can't distribute it through grants.
- dd. P. Coleman said you can turn it over to the county, is our position.
- ee. Q. Shear said so we can turn it over to the county-it does say that?
- ff. P. Coleman said no, the statute just says that it limits your authority to distribute money that specifically mentions DOLA. I think there is a legislative intent, had they anticipated the district would receive other forms of revenue, they would have used more generalized language under your statutory authority and in your bylaws. Three different times in here where it references your ability to distribute money it references DOLA. Which gives you a limited purpose. I guess it's the county's position that this is properly county money, due to the existence of the mineral lease district was sent properly to the district, and that's what the statute anticipates, but we think it is distinguishable from your revenue that you receive from time to time from DOLA, that you were created to distribute in the first place.
- gg. C. Springer said I guess I am just tracking with Quint's question, Patrick. I understand in your line of work is to look at those words and interpret them as their constructors intended, but as our position sitting here on this side of the table as volunteers, the money came in and we would have abridged our fiduciary duty to both the county that appointed us and the citizens of mesa county by saying oh my goodness this didn't come from DOLA from ordinary channels so let's put this in a separate account and set that money there and hope someone someday can figure this out. I disagree with that.
- hh. P. Coleman said in the statute under the definitions under 30.20.03 subparagraph 3 it defines what funding is. This definition is subsequent to the House Bill that anticipated the Anvil Points money. Funding means the direct distribution of money from the local government mineral impact fund to the counties as described in 34.63.1025.4 or a distribution to the county in accordance to 34.63.104.3. This is the Anvil Points money is the only place where they changed the language. Had they anticipated removing this specific limitation of DOLA funding for your distribution capabilities it seems like they would have gone through and made those changes else where in the statute. I haven't gone through and listened to the recordings of the legislature when they were debating the statute and we may or may not find out they intentionally didn't change, but they did spend some time looking at the Anvil Points money and they went in and mentioned thanking the governor and mentioned specific percentages for the four counties. It is just the county's position that it is a unique source of funding.
- ii. Q. Shear said 1249 specifically addressed the Anvil Points money said it could come to the District.
- jj. C. McAnany said HB1249 said there were two pots of money that could come to the District. The Anvil Points money and the DOLA funding we get every year.
- kk. Q. Shear said so it was pretty specific that the Anvil Points money would come to us if we were created.
- ll. P. Coleman said it has to.



- mm. C. McAnany said where I respectfully disagree with Patrick on this is, he is correct that there is a provision in the mineral lease district statute that we have authority to make district grants with DOLA funding, but there is also a catch all provisions that make clear for example that the District has the authority to enter into contracts and agreements, the authority to convey lease exchange or transfer all or part of the districts assets, or loan agreements. You have, as a board the power to do those things and it is not conditioned on the definition of the word funding, which by the way the word funding was expanded by HB 1249. They brought the Anvil Points money within the definition.
- nn. P. Coleman said they didn't change the source of the funding with the three other specific provisions of the statute, by which your by laws are written and reference only DOLA funding and it's important that if you look under 34.63.104 sub paragraph 3 roman numeral 7 it says Garfield, Rio Blanco, Mesa and Moffat counties made significant expenditures to address there impacts of the operation of the Anvil Points site and the mineral extraction from which the money withheld was derived but have no received any state or federal money as reimbursement. It does not state Garfield, Rio Blanco, Mesa, Moffat Counties and other nonprofits located within those counties, it is pretty specific to those county governments that made those expenditures. Then the next paragraph down says the counties have been instrumental with the release of the withheld money. Certainly, Commissioner Justman can attest to the efforts the commissioners have made to get those funds from the congressional delegation and the governor to get that money released. In my mind it appears in the state statues focuses on the counties that were the ones that expended money and effort to do the clean ups and address the clean ups and then get the money disbursed in the first place. It doesn't say that the Mineral Lease Districts or other non profits. It's specific to the counties in that statutory scheme. We look at that as one more reason why it's unique and not intended to be part of your annual grant cycle funding and properly should be given back to the county.
- oo. C. Springer asked Patrick, one of the issues I have here is you came to the meeting you made it clear that you did not think that money was correctly with the Mesa County federal Mineral Leasing District. We got a letter, that I Read, not a lawyer, that I read, where you basically said it shouldn't have come through here at all and we want it. I didn't appreciate in the manner in which it came and I guess my question is we are a couple of months now in discussing this and we have yet to see a formal written request, other than your letter, from the county saying we, the county commissioners at Mesa County, respectfully request that the Mesa County Federal Mineral Lease District, enter into a contract or grant us, the money that was received for the Anvil Points reclamation. We have not seen that. We keep having these discussions and have lawyers involved and all that and it just seems like there is a way for human beings to do this stuff that's a lot easier than the threats and the you shouldn't have done this and you shouldn't have done that. I was here when that money came. In my opinion we did the right thing with it. We were very extremely careful with that money that it benefit the people of Mesa County. The question was what can we do with it that will benefit Mesa County? You can count me as one of the folks that believed that we were never going to an interpretation from Interior or when we got it, it would come saying you give that to the County and there will be a PILT deduction. So, just me, I Wasn't willing to put that money into a checking account and let it sit there for years. It didn't seem like the right thing for Mesa County. Nor, did I jump up and say we need to grant that money out before they come and ask for it. We have to act now. None of that happened here.

- pp. P. Coleman said I can appreciate that. And I can tell you that the instructions I Was given was were are not sure what they are going to do with it, but we heard they put 50% into the permanent account and we're concerned that there maybe some grant funding process that might occur in the short term, rather than the Spring. So, stake our positions early. I apologize if my letter seemed a little demanding, I sent it to your counsel because you are represented by counsel. Had I been sending it to you as a board I may have softened the language. With lawyers, and Chris might agree, we tend to get to the point and we try not to leave wiggle room for misinterpretation for our intent. I can understand how you as Board members may have seen this as said the county is coming on strong and they must think we did something wrong. Our intent was not to say you did something wrong. The intent was to say that we believe the law says going forward that we think the law requires you to turn the money over to the county. That was the basis of the letter. IT certainly puts John in an awkward position and whether he's in a conflicted position or not, that's up to you and your counsel. The Boards position was to be cleared expressed, if not by John who has competing interests if not conflicting interests. They didn't want John to be in a conflicting interest to be a lobby, because of his fiduciary duties to the county. They sent me from a practical stand point and part of it was, if you know, if two or you are in the same room and it's not a social meeting, then someone says we didn't post this meeting we didn't want to have to post a county commissioner meeting to send another county commissioner to argue the point. Some of the tact gets lost when we get straight to the point with the attorney, not the politicians.
- qq. C. Springer said that as part of the budgeting process in December the discussion turned around to if we wanted to put more of that Anvil Points money into the permanent fund as part of the budget in 2019. John stepped up and said there is a question out there whether or not there could be a PILT deduction and the County may make a request for that money so I saw we make a recommendation to hold that and because of John thankfully, we didn't put that into the budget and didn't already put that in the permanent fund. So at least we mitigated a little bit of our problem with that.
- rr. P. Coleman said I would be happy to get a formal letter from the Board of County Commissioners, but I can get a short and simple request and attach a proposed contract. Obviously, it's up to you all if you give zero or 100% that's your decision and not the Count Commissioners. I can get the Board to approve a letter to you rather than from attorney to you. That would hopefully resolve that one issue.
- ss. C. Springer said Chris do you have anything to add?
- tt. C. McAnany said there has been a lot said. The Board of commissioners wants to send a letter or contract requesting the funds that would certainly be in order. Your grant process is not written in stone. The Board has discretion to change it, we've changed the processes in the past. It just means if you make a grant to one party, that gobbles up all the funding, that means all the other parties go empty handed. That just means you want to solicit input on that, which would be consistent with our past practices of transparency. There were some comments made about the bylaws and one thing that Patrick said that is correct is the bylaws were created before this money came to us. HB1249 was enacted in 2018. Like we said it was sort of the found money by the dead uncle you forgot about. No one expected this money to come in, which is why you don't see that in our bylaws. But, I'm quite confident that the statutory language enabling legislation district act gives the board rightfully has that money, says the Board is obligated to spend the money in compliance with the statutes and then gives a number

of tools as to how to spend it. So I disagree that it's only authorized to make grants from DOLA money. I just don't agree with that conclusion, but I've been wrong before and knows what a judge would say, but I hope it wouldn't come to that. I think everyone would be able to rationally and calmly work this out and come to some compromise. But how you spend it is not for me to decide. That is for you as a Board to decide. As far as the permanent fund goes, you were all acting in accordance with your best business judgement. Based on what you knew and the legal advice at the time and everything you did at that time was legal. Not only was it legal it was prudent. We had this source of money we couldn't earn returns on. I feel quite comfortable with that. How you proceed from here is entirely up to you.

- uu. Q. Shear said I was looking here Craig that this was publicized what was done with that money. It was published in the Daily Sentinel. It was made very clear to the public the District that, that money was being put into the permanent fund as an investment.
- vv. P. Coleman asked when you created the permanent fund was it by resolution?
- ww. C. McAnany said correct. There were a couple different things done. First the enacted an investment policy, then they enacted a resolution, held a public hearing, and several steps after.
- xx. C. Springer said after the enabling legislation was created.
- yy. C. McAnany said yes, after the legislation was authorized. Again, those decision were correct and within our authority to do that. And probably the best course that could have been made, at the time we didn't think there could be money disbursed to the county without negative consequences, at that time.
- zz. P. Coleman asked if there was a list of restrictions on what can and can't be done with the permanent fund money? How permanent is it? Are there exceptions?
- aaa. C. McAnany said as we mentioned early there is a procedure and steps to follow. You have to have a public hearing, and publish a resolution, you have to have at least 30 days to go by, but the substantive restriction to invade principal is that there is an emergency or compelling public need. The idea is to apprise this board and future boards that would be confronted with similar questions or requests to pump the breaks and deliberately make a decision not on a whim but after a careful process.
- bbb. C. Springer said to give you my thoughts on the permanent fund when the concept was discussed for quite a while and for the idea of carrying the legislation, who was going to draft it, who was going to carry it, there were extensive hearings that this board participated in with legislature to make sure everyone was together and there was some stuff from Garfield County wanted language changed for what they wanted to do with it. We insisted that we wouldn't move forward with this without the blessing of the county commissioners. We went to a county commissioners meeting, discussed this idea with them, and got their blessing-not to use that word too much, they made it very clear to us that they not only approved they thought it was the right thing to do for the community. There was a lot of work, thought and consideration that has been given to establishing that permanent fund. Placing those funds with responsible party and to see that people of Mesa County benefit the most from the work that was done to get it started. The idea that simply the nature resources aren't going to be around forever. Colorado is the only state that doesn't have a permanent fund. The idea to set aside some of those funds that come through there for later. The hope and dream was that as royalties taper off, hopefully for another 50 years, that the permanent fund will kick in and the grant cycles we are doing here can theoretically continue on in perpetuity as long as the Board continues to be careful and thoughtful with what they do with it.

- ccc. P. Coleman said I personally don't think any Board member was asking why do they have a permanent fund, the question was whether or not the Anvil Points money should have been placed there. You've heard my argument today and I think we know where everyone stands on that.
- ddd. J. Justman said the only comment I have is this, this Anvil Points money is going to come just once in an eternity. There isn't something pending in a few years that will come into that. And we put it in there. Now looking back having that letter from Interior confirming it won't have an offset, I know what the permanent fund is supposed to do, but if we would have had that answer that day, we wouldn't have put that money into that fund. You can use that as an honest defensible, the money was put in there with the best of intentions of what we knew at that time. But six months later, if the Board wanted to the money could go to the county and even thought half of that is in the permanent fund, I think that could be a good enough reason to take the money out of the fund, based on the information we have today. Or mid-December when the county got that letter.
- eee. Q. Shear said well number one we can't make a decision yet, because we don't have a formal request from the county. We can't make a decision unless everything is on record. I think going back to the County, going back to request for us, you need to have a serious discussion and thought to the matter. If we do have to go back and raid that fund, it will be a public hearing, we will have to go through all those processes.
- fff. P. Coleman said The Board's decision to send that request will be a public decision as well. So they understand that this is certainly a public issue. And it won't happen overnight either.
- ggg. Q. Shear it would take a lot of convincing for me to go through process to take that money out. Because it certainly seems like the process was public.
- hhh. J. Justman said I wanted to start over. I'm not imply I'm ready to sign my name today, but that is my thought on it. I'm not trying to demand or not demand and obviously we need something to make a decision on, but on the letter that Mr. Coleman sent I can understand that we need a more formal request along the lines of a contract or grant application if that's what the county decides that what they want to do.
- iii. C. Springer said I think you're right. It would be nice to get a formal request from the county and then we'll sit down and deal with that.
- jjj. P. Coleman said he will give that information to his clients.
- kkk. C. Springer said I would like the record to reflect that I spent the afternoon of my 63<sup>rd</sup> year discussing the Anvil Points money.
- lll. M. Rosenberg made a recommendation that they move the investments to a more conservative allocation if they are considering pulling money out of the account.
- mmm. C. Springer said I don't see a reason to change anything right now. Again, we don't have the formal request that we need. When we get it, we'll deal with it.
- nnn. P. Coleman said I think the County Commissioners understand you're holding it and prudently invested it and sometimes the market goes up and goes down. If the decision is ultimately to go and give the full amount to the county and you're short the original amount, because the market took a dive, had they received the money on day one, their investments might have taken a dive as well. They understand wouldn't be coming to you to say you'd better find another pot of money to make us whole.
- ooo. C. Springer said thank you. I answered Matts question myself, but does anyone else have anything to add or share.

IX. Review Spring 2019 Grant Program.

- a. Motion to table the Spring Grant program by J. Justman. Second by Q. Shear. Voted. Approved.
  - X. Review and Award of Submitted RFPs for Banking Services.
    - a. Motion to table the RFPs for Banking Services by Q. Shear. Second by J. Justman. Voted. Approved.
  - XI. An executive (closed) session for the purpose of receiving legal advice in connection with the transfer of personal property and/or receiving attorney advice on legal questions related to a request for transfer of District funds, as authorized by C.R.S. 24-6-402(4).
    - a. Motion to table closed session by J. Justman. Second by Q. Shear. Voted. Approved.
  - XII. Unscheduled Business.
    - a. None.
  - XIII. Motion to adjourn from J. Justman, second by Q. Shear. Voted. Approved.
- Meeting Adjourned at 3:20 p.m.