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BOARD OF DIRECTORS MEETING

Date and Time: 1:00 PM on Wednesday, April 10, 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
Janet Johnson
Patrick Coleman
Cynthia Cyphees
Bob Kretschman

Meeting Minutes:

- I. Call to Order at 1:15 pm by Craig Springer, with quorum of John Justman. Quint Shear was not in attendance until after the recess.
 - a. Motion to approve agenda by J. Justman. C. Springer second. Voted. Approved.
- II. General Public Comment.
 - a. No comment.
- III. Adoption of the March Meeting Minutes.
 - a. Motion to approve meeting minutes by J. Justman. C. Springer second. Voted. Approved.
- IV. Consent Agenda:
 - a. Dufford, Waldeck, Milburn, & Krohn Invoice
 - b. Dusti Reimer Invoice
 - c. Eide Bailly Invoice
 - d. Motion to approve consent agenda by J. Justman. C. Springer second. Voted. Approved.
- V. Review and Discussion of the Proposals from Mackenzie Dodge Solutions, Alpine Computer and Merge 2 Media for Web Hosting Services.

- a. D. Reimer said the background, on Wednesday two weeks ago after the meeting, she started to upload items to the website, and I got the meeting minutes uploaded from February, and then I started to have issues. I couldn't do any updates or uploads. I did trouble shooting for about 24 hours and came to the realization that we have no more space. I emailed our hosting provider that is still Motus, and it took them 5 days to get back to me to confirm we were out of space. We are only allotted 50MB of space and that if we would like more space, we could give it to us for \$10 extra a month, on top of what we already pay. In the meantime, they are kind of holding our website hostage, and I went and got different proposals for web hosting services. The three proposals I got were from Makenzie Dodge-her hosting services are \$380 annually, Merge 2 Media offers unlimited for \$39.99 a month and the additional cost to move over servers which was expected to be an additional 2-3 hours of work for about \$200-\$300, and then Alpine Computer Solutions-their proposal was \$24.95 a month for unlimited space, Merge 2 Media was also unlimited. He said it was about \$100 to transfer the site and \$100 for the set up of the account. He also suggested we have an SSL certificate to secure the website. He said that currently our website is not secure, and that's true. I went on the website it says it right on there that the website is not secure. I didn't know that until he brought that to our attention. In reviewing this stuff, my suggestion is Alpine Computer Solutions would be the one to go with. They are the cheaper proposal for the hosting plans, even when it comes to moving the server over. He does provide service. All three of these service providers are local-they are all three in town and they would have quick response. The two I would recommend would be Merge 2 Media and Alpine Computer Solutions.
- b. Benita Phillips asked if both of them are unlimited?
- c. D. Reimer said yes, those two are for unlimited.

VI. Approval of New Web Hosting Services Provider.

- a. J. Justman said made a motion to approve Dusti's suggestion.
- b. C. Springer asked which suggestion would he like to go with?
- c. J. Justman said good question, I've looked at them, but I'm not a tech person, so which one should we go with?
- d. D. Reimer said after talking with them, it would be Alpine Computer Solutions is my suggestion/recommendation. They are cheaper, it's the same thing, same transfer cost between the two, but he's \$10 cheaper a month.
- e. C. Springer said then the motion would be to follow her recommendation.
- f. J. Justman said yes. You're the one that works with it, you would know more than I do.
- g. C. Springer said chair second. Voted. Approved.

VII. Staff Report.

- a. D. Reimer said it's been quiet, because it's only been two weeks.
- b. C. Springer said take your time.
- c. D. Reimer said we posted about our meeting minutes being posted to the website, we did a Connecting the Dots podcast link when we spoke with Doug Sorter and KAFM. We put the podcast link up on there, I did do a presentation to the CMU Energy Class-it's

their Senior Class and they did remember me. I was excited about that, because when they did that presentation, they said hey, FML that's us. So, it's stuck, and I was glad. I did post about our website technical difficulties and our new meeting date and time and that our meeting agenda was ready.

- d. D. Reimer said we do not have any media at this time, and we have no grants payable at this time. The City of Fruita is finalizing theirs at this time. He said they are pouring cement if I remember correctly. But theirs should be ready in the next couple of weeks and the library district reached out and said they are almost ready to submit theirs a year ahead of schedule. We should have two coming up in the next month.
- e. D. Reimer said the invoices for payment are for Dufford, Waldeck, Milburn, & Krohn Invoice #14386 for \$486, Dusti Reimer Invoice #133 for services and supplies for \$3,774.98, Eide Bailly Invoice #E100794345 for services for \$3,192.46.
- f. D. Reimer said so far we only have the Board meeting scheduled for May 15th, but I will have more presentations scheduled soon.

VIII. Review of Financials.

- a. Nancy Harward so at the end of March in our bank account we had \$2,364,631.73 as the ending balance. The permanent fund had a balance of \$1,432,293.77. Our grants outstanding balance is \$682,743.76. Our expenses for March-legal fees \$2,203, \$24.98 for dues and memberships is Adobe and Microsoft, \$3749.00 is for contract services, our unrealized gains and loss for the permanent fund is \$13,963.83, and earned interest is \$0.46, and dividend income is \$4,517.98. Overall for the year for 2019, unrealized gains were \$98,698.97, interest \$1.11, and dividend income is \$6,814.19.
- b. C. Springer said I must have missed this last month, when I was going through this, but what is interesting to me is we don't have anything in an interest-bearing account, how can we be earning interest?
- c. N. Harward said the interest is from the money market account. So that's why its such a small amount.
- d. M. Rosenberg said our target account for the money market account is 0.2%.
- e. D. Reimer asked if you wanted to go through the forecast.
- f. N. Harward asked the Board if she wanted her to go through the forecast? Where we did the cash analysis.
- g. C. Springer said no until Quint Shear is here, thank you.
- h. J. Justman said to go back to that May 15th meeting, it looks like I'm going to be out of town.
- i. D. Reimer said May 15th, ok.
- j. J. Justman motion to approve financial report. C. Springer second. Voted. Approved.

IX. Review of Investment Account.

- a. M. Rosenberg said it's basically all the same information, but at close yesterday \$1,444,2593 which is about a \$10,000 gain since the report.
- b. J. Justman motion to approve investment report. C. Springer second. Voted. Approved.

- c. C. Springer said this lands us at Item 10 which is the big item for the day. My preference is to not deal with that, with just the two of us here. My question is, do we want to wait half an hour and see if Quint shows up, or do you want to table that?
 - d. J. Justman said he is ok with that.
 - e. C. Springer asked if there were any legal issues of going into recess?
 - f. C. McAnany said no, I don't think so. If you want to recess and come back in half an hour.
 - g. C. Springer said the technicality, that Dusti had mentioned, is that this room has been scheduled for a 3pm meeting, before we did this. That's why we moved the meeting time to 1pm. That being said, I will put this meeting into recess for 34 minutes and reconvene at 2pm.
- X. 34 Minute Recess. Board resumed meeting with full attendance by Craig Springer, John Justman and Quint Shear.
- XI. Review and Discussion of Formal Written Contract Request from Mesa County for Disbursement of Anvil Points Mineral Lease Funds for Mesa County Jail Construction Project.
- a. C. Springer said we worked our way through the agenda and took a recess and now we are at item ten. Chris.
 - b. C. McAnany said, Craig since the last meeting we received a proposed agreement from Mesa County. I made some changes to that agreement in red line form and circulated them to the County Attorney, who is here today and in a nutshell, the changes that I made were, I would say technical, addressing some of the concerns to the district as opposed to the county. The issues that remain in contention, as I see them are two really. A. The amount of the Anvil Points fund that the District wishes to disburse to the county. The County has asked for all of it. What strings accompany that. The draft agreement I have circulated to you specifies that the money would only be used in connection with improvements to the Mesa County Jail Detention Facility, which are planned by the county. So for planning, design work, actual construction, fixtures, so forth. Is it fairly specific about that and I understand that the county is generally agreeable about that. I've had some discussions with Mr. Coleman about potential concerns that the County would have. I can't speak for him, he is here, but as I understand it, the main concerns fell on the questions what strings would be attached for the release of the funds. Our draft agreement specified that the funds would only be used on the jail funds. It would be expended within 24 months from the time they are disbursed and that if the county was unable to expend them on the jail project as represented, within that time, then the funds would come back. I was informed that might be problematic from the stand point of the county. Just by way of background, historically, all its agreements have had multiple warranties and representation with grant recipients to say this money is only going to be use for the things the recipients tells us its going to be used for. It's going to be a qualifying project and there is typically a remedies clause that says if we don't spend it the way its supposed to be spent, then the district has a way to recover funds and several other remedies as well. We didn't go to that level of detail in this draft with Mesa County, but I did include some language to

that effect, that if you're not going to spend it within a reasonable period of time, then it comes back. And again, that goes back to the historic practice of this Board and past Boards, that grants are to be made for shovel ready projects to put the dollars to work in the community and if the project isn't ready then the money should be spent somewhere else. So anyway, that's the back drop to all that. I guess you have some financial data for the districts financial position which should help from that point. Happy to answer any questions you have.

- c. P. Coleman said well, I think Chris recited our concerns and I think from the County's perspective and I haven't had a chance to sit down with my Board and go over line by line on this contract, I think the big elephant in the room is what dollars are we talking about, and until that's resolved negotiating a contract is secondary issue, but as we have been repeatedly said in the past, we think this money is a different funding sources than the DOLA money, that's why we are seeking to be paid strictly through a contract rather than as part of a grant application process. So, in terms of the usual rules and regulations that you all place on your grant recipients I'm not sure how those would apply in this situation. We do acknowledge that using the funds for the jail expansion is consistent with the purpose of the Mineral Leasing District are, but in terms of putting a refund provision in there, timing is an issue, because as you know, this is probably going to be a \$20 or \$30 million dollar project when this is all said and done and it may take more than 24 months from today to actually start construction. The county has committed over \$1 million dollars for the design phase that will allow us to go out to bid on the construction project. Probably late fall or sometime next spring, but a lot can happen between now and then and certainly the county may have a number of different funding options, some of which may require a vote of the public, which could go down in defeat, and take a year of planning and then you have to go back to the drawing board. Committing to a 24-month time limit would be problematic, just from the stand point and they may use all the money this year, but I know the commissioners have appropriated funds to the design work that they have committed by contract. So, whatever funding this Board gives to the county will be in addition to whatever has been appropriated. Whether or not they shift money around and spend mineral lease money on design portion, I'm not sure how that would work, but I know, and certainly John can weigh in, but I know the Board tends to not like having other entities dictate their budgetary decisions and appropriation decisions. Certainly, the county operates under grant funding frequently from other sources and has no problem complying with the conditions with grant funding, but I think there is certainly a philosophical and a legal distinction whether this is actually grant funding deal or simply a transfer of funds via contract. So, I'm anticipating without consulting what the concerns might be. I Can put this in front of the board in rather short order once we know what dollar amounts, we are dealing with. Just as a side note, you want to know if you've got a contract we can work with, I think you can approve, if you're inclined to approve an amount, but that it's contingent upon the parties reaching a mutually agreeable IGA or something to that affect. That would allow some negotiation back and forth on the terms of the agreement.
- d. C. Springer said thank you.
- e. J. Justman said I'm not sure, but what from what I've seen the cost on just getting the design work on it, if you took all this money that, that's not even enough to pay the bill. How we're going to pay for the rest of the bill is still being worked on. We don't want to

be in a situation like, I don't know if it was 25 or 30 years ago, when a judge somewhere told them we were going to have to build a new jail. We don't want to get into that situation. We would rather plan on it and get ahead of it, until it gets to the point where we are told to build a jail and oh by the way you're going to build it this big and it has to have so many beds and have it raise the cost more than we thought.

- f. P. Coleman said I would add in terms of putting a specific restriction on use of the funds for the jail, I think the County could make the argument that everything they spend money on is somewhat related to the impacts of oil and gas development on the county. Whether it be roads or human services, most county projects are related to population growth and demands of the community and I think the example you've used in the past, apparently you funded the AstroTurf at the college, certainly the county could make the argument that all of their projects would at least come within that scope in terms of being impacted by oil and gas development. Again, I don't know, but Commissioner Justman says perhaps this money wouldn't even be enough to cover costs for design and planning. But to the extent the money didn't get spent on the jail expansion if this board determines there is a need to put a use restriction certainly the county could come up a laundry list of items that would fit within your statutory guidelines for use of the funds. The County could commit to using those funds for those purposes rather than refunding it or turning it back over to the district if for some reason the jail doesn't get built.
- g. C. Springer said thank you. Oh, I'm sorry.
- h. P. Coleman said that's ok.
- i. C. Springer said alright, so this matter was discussed in the January FML meeting, February and was discussed again in March. It's taken a lot of thought. After the March meeting, it was determined that we would, the three of us would study this along with counsel and meet again in April to hopefully come up with a conclusion. To that end, one of the fellow Board members requested that staff prepare a spreadsheet that delineated the three options that are being discussed so that we have that in front of us. IS that available? Ok, good. Everyone is looking at that.
- j. D. Reimer said the three proposed options moving forward are Option A, and Nancy thanks for putting this together. Option A would be to pay out all the money in the checking account except operating expenses needed for 2019 and pay the remainder out of the money coming in from the fall, the additional money that would come out. Right here is the projected and budgeted amounts we have, plus the new website hosting services. These are the grants approved and unpaid as of the end of March \$682,743. The total cash needed to operate the district through the rest of the year is \$743,682.24. The bank balance as of 3/27 was \$2,364,630.75, cash available after cash outlays is \$1.6 million and some change and the money requested by the county is \$1,824,275.82 which would mean we would still owe the county \$203,327.31. That's no grant cycles that just cashes us out until we get another check. The money we got in the fall this last year for grant cycles and operating the district was \$737,321.58. To give you an estimate, Nancy found out the projection for funding is supposed increase by 19%. That's what we are looking at for a disbursement check is a check that has increased by 19%, but the following two years the projections are a significant decrease. So, the second option is to pay out all monies from the checking account, minus operating expenses and then to have \$100,000 set aside for a fall grant cycle and pay out the remainder of any grant money in the fall. So same operating expenses we had before the only thing we'd do is add the \$100,000 grant cycle. Again this just for discussion and these are options to review for the Board to look at. If we took \$100,000 grant cycle it would mean we would

need \$843,682.24 for operating expenses for the district. Bank balance is still at \$2,364,630.75. If we did this we would still owe the county \$303,324.31, if we did a \$100,000 grant and paid everything in the checking account, we would still owe them \$303,324. The last option is payout all the money from the checking account, except operating expenses, plus a fall grant cycle and then the additional earnings on the money that was in the investment account. All this stays the same, except the earning on the Anvil Points that was on that account was another \$15,173 which means we would owe the county \$318,500.68.

- k. Q. Shear said one point I'd like to make. I think we have determined this money came to the Federal Mineral Lease District and it is our responsibility to determine what to do with that money. There is no money owed to the County. I just want that to be noted.
- l. C. Springer said the issue I have, in looking at these options is, I am extremely uncomfortable with that thin of a residual balance to get us into the fall when we get our money. In my opinion, the minimum we have to have in excess is \$100,000. It would be my opinion that it would be a little bit reckless of this Board to give out all the money we've got and we could always declare an emergency and reach into the permanent fund, but that's the whole point of this discussion is the reluctance on the part of a couple of us to reach into that permanent fund. So, I strongly suggest that we keep way more than \$68,438. Whatever we decide to do here today, I think that number should be \$168,438. Gentlemen?
- m. J. Justman said maybe I got different numbers here, but we worked up this thing at the office and he took into account the \$100,000 for a grant for this fall. The top chart here, I believe I told that guy to use \$700,00 and I think he used \$737,000 for projected income. If we put 48% into the reserve fund into the fall allocation and that's assuming we'd get paid \$1.5 million here before too long, that came, if we took 48% of that money and put it into the permanent fund that would leave us a balance at the start of the year of 2020, with \$180,000. One of the thoughts I had, if you wanted a little more money, rather than putting it roughly 50%, put in 40% and the closest we got 39.9% then you would have \$240,335. IF you want to do say a 30% into the permanent then we would have \$300,000 to operate from to get your grants up and then you would pay the county of what we can here the \$1.5 million to start with and then not pilfer the balance of the money you'll get to the county will come out of that money, but these are the balances with the different percentages that you'd put into the permanent fund. If you over the long term say if you put in 10% less into the permanent fund its not going to set, it's going to give you another \$70,000 to hand out for grants. And if you put in say 30% then you'd have another \$140,000 for grants, if you wanted to look at it that way. One of those three would be my priorities.
- n. C. Springer said there was a question as to whether or not we would get another payment from Anvil Points. Have we received any Anvil Points money in 2019?
- o. D. Reimer said we did, we got it in January. It was that \$120,000 check and that's included in that.
- p. C. Springer said and that's reflected in the spreadsheet?
- q. N. Harward said it is.
- r. C. Springer so the \$1.824 reflects that. There hasn't been a third?
- s. D. Reimer no.
- t. J. Justman said I don't think we're expecting anymore.
- u. D. Reimer said I think the second check was a surprise.

- v. Q. Shear said my thoughts are we do need the excess. We can't cut it that close. I have several thoughts. One is – no matter how you look at it, the State granted us this money and it is our responsibility to manage it. In a way, befitting our bylaws. Anything we do to the county; it does have to be with some restrictions on it. We are not following our bylaws if we don't put some restrictions on it. Patrick do you think they'd have a tough time spending that money on the jail? They wouldn't be able to spend all that in one shot?
- w. P. Coleman said Well, I think as Commissioner Justman expressed, just the planning and design functions will probably be \$2 million before we're all done. The issue remaining being the 2-year time limit more so than the limited purpose. I think from what I've heard from all three commissioners individually, they all want to use the money on the jail. They don't have any side deals they want to cut or spend it on. As I said, the project of that size maybe a three- or four-year planning process rather than a two-year process.
- x. C. Springer said I guess philosophically we're at a fork in the road. It seems to me like we've got to decide how to one-entertain a grant request from Mesa County or two are we acting as a pass through to give the Anvil Points money back to Mesa County. Even though you could argue by virtue of the grant you're accomplishing the same thing, philosophically they're two different things, in my opinion. Just giving them the money because it came to us, because we're the conduit or going down this grant road with restrictions that you're talking about and all that kind of stuff. I think philosophically we need to decide which is it we're doing here.
- y. Q. Shear said I think from the stuff that Chris' information and for what I've read on the House Bill, we were designated to have the Anvil Points money was granted to us, I think it's quite clear we're not just a pass through. We were the entity intended to receive this money. That was clear to me. So, I think we have to decide how much and how we'll give it. It's a great project and I definitely know we need a jail and it's a good use of the funds. You've got to have more history than I do.
- z. J. Justman said the thing is it's still not the same revenue source as the DOLA money that comes from currently existing drilling that the money comes in, this is something that was established, the dollars were established and used for the clean up there long before there was a mineral leasing district. The reason we didn't think we had any choice, I guess we could have told Interior to send us the money, but we didn't want to risk the offset and it was in my opinion a whole different source of money than we normally get.
- aa. C. Springer said thanks a lot. One of you is on one side and one of you is on the other. Chris can you help?
- bb. C. McAnany said can I help-probably not. The monies that are at stake are royalties from production of oil and gas from federal minerals, from federal lands. It is mineral leasing money, just like the DOLA money we get every year. What's different about it, is it just fell out of the sky because it accumulated in this account and wasn't used for the purposes Congress originally set it up for.
- cc. J. Justman said it never went to DOLA.
- dd. C. McAnany said it no, but to me that's kind of a distinction without a difference. It's still mineral lease money.
- ee. Q. Shear said but the House Bill did grant that money to us.
- ff. C. McAnany said that's right and that's undisputed.
- gg. Q. Shear said house bill specifically granted money to us.
- hh. J. Justman said if you had a federal mineral leasing district. There are counties that got that money without one.

- ii. C. McAnany said that's right and so the money, in my legal opinion, the money was properly transmitted by the state of Colorado to Mesa County FMLD. The question of is this a pass-through vs a grant I think is an important one. To me, I've approached this problem by saying we've essentially gotten an urgent request from the County for an urgent project they want to fund and need to fund. The district has to decide A.) if they want to fund it at all and B.) if so, how much and under what terms. To me that sounds like a grant. Just an unusual grant process. The other thing about our grant process it's never been written in stone. We've changed things around, moved dates, and there have been times when projects were not, there have been different amounts of money available to us, different Boards have had conceptions of what are the impacts from mineral lease or mineral development activities, and how we allocated those monies. The legitimate philosophical questions on that.
 - jj. C. Springer said what I'm hearing you say is that the money is legitimately FML district money, but we can handle this as a special grant request. That's what this is. It's not that we published this was part of the spring or fall grant program. This is a special grant request, in your opinion, from the county.
 - kk. C. McAnany said yes. I would treat it. There has been a lot of discussion about whether it is a contract or a grant, it's a distinction without a difference, because every grant that this body had ever put out there to another public entity has been supported by a contract with terms and conditions that said what you can spend the money for, when you can spend it and how. To me, this is just an unusual large request. You have to decide whether or not to decide to do it.
 - ll. C. Springer said I appreciate that, but I will also say that Patricks' argument resonated with me for us here in this room to dictate how soon we want that jail built is ridiculous. I think we can certainly award a grant for part of the jail project, but I don't think there should be strings on that.
 - mm. C. McAnany said to be fair to Patrick's comments and just so the Board knows, the number, spend this money in 24 months, that's from me. If that's too restrictive you can put a different number there or there is not time limit for the money to be spent. I tried to be consistent with the past practices is to not fund projects that are not going to be built or that are white elephants. We historically said we want to put the money where it will do the most good and not have half built things.
- XII. Possible Approval of Contract for Anvil Points Funds from Mesa County Federal Mineral Lease District to Mesa County Government for Mesa County Jail Construction Project.
- a. Board discussion with regards to motion.
 - b. Q. Shear made a motion to approve the county's special grant request for the Mesa County Jail project for \$1.5 million dollars, subjected to the approval from the Mesa County Commissioners and changes made to the grant contract. Voted. Approved by all.
- XIII. Review and Discussion of a 2019 Grant Program.
- a. C. Springer said there would be not grant program for the year.
- XIV. Review and Award of Submitted RFPs for Banking Services.
- a. C. Springer said they would need to revisit this later in the fall.
- XV. Unscheduled Business.

a. D. Reimer said the May 15th meeting scheduled for next month didn't work, could they choose another time before they leave for the next meeting.

b. Board proposed May 8th at 2pm. All agreed the date and time worked.

XVI. Motion to adjourn from Q. Shear, second by J. Justman. Voted. Approved.

Meeting Adjourned at 2:52 p.m.