

RIO NEUVO MULTIPURPOSE FACILITIES BOARD MEETING

Tucson, Arizona

February 2, 2016

REPORTED BY

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Tucson, Arizona 85713

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1 BOARD MEMBERS PRESENT:

2 Fletcher McCusker, Chairman

3 Jeffrey Hill

4 Chris Sheafe

5 Mark Irvin

6 Jannie Cox

7 Cody Ritchie

8 Edmund Marquez

9 ALSO PRESENT:

10 Mark Collins, Board Counsel

11 Michele Bettini, Operations Administrator

12

13 BE IT REMEMBERED that the Meeting of the Board
14 of Directors of the Rio Nuevo Multipurpose Facilities
15 District was held on the 2nd day of February 2016 at the
16 Arizona State Building in Room 222 commencing at the
17 hour of 1:00 PM.

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P R O C E E D I N G S

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CHAIRMAN McCUSKER: Call this meeting to order.
But Edmund's not here to lead the pledge. We do have a
quorum.

Mr. Sheafe, will you do the honors?

(Pledge of Allegiance.)

CHAIRMAN McCUSKER: Michele, call the roll.

(Roll call.)

CHAIRMAN McCUSKER: We do have a quorum. It's
noted that Jannie Cox is injured. She had a fall at a
running event yesterday, so she has a few stitches and a
couple of broken teeth. I think she was going to try and
call in, Michele?

MS. BETTINI: After Exec.

CHAIRMAN McCUSKER: After Executive, in the
regular session.

And I am assuming both Mr. Marquez and Mr. Irvin
are on their way. Michele, have you heard anything
different?

MS. BETTINI: No.

1 CHAIRMAN McCUSKER: You have the transcripts from
2 the January 12th meeting, and they are complete word for
3 word transcripts. Any questions, comments, changes? If
4 not, we need a motion to approve.

5

6 (Motion made and seconded. Motion carried.)

7

8 CHAIRMAN McCUSKER: And this is the time set aside
9 for an executive session. We need a motion to recess.

10

11 (Motion made and seconded. Motion carried.)

12

13 CHAIRMAN McCUSKER: So we'll take about an hour
14 probably, for those of you that are hanging around. Smoke
15 'em if you got 'em.

16

17 (Executive Session between 1:10 and 2:30 PM.)

18

19

20 CHAIRMAN McCUSKER: I need a motion to reconvene.

21

22 (Motion made and seconded. Motion carried.)

23

24 CHAIRMAN McCUSKER: Thank you for hanging in there
25 with us. It took a little longer in Exec than we planned,

1 but you will note as we go through the agenda we have a lot
2 of issues that require our expert legal counsel's
3 assistance. So hopefully today we are going to move the
4 ball on a lot of very important projects for this
5 community. So let's get right to it.

6 Dan, do you want to do your financial report?

7 MR. MEYERS: Dan Meyers here for Rio Nuevo. Okay.
8 It was kind of a quiet month, nothing significant expended.
9 We've got \$4.5 million approximately in the Alliance Bank
10 operating account, a little over \$5 million in the Alliance
11 Bank ICS account, about \$400,000 in the Bank of Tucson
12 operating account, and about \$5 million in the Bank of
13 Tucson ICS account, for a total of \$14.9 million.

14 We received \$747,000 from our TIF Distribution in
15 early January. We have not heard what's going to come in
16 for February yet, so we're owed, it's usually three months
17 behind, so we're owed for December, January and February
18 still.

19 Outstanding obligations approximately \$8 million.
20 Mission Gardens, a million. The garage at the AC Marriott
21 Hotel, 4.3 million, which is a 2017 expenditure. The
22 Greyhound number we have in there is \$1.7 million, and that
23 may be revised slightly. StreetScapes is still at 750 and
24 remaining in Tucson Community Center, which we may or may
25 not use all of it, about \$280,000. So that's \$8 million in

1 commitments, so leaving about \$7 million more than we need.

2 We met with the auditor general and the auditor
3 yesterday, Michele and I did, in preparation for our
4 performance audit, so they will start feeding us requests
5 for information. And the auditors have a lot of other
6 people they deal with in this audit, SMG, and they do a lot
7 of outside work that really doesn't involve us. But we're
8 expecting that to be completed, I believe, towards the end
9 of September.

10 CHAIRMAN McCUSKER: Would you just remind the
11 Board and the public, this is the tri-annual performance
12 audit that's performed by the auditor general's office. So
13 they launched that, and as Dan indicated, we should see
14 that performance audit, it's not a financial audit, it's
15 kind of a how-are-you-doing audit and it goes directly to
16 the press and we should see that soon.

17 MR. MEYERS: And then kind of in corresponding
18 with the Arizona Department of Revenue regarding us getting
19 information, again on our TIF revenues and, it seems like
20 they have gotten some delays in getting information to me.
21 I have been assured that they have reassigned some duties
22 there and we're going to start getting that information
23 very shortly after receiving our monthly allotment.

24 CHAIRMAN McCUSKER: We should note that under the
25 TCC's \$283,000 remaining, I think most of that -- Mark,

1 correct me if I'm wrong -- is allocated to the video
2 boards. We have recently received notification from the
3 City that they should be approved, so we should get after
4 that final phase of that project, Dan, and hopefully spend
5 the rest of that down, and we might end up with 20 grand or
6 25 grand left over, but the video boards -- not the
7 monument signs, which are designed to be on the street, but
8 there will be new video boards adjacent to the ticket
9 office on the building itself. So we are moving ahead to
10 finish that project.

11 Any questions for Dan on the financials?

12 MR. SHEAFE: Just a quick question, Dan. The
13 period July through the end of December, we were about 370
14 under budget from where you had thought we might be. The
15 numbers were 9.3 against a budget of about 9.34, so, do you
16 think there might be any recapture if you're able to get
17 the numbers and really go through them?

18 MR. MEYERS: Well, some of that is because of the
19 timing of the expenditures. Some of the stuff is delayed
20 to the second half of the year. My thought is we're pretty
21 much in line if we take a step back and look at this, but
22 those numbers get truer as we move through the year, but
23 there may be a little bit left over, I don't think I can
24 quantify it right now though.

25 MR. SHEAFE: Okay.

1 CHAIRMAN McCUSKER: Thank you, Dan.

2 We should mention that Board member Jannie Cox is
3 on the phone. She was injured in a jogging accident
4 yesterday, knocked out a couple of teeth, got a few
5 stitches, I understand. So, Jannie, I hope you're feeling
6 better.

7 MS. COX: Thanks. I'm good.

8 CHAIRMAN McCUSKER: Item 7, the Greyhound land
9 Purchase Agreement. We can officially announce today that
10 we have a piece of property in escrow to accommodate the
11 new terminal for the Greyhound. It is located at Euclid
12 and Broadway directly behind the Del Taco Office Max
13 complex there on what will soon be adjacent to the downtown
14 links. It was their first choice of sites, so we were able
15 to negotiate the acquisition of the most desirable site for
16 the Greyhound Company.

17 The official address, Mr. Collins?

18 MR. COLLINS: It is 801 East 12th Street.

19 CHAIRMAN McCUSKER: 801 East 12th Street. And the
20 Rio Nuevo district paid \$575,000 for this parcel. It's a
21 little over an acre, or about \$12 a square foot, which
22 comps very nicely to properties that have gone around in
23 sale for as high as 48, 49 dollars a square foot.

24 The Greyhound Company has provided us with some
25 renderings and site plans, which we will distribute to the

1 press and public today. It's really an extraordinary state
2 of the art very modern terminal built exclusively for
3 Greyhound's use. Again, it was their first choice in a
4 location, so Rio Nuevo is thrilled to have the Greyhound as
5 a tenant. We are going to move as quickly as we can on the
6 development of this terminal.

7 We have a 60-day escape clause in our current
8 agreement that if we see something we don't like or there
9 are problems with the parcel or the site, or hazardous
10 waste or any of the kind of things that we can protect
11 ourselves from, we can walk.

12 We have also agreed with the seller that we would
13 want an appraisal just to assure us and the taxpayers that
14 we have negotiated a fair price.

15 So I have three items on the agenda that we would
16 need the Board to approve. The first one, Mr. Collins,
17 just make sure I touch on all of them, is to authorize an
18 appraisal of this particular parcel with an amount
19 estimated to be \$2500.

20 MR. COLLINS: That's correct, Mr. Chairman.

21

22 (Motion made and seconded.)

23

24 CHAIRMAN McCUSKER: Any conversation?

25 (Vote called. Motion carried.)

1 CHAIRMAN McCUSKER: The second item would be to
2 authorize an Alta survey, the same parcel, estimated cost
3 at \$1,750.

4

5 (Motion made and seconded.)

6 MR. HILL: Mr. Chairman?

7 CHAIRMAN McCUSKER: Mr. Hill?

8 MR. HILL: Reading the handouts we had, we
9 actually seem to have contracts for that.

10 MR. COLLINS: You have a signed agreement for the
11 Alta, it's not active until you guys approve that.

12 MR. HILL: So we can just say --

13 MR. COLLINS: Yes.

14 MR. HILL: -- not say a round --

15 MR. COLLINS: Yes, the Alta is done.

16 MR. HILL: Okay.

17 CHAIRMAN McCUSKER: So correct your motion to
18 authorize the Alta you've negotiated at the \$1,750 price?

19

20 (Motion made and seconded. Motion carried.)

21

22 THE COURT: And then finally to authorize a Phase
23 I Environmental Inspection, that's estimated to be between
24 2500 and 3500 dollars.

25

1 (Motion made and seconded. Motion carried.)

2

3 CHAIRMAN McCUSKER: Okay. And we communicated to
4 the City, the parcel seems to be very well received all the
5 way around and we will begin work post haste.

6 I think we have some other renderings too that we
7 will make available to the press and the public.

8 Item 8, Nor-Gen Water Drainage Agreement. To
9 refresh everyone's memory, some time ago this Board
10 unanimously agreed to help deal with the water shed
11 problems that the TCC created for the down-slope properties
12 west of the Tucson Convention Center. We have an agreement
13 with the property owner and developer, Nor-Gen, that we
14 would pay 62 percent of the cost of that drainage
15 completion with an amount to not exceed \$855,000.

16 Is that correct, Mr. Collins?

17 MR. COLLINS: Correct, Mr. Chairman.

18 CHAIRMAN McCUSKER: And Mr. Sheafe made the
19 motion, it was unanimously approved. We have some
20 documents going back and forth between the developer's
21 counsel and the City attorney. We saw those in Executive
22 session.

23 Mr. Sheafe, what's your pleasure?

24 MR. SHEAFE: Mr. Chairman, the original motion is
25 the original motion, we have asked counsel to make sure

1 that the agreement for that payment conforms to the
2 original motion. Counsel has taken a draft which was
3 prepared by Nor-Gen's attorney and he's added just a few
4 small additions to make it very clear.

5 I would move that we adopt the motion as expressed
6 in the agreement that our counsel has prepared, with the
7 changes for Mr. Lopez; in other words, our counsel made
8 changes to Mr. Lopez's draft, and move forward on that
9 basis.

10 CHAIRMAN McCUSKER: That's a motion, I believe.

11 MR. IRVIN: And Chris, so I'm clear, I think the
12 original was 62 percent or 855, whichever is lower, so is
13 that your --

14 MR. SHEAFE: That is correct. We're confirming
15 that we have a way to manage the process so that we
16 understand that the amount we are paying is actually based
17 on actual costs and that we can verify those costs only
18 include the breach that we're agreeing to participate in.
19 By breach, I mean the distance of the channel that covers
20 the area that the motion intended to cover.

21 MR. IRVIN: Motion to approve.

22 CHAIRMAN McCUSKER: He's made a motion. Do we
23 need a second?

24 MR. COLLINS: You need a second.

25 (Motion seconded.)

1 CHAIRMAN McCUSKER: Mr. Lopez, we're happy to
2 negotiate some of this realtime. If you have a comment or
3 concern, come on up.

4 MR. LOPEZ: I do. Thank you very much.

5 MR. RITCHIE: I will recuse myself.

6 CHAIRMAN McCUSKER: Thank you.

7 MR; LOPEZ: Thank you.

8 CHAIRMAN McCUSKER: Introduce yourself for the
9 transcriptionist.

10 MR. LOPEZ: Oh, I'm sorry. Pat Lopez. Rusing
11 Lopez and Lizardi, representing Nor Development and Nor
12 Generations LLC.

13 Before I jump into what's on the table, let me
14 just first say thank you all for the Greyhound, what you
15 have done on the Greyhound. I mean, I will tell you, you
16 guys and your counsel have gotten more done in a very short
17 period of time than the City was able to accomplish in many
18 years. So thank you. It's just been amazing.

19 CHAIRMAN McCUSKER: So we'll see you at the open
20 house?

21 MR. LOPEZ: I will be there. I will bring the
22 champagne. Let me know when it is. Okay.

23 So onto this sticky wicket. You know, just a
24 little of -- a little history so that we are all on the
25 same page.

1 Before Nor-Gen acquired what we all call the arena
2 site, this Board had made a motion and agreed to
3 participate in the overall drainage improvements, again at
4 this 62 percent not to exceed 855,000. Then work was done
5 to actually put that together, and Rio Nuevo took the lead
6 on getting that design work done and getting everything put
7 together with Stantec.

8 In the meantime, Nor-Gen acquired the arena site,
9 and I think some -- and I just want to get all this out
10 because I want to make sure that the elephant in the room
11 we can all see, okay -- so some of the work was on the
12 arena site, and the contract with the arena site said that
13 Nor-Gen would be responsible for all costs associated with
14 the arena site.

15 So when we came back to put in place something
16 with regard to the drainage, I think that, you know, I'm
17 not getting into good/bad/indifferent, just facts, I think
18 this Board took the position that Rio Nuevo would not
19 participate in the portion of the costs associated with the
20 arena site. And your last motion approving this said that.
21 We have incorporated that in the agreement that we have
22 here.

23 So that everybody understands, 100 percent of the
24 costs with respect to the arena site are being covered by
25 Nor-Gen. Now all we're talking about are those costs that

1 are not on the arena site. And as the Chairman said, the
2 reason for this problem is basically through the TCC water
3 is channeled like a funnel onto that property right down
4 the middle, and it just -- it's not reasonable or feasible
5 to develop that property to its full potential with that
6 there. That's the reason for the relocation, that's the
7 reason why this Board has agreed to participate in it.

8 So when those plans were done, Stantec, the
9 engineer that you guys had worked with, gave us all an
10 estimate of the costs to do that, their estimate, high side
11 \$3.4 million, low side \$2.8 million. And they broke it all
12 out. We have gone through an analysis, we have shared that
13 with your counsel, and I presume he's shared that with you,
14 showing all of that. We just took the low side estimate,
15 \$2.8 million. How much of that were costs not on the arena
16 site? A million five seventy-six. So 85 percent -- I'm
17 sorry -- 62 percent of that was \$977,000.

18 Since the arrangement was 62 percent, not to
19 exceed \$855,000, we have drafted an agreement that said,
20 look, we've got all the numbers, we would like to get the
21 855 reimbursement -- oh, and by the way, one other thing
22 that wasn't known when we did all this -- was your counsel
23 has done the analysis and said, look, we think the best way
24 to really have the belt and suspenders on this agreement
25 and make sure this is an appropriate expenditure of

1 District funds is for the property on which these
2 improvements are going to be constructed to actually be
3 conveyed to the City of Tucson, because they would not only
4 be City improvements but the City would also own the real
5 property on which the improvements lie. That wasn't
6 anticipated, but Nor-Gen has agreed to do that.

7 CHAIRMAN McCUSKER: If I may? The problem we are
8 having is trying to keep consistent with Mr. Sheafe's
9 original motion, and the changes in your draft that move
10 from actual costs to estimates. So, I believe what the
11 Board is trying to do, and they certainly have the
12 prerogative to change and approve a different motion, is to
13 bind you to 62 percent of the actual cost not to exceed
14 \$855,000, as opposed to agreeing to fund estimates at this
15 point.

16 So I think we are in the same place with some
17 hair splitting regarding what you submit to us as actual
18 versus you trying to estimate the project in advance. We
19 understand all that goes into a project like this,
20 contractor overhead, temporary office, all the costs
21 associated with that. That's all legit in our minds. I
22 just think the Board wants to see an invoice so that we are
23 following the original motion.

24 MR. SHEAFE: Mr. Chairman, could I just say --

25 CHAIRMAN McCUSKER: Since you made the motion --

1 MR. SHEAFE: I'm sensing there might be a
2 misinterpretation here.

3 Background -- and not to try and argue the case,
4 but to make sure you that you have been informed fully of
5 what took place.

6 At the time the 62 percent was negotiated, it was
7 negotiated at 62 percent of the total cost for the area
8 that fronts what is now the exhibition hall property. It
9 wasn't the entire distance. It left out the arena parcel.

10 Listening to your description, it sounds like you
11 took the bid, or had the engineer estimate the entire
12 distance and then took 62 percent of that. If it's just
13 the area in front of the exhibition hall, the original
14 estimate was right around \$680,000 or \$690,000, our
15 percentage. So that is what is in the mind and that's what
16 we're going to be checking for in the motion.

17 And then given that would be the fact, the effect,
18 what our counsel tried to do was make sure that it was very
19 clear that this was all done on the basis of actual results
20 and not an estimate.

21 Does that help?

22 MR. LOPEZ: That does help. So, first let me
23 correct the misperception, which is the 62 percent number
24 that I gave you was based just on the cost of that portion
25 off the arena site. So it's not 62 percent of the total

1 cost. The total cost is the 2.8 to 3.4 million dollar
2 estimate. And if you recall, preliminary estimates were
3 made before there was any design work that was done or
4 anything to base it off of. So this has all been scheduled
5 off the actual plans as designed, and those plan designs
6 are attached.

7 So let me get right to the heart of what the
8 problem is because I think we've got a lot of understanding
9 of the background. The heart of the problem is that all
10 along, I mean there is no question that Nor-Gen intends to
11 do as much as it can to drive down these costs, and that
12 would include acting as the general contractor to the
13 extent they can in hiring subs directly, self performing
14 work to the extent that they can self perform work,
15 negotiating with those contractors and say, look, you know,
16 it's going to take a hundred yards of concrete -- I'm just
17 making up that number -- you know, to build this, and it's
18 going to take 2000 yards of concrete to build the hotel.
19 You know, I don't want you to give me your hundred yards of
20 concrete number, I want your, you know 2100 yards of
21 concrete number.

22 And so, you know, all of that then, how do you
23 take and parse out all of that? What savings do you
24 attribute to the rest of the project versus, you know, to
25 the drainage improvements?

1 CHAIRMAN McCUSKER: You do it fairly and we agree.
2 I mean, that's kind of what's contemplated in the motion.
3 The parliamentary problem I have is we have a historical
4 motion, you have an affirming motion today authorizing
5 counsel for the District to proceed.

6 We are prepared to spend that \$855,000 so long as
7 it doesn't exceed 62 percent of the cost.

8 Now, the Board has the prerogative to change that.
9 We would first have to deal with Mr. Sheafe's motion and
10 second, which implies that we want our attorney to honor
11 that agreement. I guess that's probably the vote we ought
12 to take.

13 That kind of indicates to you our position.

14 MR. LOPEZ: And what our concern is we don't want
15 to spend \$100,000 worth of time and money arguing over what
16 costs are included, what costs aren't included, how do we
17 calculate this.

18 CHAIRMAN McCUSKER: This is not the City of
19 Tucson. You know, we do this all the time, we have a lot
20 of people in this business on the Board, we look at a
21 legitimate receipt, and as long as it meets the criteria,
22 you're not going to get a lot of pushback.

23 MR. LOPEZ: How do we receipt for in-house work?
24 Right. I mean, that is something you guys are going to
25 look at and you're going to say, okay, do we --

1 CHAIRMAN McCUSKER: If you spend anywhere near
2 these dollars, you're not going to have any trouble proving
3 up to 62 percent of it, even without the overhead. So I
4 think that's kind of where we are.

5 So let's do a roll-call vote, Michele.

6 Everyone understand the motion?

7 Chris, will you restate your motion?

8 MR. SHEAFE: All right. The motion is that our
9 counsel, Rio Nuevo's counsel, has proposed a minor
10 addition -- or a minor change to the wording in the
11 document which is called the reimbursement and conveyance
12 agreement, cost reimbursement and conveyance agreement.
13 And my motion is to approve the changes our counsel made
14 and ask our counsel to return back to Nor-Gen's counsel
15 with that position as being our position going forward.

16 MR. IRVIN: I will second the motion to approve.

17 CHAIRMAN McCUSKER: Any reason we can't read this
18 into the record?

19 What it says, Pat, is -- this is Mr. Collins'
20 markup to your document -- qualified costs means actual
21 costs incurred and paid -- that's the entire markup to that
22 paragraph.

23 And then he's added an item C, the receipt and
24 confirmation by Rio Nuevo's treasurer that's sufficient
25 documentation to satisfy the requirements of the

1 resolution.

2 That's the entire markup.

3 MR. LOPEZ: So, just for a point of clarification.

4 I guess I should first say that my client is asking that
5 you accept it without those changes, but as a point -- so
6 that would mean voting "no" on this motion and another
7 motion accepting it without changes.

8 But with regard to what's on the table, my point
9 of clarification is where it says actual costs. I have
10 already explained that my client intends to act as the
11 general on some of this and do some self performing. So,
12 for example, they have an engineer, in-house engineer on
13 staff, how do we bill for and present that cost and those
14 related overhead expenses?

15 CHAIRMAN McCUSKER: There is one word that would
16 accommodate all that, Mr. Collins, Mr. Sheafe, all actual
17 and allocated costs incurred and paid.

18 MR. COLLINS: Works for me.

19 MR. SHEAFE: Yes.

20 CHAIRMAN McCUSKER: Okay. How many Robert's Rules
21 of Orders have I violated?

22 MR. COLLINS: Well, we haven't adopted Robert's
23 Rules.

24 MR. IRVIN: I've already made a motion, it has not
25 been seconded, so I think it's still an open motion.

1 CHAIRMAN McCUSKER: He made a motion, it was
2 seconded, to instruct counsel to respond according to the
3 markup we saw in Exec. I offered a one word change, which
4 --

5 MR. SHEAFE: Which I have accepted.

6 CHAIRMAN McCUSKER: So we're good.

7 Michele, call the roll.

8 MR. HILL: Point of order. Where you want to put
9 that word in, is that an industry standard language,
10 "allocation," or does that have any modifiers, you know,
11 something like within the industry standard, something, or
12 satisfactory in that industry? When you say allocation,
13 everybody knows what that means?

14 CHAIRMAN McCUSKER: I think generally anyone in
15 the business would understand.

16 MR. COLLINS: Yeah, I think that's right.

17 CHAIRMAN McCUSKER: Michele, call the roll.

18 MS. BETTINI: Cody Ritchie?

19 MR. RITCHIE: Recuse.

20 MS. BETTINI: Jeff Hill?

21 MR. HILL: Aye.

22 MS. BETTINI: Mark Irvin?

23 MR. IRVIN: Aye.

24 MS. BETTINI: Fletcher McCusker?

25 CHAIRMAN McCUSKER: Aye.

1 MS. BETTINI: Chris Sheafe?

2 MR. SHEAFE: Aye.

3 MS. BETTINI: Edmund Marquez?

4 MR. MARQUEZ: Aye.

5 MS. BETTINI: Jannie Cox?

6 MS. COX: Aye.

7 MR. COLLINS: Thanks, Pat.

8 MR. LOPEZ: Thank you very much.

9 CHAIRMAN McCUSKER: It's on the fly, Mr. Lopez,
10 but if that doesn't work, you know where we live.

11 Okay. Item number 9, the Mercado Annex
12 Development and possible action.

13 We've had some public conversations regarding our
14 intent. We have a prior approval to assist this developer
15 to the tune of \$2.2 million. We have acknowledged that
16 there is some challenges with the current status with the
17 City as it relates to this property, and we have committed
18 to try and move that from lawyer to lawyer.

19 Let me just kind of publicly acknowledge what we
20 were trying to accomplish here, and we will still allow the
21 attorneys for each of the respective parties to negotiate
22 under privilege.

23 When the bonds failed for the west side
24 development, the chances of that property remaining vacant
25 for the long term are very high. Gadsden has been trying

1 to develop this property for nine years, and has been able
2 to do a lot in a very difficult economic time. They have a
3 lender in tow now that can participate in this project.
4 They have a skillfully designed and strong tenant demand
5 for a retail development on the west side, which we are
6 very interested in supporting. The City has a performance
7 bond position that entitles them to approximately \$1.2
8 million of performance bonds if they declare a default on
9 the deadlines of this project, and the underwriter, which I
10 believe is Liberty Mutual, maybe others, would have to pay
11 these bonds.

12 So what happens at the end that process is the
13 City gets a little money, and this developer is likely put
14 out of business because if you're a developer and you
15 defaulted on a performance bond, the chances of you getting
16 another one are not good.

17 The risk to Rio Nuevo and to downtown is that if
18 you have a performance underwriter of this caliber default
19 on a bond in our District, the chances of any developer
20 getting a bond for work in our region is diminished
21 greatly.

22 So, yes, we're trying to move this project along.
23 Are we trying to bail out friends of ours? No. No.
24 Emphatically, no.

25 We believe that the City did a very flimsy deal

1 back in the day when they entered into this development
2 agreement with this developer. We have been able to
3 intervene in other City problematic agreements and help
4 resolve some historical issues. The Don Bourn Thrifty
5 Block agreement is a good example. The penalty features
6 we've negotiated with Nor-Gen are another good example.

7 We have a relationship with this developer that we
8 believe could have real teeth into a new agreement, whereby
9 they have specific timeframes under which to develop. They
10 have committed to our Board to personally guarantee the
11 indebtedness, they have committed to our Board to allow us
12 to secure title to these properties, nothing the City can
13 or will ever get in this process.

14 So what we have instructed our counsel to do is to
15 try and negotiate a way for us to acquire the City's
16 position in this development agreement. We would inherit
17 the bonds, we would inherit the development agreement, we
18 would sit down with the developer and the bond holders and
19 enter into a new schedule under which to complete certain
20 projects.

21 The developer would make serious commitments to us
22 and timeframes under which they would be obligated
23 unforgivingly toward. This is a tall order for everyone.
24 The Mayor and Council have to agree, the bond underwriters
25 have to agree, our Board has to agree, the City Attorney

1 has to agree, and the Rio Nuevo counsel have to agree.

2 So most of this, as the press have suggested, will
3 occur in Executive Session because it involves a lot of
4 legal negotiating which tends to stay privileged, but we
5 wanted the public and the press to understand our motivation
6 here and our desire to actually complete an agreement that
7 moves this development forward, that allows Rio Nuevo to
8 engage in a site that is the original Rio Nuevo. These
9 properties were part of the proposition we all approved in
10 1999. If we don't engage, the chances of that property
11 remaining dormant last long beyond the lifetime of this
12 Board.

13 So, Mark, I think you have your marching orders.
14 Do you need anything else from us?

15 MR. COLLINS: No, Mr. Chairman.

16 CHAIRMAN McCUSKER: Any other comments from the
17 peanut gallery?

18 Good luck, sir.

19 MR. COLLINS: Thank you. Go forth and conquer,
20 huh?

21 CHAIRMAN McCUSKER: It is my hope that you have
22 the wherewithal to move it quickly so that the Mayor and
23 Council can agendize this in their February 9th meeting.
24 And God bless you if that happens.

25 MR. COLLINS: I will do my level best.

1 CHAIRMAN McCUSKER: This should be pretty simple,
2 but it's also been a challenging and storied property.

3 You will remember we have authorized years ago to
4 contribute \$1.1 million to the Friends of Tucson Birthplace
5 to complete the Garden project. They developed a plan and
6 budget, which we subsequently approved. The County
7 objected to any construction inside the walls because of
8 the archeological sensitivity in that. All the parties
9 involved have been able to negotiate a project that does
10 not damage the fragile archeology.

11 We also learned in the process that the property
12 line was misconstrued. The wall sits to the east of the
13 actual property, and the Garden inside the wall is land
14 locked in terms of having access and entrance and parking.

15 So we're hopeful in one fell swoop today we can
16 resolve the property line and easement issues. We are
17 prepared to deed and convey to the County the property
18 inside the little red line there that would align so that
19 the wall and its features are all on County property.

20 And then we are prepared to authorize a temporary
21 revocable easement to the Friends of Tucson Birthplace for
22 the shaded areas that allow them a driveway access to the
23 south, irrigation landscaping and entrance features to the
24 east, and parking to the north.

25 I just need a whole bunch of motions by counsel to

1 accomplish that.

2 MR. COLLINS: Yeah. Mr. Chairman, Members of the
3 Board, I would suggest you consider separating those
4 motions at least into two.

5 I would suggest that you consider making a motion
6 to convey to Pima County in fee the final legal description
7 of the property that is represented by the red line on this
8 particular drawing. It will give to Pima County the green
9 portion to the west of that red line, as well as the white
10 portion. I would suggest that you make a motion to convey
11 that in fee to Pima County.

12 MR. HILL: So moved.

13 (Motion seconded.)

14 CHAIRMAN McCUSKER: Any further discussion?

15 All in favor, say aye.

16 (Motion carried unanimously.)

17 CHAIRMAN McCUSKER: Okay. There you go, Linda,
18 you're a property owner.

19 If there was more property over there, we would
20 deed it.

21 MR. COLLINS: And then, Mr. Chairman and Members
22 of the Board, I think you can handle the other three colors
23 with a motion to direct the preparation and execution of a
24 temporary revocable easement from Rio Nuevo to the Friends
25 of Tucson Birthplace of those colored areas for the

1 purposes that you have just outlined, Mr. Chairman.

2 MR. SHEAFE: I would like to make that motion with
3 the addition that all of this has resulted in some expense
4 that we're paying for engineering and other expertise to
5 arrive at the point that we can do these things, and since
6 we made a commitment of \$1.1 million, I would like it
7 recognized and made a part of the motion that our expenses
8 will be reduced from that \$1.1 million commitment.

9 MR. COLLINS: Your engineering expenses?

10 MR. SHEAFE: The engineering expenses and any
11 other costs we have for surveys or whatever.

12 MR. IRVIN: I'll second the motion.

13 CHAIRMAN McCUSKER: Mr. O'Malley, does this
14 accommodate the future of the Garden in terms of the
15 boundaries and the easement boundaries? Is this consistent
16 with what you have requested?

17 MR. O'MALLEY: Yeah, this is what we have
18 discussed for access.

19 CHAIRMAN McCUSKER: You need to come up here so we
20 get you on the record.

21 MR. O'MALLEY: Bill O'Malley, Friends of Tucson
22 Birthplace.

23 Yeah. This is what we have discussed for
24 access, landscaping on the east side, the parking along
25 Mission, so we are in agreement with the areas shown here.

1 CHAIRMAN McCUSKER: Okay. I have a motion and a
2 second to authorize those easements per the color chart,
3 with the statement that we pass the engineering costs onto
4 the construction budget.

5 You don't get an opinion on that.

6 Call the roll, Michele.

7 MS. BETTINI: Cody Ritchie?

8 MR. RITCHIE: Aye.

9 MS. BETTINI: Jeff Hill?

10 MR. HILL: Aye.

11 MS. BETTINI: Mark Irvin?

12 MR. IRVIN: Aye.

13 MS. BETTINI: Chris Sheafe?

14 MR. SHEAFE: Aye.

15 MS. BETTINI: Edmund Marquez?

16 MR. MARQUEZ: Aye.

17 MS. BETTINI: Jannie Cox?

18 MS. COX: Aye.

19 MS. BETTINI: Fletcher McCusker?

20 CHAIRMAN McCUSKER: No.

21 Six "ayes," one "no." Motion passes.

22 We don't know what this means exactly since it
23 just came up, but let's find out what the number is, if it
24 creates a real hardship, you know how much we support this
25 project.

1 MR. O'MALLEY: Thank you.

2 CHAIRMAN McCUSKER: Item 11 is pretty simple. I
3 guess nothing's ever simple with Rio Nuevo, but a few years
4 ago in cooperation with the City and the County and a
5 number of private developers, we helped fund the Urban Land
6 Institute Review of Downtown Development. It has been a
7 widely referenced document, and in fact guided a number of
8 the development activities in and around downtown, it's a
9 committee that meets regularly to discuss this report and
10 actions needed. The parties would like to update that.

11 Our portion of that cost would only be \$2,000. I
12 don't have the authority to do that without the Board's
13 permission, so we are asking if you would be so inclined?

14 MS. COX: So moved.

15 MR. MARQUEZ: Second.

16 CHAIRMAN McCUSKER: We have a motion and a second
17 to contributed \$2,000 to the ULI update. All in favor say
18 aye.

19 (Vote.)

20 CHAIRMAN McCUSKER: Mr. Hill opposed. Six to one
21 we passed our continued participation in the ULI funding.

22 Item 12, Mr. Collins, help us walk through exactly
23 what we are doing here with the El Presidio.

24 MR. COLLINS: Well, Mr. Chairman, Members of the
25 Board, and perhaps in the audience as well, as you may

1 recall, the District owns a duplex and some bathrooms and a
2 free-standing building over near Washington, Church and
3 Court Street.

4 Hang on, I have to find my right tab here.

5 The agreement you have in front of you is a
6 concessions agreement. Let me provide you with some
7 background.

8 Some time ago in 2011, the District entered into
9 an agreement with the City and leased the City, or the
10 district's -- some of the district property to the City.
11 If you flip to the very last page of the document in front
12 of you, you will see a pretty color picture there. That
13 color picture is an aerial photograph that has an overlay
14 on it. The green portion of the property is owned by the
15 City, the blue portion of the property is owned by the
16 District. The blue hatched portion of the property is
17 leased by the District to the City, minimal lease.

18 The City has entered into an operating and
19 maintenance agreement with the Tucson Presidio Trust for
20 Historic Preservation to operate and maintain the green
21 portion and the hatched blue portion. They have been doing
22 that for some time. Now they want to sell alcohol at that
23 location.

24 CHAIRMAN McCUSKER: God bless them.

25 MR. COLLINS: And the agreement that you have in

1 front of you is a concessions agreement that is between the
2 City and the Trust, but Rio Nuevo is also a party to this
3 agreement because it is being indemnified by the Trust in
4 connection with this liquor license.

5 It's a very straight-forward agreement. It just
6 indicates that the Trust is going to use the City's liquor
7 license to sell spiritous liquors there, that they are
8 going to maintain insurance that will protect both the
9 District and the City, they are going to name the District
10 and the City as insureds, co-insureds on that. The amount
11 of the policy is \$2 million for alcohol related and \$2
12 million general overhead -- or general liability. That's
13 what it is, it's a straight-forward agreement to allow them
14 to sell liquor.

15 MR. MARQUEZ: I'm semi new to the Board, so where
16 are they selling liquor? It's a duplex, bathrooms and a
17 building.

18 MR. COLLINS: They would be selling liquor in the
19 green area or the blue hatched area on that picture that
20 you're looking at.

21 CHAIRMAN McCUSKER: I suspect it's event related,
22 they're not opening a bar, but they have a number of events
23 there, Edmund, where they have parties that rent the space
24 or use the space or have some sort of gathering there.
25 Right now they don't have a liquor license.

1 MR. COLLINS: They would be utilizing the City's
2 own liquor license, they wouldn't be getting a separate
3 liquor license. And they would have to operate it --

4 CHAIRMAN McCUSKER: We're agreeing and they're
5 agreeing to indemnify us?

6 MR. COLLINS: Yeah, they are agreeing to indemnify
7 us and the City. It doesn't cost the District anything.

8 CHAIRMAN McCUSKER: Would it extend to our duplex
9 there?

10 MR. COLLINS: No. That's -- the duplex is owned
11 by the District, and it has not been leased to the City.
12 The City Attorney and I have discussed a couple of times
13 about trying to simplify this arrangement, but there have
14 been several other more pressing issues on the table.

15 This is a complicated arrangement, but what the
16 City wants to do here is rather straight-forward.

17 CHAIRMAN McCUSKER: One day, Edmund, we're going
18 to have to pay some attention to this property. This is
19 the infamous \$4 million presidio. We own the dilapidated
20 building on the corner, if you ever drive by it, it's
21 barely standing. It's an 1870 period original adobe. It
22 could be a really neat something, cafe, restaurant, museum.
23 It's just never been a top priority for us.

24 It's kind of -- Parks and Rec of the City operates
25 this now and they are open only sometimes and, you know,

1 it's kind of hard to really see the benefit of all this.

2 MR. IRVIN: If you're down there, do not ask Chris
3 where to park.

4 CHAIRMAN McCUSKER: It does have some of the
5 original presidio walls and it's a re-creation of the
6 original presidio, but that one building there may be a
7 very treasured piece of property, but it's currently
8 vacant.

9 Any questions for Mark?

10 We need a motion to approve the concession
11 agreement.

12 (Motion made and seconded. Motion passed.)

13 CHAIRMAN McCUSKER: Thank you.

14 Michele, this is the time set aside for a call
15 from the audience.

16 Raul Ramirez.

17 MR. RAMIREZ: Thank you Chairman and Members of
18 the Board. My name is Raul Rodriguez, I represent only
19 myself. I have membership with other organizations, but
20 I'm not here on behalf of any of them.

21 I want to talk a little bit about Tucson History
22 Matters. And, you know, Tucson is a very old community.
23 It was founded in 1775. You have been talking about the
24 presidio, that's when it was founded. (Inaudible) was one
25 of the signers.

1 And one of the things that is history that is
2 unknown about the presidio is that during the American
3 Revolution, the people of the presidio took a collection to
4 help the colonists to finance --

5 MS. COX: Excuse me, may I ask you to speak into
6 the microphone a bit more so that I can hear?

7 CHAIRMAN McCUSKER: We're going to turn up the PA,
8 Jannie. Hang on.

9 MS. COX: Thank you.

10 MR. RAMIREZ: And that was done in other presidios
11 in the southwest. Now, one of the things that's not known
12 is that after that happened, George Washington came to
13 Tucson. And recently there was a reenactment of Washington
14 crossing the Santa Cruz, and I have a little article here.
15 Okay.

16 As you can see, it's the Delaware, but I took that
17 out and put Santa Cruz. And I will come back to this a
18 little bit later.

19 My concerns are kind of what's happened with the
20 Tucson (inaudible). As you know, proposition 400, that was
21 16 years ago, one of the reasons that that proposition
22 passed was because of the emphasis on the historical
23 cultural component. And if you look at that, that's really
24 gave birth to Rio Nuevo and also to the financial district.
25 And the financial district is what allowed you to finance

1 various projects such as you're doing.

2 The state obviously didn't like the way Tucson was
3 handling the project, and I understood that. Many of us
4 understood that. And the work you have done has put
5 confidence back in the state and also with the community.

6 You basically jump started the revitalization of
7 Tucson, and you should be commended for that, and I
8 congratulate you on that.

9 But now, I believe now because of the jump start,
10 and also with the streetcar, Tucson has come a long way and
11 I think it's time to revisit what the voters of Tucson voted
12 for. Prop 400. 67 percent of the voters voted for these
13 projects.

14 In my mind, the heart of the proposal was the
15 Tucson Origins. Tucson Origins deals with the history of
16 Tucson in terms of the native American history, the people
17 that were here before, and also the Spanish Colonial period,
18 along with the Mission period.

19 I think we've been remiss in not looking at the
20 history again. I think Rio Nuevo you're at a different
21 position in time. You've re-established trust, as I
22 mentioned before, and I believe it's time to go back to
23 that.

24 In the legislation that formed the new Board --

25 CHAIRMAN McCUSKER: You have about one minute,

1 Raul.

2 MR. RAMIREZ: 1036, there is language in there
3 that says you can go back to those projects that were
4 approved and had contracts, I believe that Tucson Origins
5 is one of those contracts.

6 The City did a lot of work, in relation to the
7 landfill, construction ready plans, infrastructure that was
8 passed, including heating underground, the archeology,
9 which is very expensive. And there was also training
10 materials that were developed.

11 I believe that there is a commitment -- there
12 should be a commitment to the residents of Tucson, and that
13 Rio Nuevo should honor the vote. The reason for Washington
14 is that if there hadn't been that history, in other words,
15 if Washington and the American Revolution was here, we
16 wouldn't be having this conversation because those projects
17 would have happened already.

18 So I want to leave you with that thought. If you
19 would like to speak with me, my number is on the card, and
20 I would be willing to have a dialogue with any of you that
21 would be willing to have that dialogue.

22 Thank you.

23 CHAIRMAN McCUSKER: Mr. Ramirez, thank you very
24 much.

25 Any other audience?

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Entertain a motion to adjourn?

(Motion made and seconded to adjourn. Motion carried.)

CHAIRMAN McCUSKER: We're giving Mr. Collins some opportunities to heal.

We'll see you all in March.

C E R T I F I C A T E

