

RIO NUEVO MULTIPURPOSE FACILITIES BOARD MEETING

Tucson, Arizona  
November 19, 2014  
1:00 p.m.

REPORTED BY:

John Fahrenwald

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Tucson, Arizona 85713

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1 (Meeting commenced at 1:04 p.m.)

2 CHAIRMAN McCUSKER: We're going to call the  
3 meeting to order. The official clock is 1:04 by my watch.

4 We had a text from Jannie that she's running late  
5 and the same text from Cody.

6 Right, Michele?

7 They are both running late. And of course, now  
8 there are just six of us alive and well. So we're a quorum,  
9 right, Mr. Collins?

10 MR. COLLINS: Correct.

11 CHAIRMAN McCUSKER: So let's start with the  
12 pledge.

13 (Pledge of Allegiance recited.)

14 CHAIRMAN McCUSKER: Michele, call the roll.

15 MS. BETTINI: Chris Sheafe?

16 TREASURER SHEAFE: I am here.

17 MS. BETTINI: Fletcher McCusker?

18 CHAIRMAN McCUSKER: Here.

19 MS. BETTINI: Mark Irvin?

20 SECRETARY IRVIN: I'm here.

21 MS. BETTINI: Jeff Hill?

22 MR. HILL: Here.

23 CHAIRMAN McCUSKER: And we did acknowledge that  
24 the four of us are a quorum, right, Counsel?

25 MR. COLLINS: True.

1           CHAIRMAN McCUSKER: You have the transcript from  
2 the October 17th meeting. They are verbatim transcripts but  
3 still need our discussion and approval.

4           TREASURER SHEAFE: Move to approve.

5           SECRETARY IRVIN: Second.

6           CHAIRMAN McCUSKER: All in favor, say aye.

7                           (Ayes.)

8                           (The Board voted and the motion  
9 carried.)

10          CHAIRMAN McCUSKER: And we have an Executive  
11 Session on the schedule. I would need a motion to --

12          SECRETARY IRVIN: So moved.

13          TREASURER SHEAFE: And second.

14          MR. MOORE: It's been moved and seconded we recess  
15 to the Executive Session. All in favor, say aye.

16                           (Ayes.)

17          CHAIRMAN McCUSKER: We'll see you back here in  
18 about an hour.

19                           (The Board adjourned to Executive  
20 Session at 1:06 p.m.)

21                           (Meeting reconvened at 1:56 p.m.)

22          CHAIRMAN McCUSKER: Okay. If we could get a  
23 motion to reconvene.  
24

25          SECRETARY IRVIN: So moved.

1 CHAIRMAN McCUSKER: Second, please.

2 MR. RITCHIE: Second.

3 CHAIRMAN McCUSKER: All in favor, say aye.

4 (Ayes.)

5 CHAIRMAN McCUSKER: Thank you.

6 And good afternoon, everyone.

7 If you haven't read the paper or watched our  
8 website, you'll notice that Mr. Alberto Moore is not seated  
9 with us. He submitted his resignation to the Governor a  
10 couple weeks ago -- Michele, is that right? -- last Friday.

11 MS. BETTINI: The 9th.

12 MR. COLLINS: The 9th. I believe it was the 9th.

13 CHAIRMAN McCUSKER: I think it's appropriate to  
14 remind the public, we all serve at the pleasure of our  
15 appointors. The Governor, Governor-Elect Ducey controls  
16 five of our nine seats.

17 Mr. Hill and Ms. Cox are gubernatorial appointees,  
18 as was Mr. Moore. We have a new Speaker as well. The  
19 Speaker controls two seats. Mr. Irvin and Mr. Ritchie are  
20 Speaker appointees. And Chris and I are appointed by the  
21 President and the senate.

22 So it's entirely conceivable you could see some  
23 continued transition of Board members. And speaking for  
24 myself, and I think for all of us, we're perfectly calm and  
25 cool and collected about all of that.

1 Over the last couple of years, I think we've  
2 really established a nice baseline for this District. Our  
3 meetings are public. Our -- they're transcribed verbatim,  
4 so we've taken all the mystery out of what happens in these  
5 meetings. But moreover, our financial statements are all  
6 public. Every check we write is posted to the website in  
7 realtime; every contract we enter is posted; every agreement  
8 we have is easy for the public now to follow.

9 And what I've heard from our legislative  
10 leadership is we've really become a model organization. And  
11 if they were do a TIF over again, I think what we've  
12 established in terms of accountability and transparency --  
13 we now have an annual audit. Had any of these things been  
14 in place I think between 1999 and 2009 you probably would  
15 have had a very different outcome with Rio Nuevo.

16 So we're all eager to see what the Speaker and the  
17 Governor do with our the appointments. But, in the  
18 meantime, we'll do the business as we have always done,  
19 transparent and accountable.

20 Dan, do you want to give us a quick update on  
21 where we are financially?

22 MR. MEYERS: Dan Meyers, chief financial officer  
23 for Rio Nuevo.

24 Okay. As of October 30th, we have the following  
25 balances in the bank. Alliance Bank is our primary

1 operating account, has \$4.9 million in it. Another account  
2 at Alliance has approximately 5 million. Bank of Tucson,  
3 which we do payroll and collect rents and things like that  
4 out of there, we have about \$290,000 in it.

5           The City of Tucson, currently, as of October 31st,  
6 had \$300,000 in their pooled fund. Since then, about 220 of  
7 that was paid to Concord on one of the pay applications. So  
8 we've got somewhere between 70- and \$80,000 in there as of  
9 today. I've been working with the City. And I think we're  
10 going to hang on to that until we finalize the Arena and pay  
11 some of the retention out of that to close that account out  
12 at that time, just in case we have some of the little  
13 incidental expenses, fees and permits, that get run through  
14 that account.

15           So that being said, our current cash balance as of  
16 October 31st is approximately \$10.5 million.

17           Commitments that remain unpaid at this point in  
18 time are approximately 9.4 million. Meaning we have  
19 about -- and one of those commitments is the garage at the  
20 new Marriott Hotel, which is \$4.3 million, approximately.  
21 And that's still a couple years out. But including that  
22 commitment, we've got about \$1.1 million sitting that's been  
23 uncommitted at this point in time.

24           CHAIRMAN McCUSKER: Let's put an asterisk or  
25 something on that 4.3 million, Dan, just a footnote as to

1 when that would come due.

2 MR. MEYERS: Okay. Yeah. I've got on there, not  
3 in current year, but I could make that a little more . . .

4 CHAIRMAN McCUSKER: It's actually due -- Mark, how  
5 does that work? It's . . .

6 SECRETARY IRVIN: It would be due after the  
7 building's been completed, a certificate of occupancy has  
8 been issued, and we've had an official closing and they've  
9 signed the lease agreement leasing back all those spaces.

10 And they're anticipating breaking ground in April.  
11 I'm kind of thinking we're probably 17 months from there  
12 before we need to write that check.

13 CHAIRMAN McCUSKER: In talking with Beach, as our  
14 year end audit, because we have committed to that, they want  
15 us to treat it as a commitment, is why you're seeing it now.  
16 Although, as Mark suggested, it's probably a year and a half  
17 out before we actually have to close on those funds.

18 MR. MEYERS: All right. Anybody have any  
19 questions?

20 CHAIRMAN McCUSKER: Any questions for Dan?

21 Thank you, sir.

22 MR. MEYERS: You bet.

23 CHAIRMAN McCUSKER: Mr. Collins, do you want to  
24 update us on the Arena side and the negotiations with  
25 Nor-Gen?

1 MR. COLLINS: Mr. Chairman, Members of the Board,  
2 as you all remember at the August 26th meeting, this Board  
3 voted to proceed forward with negotiations with the No. 1  
4 ranked proposer, Nor-Generations.

5 We have been negotiating and exchanging drafts and  
6 memoranda with Nor-Generations. So the negotiations are  
7 ongoing. And the optimistic target is, to be able to bring  
8 back to you folks a substantial agreement or perhaps even a  
9 full-blown agreement by your December meeting.

10 CHAIRMAN McCUSKER: What's the date, Michele, of  
11 our December meeting?

12 MS. BETTINI: The 17th.

13 CHAIRMAN McCUSKER: December 17th.

14 Any questions for Mark on the Nor-Gen status?

15 All right. While you're up there -- well, the  
16 deed -- I guess we're really not talking about the deed, are  
17 we. It's not on the public agenda.

18 MR. COLLINS: No. The public agenda is, we've  
19 agendized the Hydro Geo Chem agreement that you had tabled  
20 before.

21 CHAIRMAN McCUSKER: Okay. So moving to that,  
22 you'll remember that we have a proposal from Hydro Geo Chem.  
23 It's a \$61,000 proposal to provide technical support in  
24 consultation regarding the West Side Parcel, which I will  
25 just comment, we are dangerously close to having a deed.



1           MR. COLLINS: Mr. Chairman, you are dangerously  
2 close to having a deed.

3           CHAIRMAN McCUSKER: Right. We tabled this at the  
4 last meeting regarding questions about this work and, you  
5 know, hadn't it been done before? Could it be updated?

6           We asked them to look into that. This is the  
7 response that I received from the engineer.

8           In response to your query, we are not aware of any  
9 current data related to the methane production at the  
10 A-Mountain landfill. Additionally, whatever historical data  
11 is available -- is available is not likely to provide the  
12 necessary information regarding the potential methane impact  
13 to plantings or other distribution of methane in the areas  
14 of interest. Please let me know if I can provide additional  
15 assistance.

16           So what we're trying to do there is to determine  
17 what sections of that landfill are, A, buildable; B,  
18 plantable; or none of the above.

19           And we probably will not get there without some  
20 additional work.

21           TREASURER SHEAFE: Mr. Chairman, I would like to  
22 move that we proceed with Hydro Geo Chem as proposed and  
23 direct staff to take action on putting a final proposal  
24 together so it can be approved.

25           MS. COX: Second.

1           CHAIRMAN McCUSKER:   Okay.   So we have a proposal.  
2   It's for \$61,000.

3           So if you approve it, they can begin work  
4   immediately.

5           Mark, we don't -- do we need anything else?   Do we  
6   need an agreement with them?

7           MR. COLLINS:   You do, Mr. Chairman.   But we can  
8   use, as a template, the other agreements that we've had.   So  
9   we can put that together rather quickly.   But the proposal  
10   is a proposal.   You need to have certain provisions -- as a  
11   governmental body, you need to have certain provisions in  
12   it.

13           And what we do is we create an agreement that has  
14   this as the services attached to it.   And then the template  
15   takes care of some of the requirements that you, as a public  
16   body, have to comply with.

17           TREASURER SHEAFE:   Do we have to come back for a  
18   final vote, or can I -- if this motion passes, is that  
19   sufficient to move this process forward?

20           MR. COLLINS:   It is sufficient, in my opinion, to  
21   authorize us to prepare the document and, when it's  
22   prepared, to be signed by the appropriate executive  
23   officers.

24           TREASURER SHEAFE:   Okay.

25           CHAIRMAN McCUSKER:   Any further conversation?

1 All in favor, say aye.

2 (Ayes.)

3 CHAIRMAN McCUSKER: Any opposed?

4 (The Board voted and the motion  
5 carried.)

6 CHAIRMAN McCUSKER: Thank you.

7 Okay. Mark, we're on a roll.

8 The streetscape status, to refresh everyone's  
9 memory, in the global settlement we reached the City, we  
10 agreed to provide three-quarters of a million dollars for  
11 downtown streetscapes.

12 We have confirmed, the City has to approve those  
13 projects. The Downtown Tucson Partnership presented a  
14 proposal to us that they manage that project consistent to  
15 what they've done with their facade program. We approved  
16 that, subject to receiving the West Side deed, which was --  
17 turned out to be nice leverage.

18 And I guess we're waiting -- we have an agreement,  
19 Mark, that we forwarded to the City.

20 MR. COLLINS: That's correct.

21 Mr. Chairman, Members of the Board, we have  
22 drafted a three-party agreement that is among the District,  
23 the City, and Downtown Tucson Partnership. I have been in  
24 communication with City Attorney Rankin. And we're making  
25 progress but we're not there yet. There are some details

1 that need to be agreed to.

2 We want to make sure that the District gets credit  
3 for the \$750 that it spends, credit against its obligation  
4 under the settlement agreement; and that it's tracked in  
5 such a way so that District's CFO and Michele can track the  
6 money.

7 CHAIRMAN McCUSKER: Okay. Do you -- are you going  
8 to need to bring that back here, then?

9 MR. COLLINS: I don't recall whether you -- I  
10 don't have the motion in front of me. But I believe that  
11 the executive officers can sign it once it's been finalized  
12 unless there's a substantial material change.

13 Because you authorized the expenditure of the  
14 \$750,000 in a triparty agreement with the City of Tucson and  
15 DTP subject to the District receiving the deed for the West  
16 Side property.

17 CHAIRMAN McCUSKER: Okay. Sounds like we're good.  
18 Item 10. And just an update for the Board and  
19 public.

20 The Arena is probably 90 percent-plus completed.  
21 It's actually spectacular, if you haven't had a chance tour  
22 it. We're waiting for the video boards to go up and some  
23 work still downstairs. But it will definitely be ready by  
24 Christmas and in time for our grand opening concert.

25 We have sold in the neighborhood of a couple

1 thousand tickets. We have a lot of corporate supporters now  
2 that are coming forward to buy blocks of tickets. We've had  
3 people buy a hundred or two hundred tickets to distribute  
4 either to their employees or to charity.

5 But we clearly have a lot of capacity. That Arena  
6 seats 9,000 people.

7 One of the thoughts I had, which I think would be  
8 nice for our merchant members, is maybe we do something that  
9 would offer the merchants within the District a two for one  
10 or some other kind of exclusive relationship because they  
11 are Rio Nuevo merchants. We could limit it to ten or do  
12 something to allow the merchants to extend stuff to their  
13 employees or customers as well.

14 So we do expect the concert will be well attended.  
15 SMG, the new management there, has extended invitations to a  
16 number of industry people.

17 We have tour promoters and town promoters and  
18 production people coming to view the Arena in full concert  
19 mode. We're gonna have a little VIP reception right before  
20 the concert that SMG is hosting that we're invited to, the  
21 Mayor and Council and some of these talent people as well.

22 So I think we're really going to showcase the  
23 arena. But it would be nice, I think, if we wanted to, to  
24 do something that would allow our merchants to attend.

25 TREASURER SHEAFE: Did you need a motion?

1 MS. COX: That would be a great idea.

2 CHAIRMAN McCUSKER: Yeah. The Board would have to  
3 approve it and we can establish.

4 MS. COX: So moved.

5 CHAIRMAN McCUSKER: -- some parameters if you  
6 want.

7 I would suggest that we offer our merchants, you  
8 know, two for one tickets up to some number, 10 or 12.

9 MR. RITCHIE: Fletcher, what's the --  
10 Mr. Chairman, what's the -- what do you think the breakeven  
11 number is?

12 CHAIRMAN McCUSKER: With our \$50,000 contribution,  
13 the concert's already paid for itself. We've sold enough  
14 tickets to cover all the band expenses. So we actually  
15 might make a little money depending on how the thing sells  
16 out.

17 But the intent was to keep the ticket price low.  
18 It's a \$25 ticket because we're supporting basically half of  
19 the cost. And, you know, it's been very attractive, as I  
20 understand, not only to Beach Boy fans, but to people that  
21 just want to come experience the new arena.

22 SECRETARY IRVIN: Fletcher, it seems like we  
23 also -- if we're going to do something, you know, this is  
24 not something we can put off until December. If we're going  
25 to do something, we really need to do it at this meeting to

1 allow proper marketing to get out there, et cetera.

2 I don't have a problem with the two for one at a  
3 10 or a 12, whatever that magical thing is. Ten seems to  
4 work a little better.

5 TREASURER SHEAFE: Mr. Chairman, I'd like to  
6 propose that we offer businesses that are located within the  
7 District the opportunity to buy 30 tickets at half price.  
8 And they can distribute those tickets as they wish.

9 MS. COX: I'm assuming that's that a motion,  
10 because you said you propose. I second it.

11 TREASURER SHEAFE: I motioned it. My proposal  
12 motion.

13 CHAIRMAN McCUSKER: So we have a motion by  
14 Mr. Sheafe, seconded by Jannie, that we allow -- and they  
15 would have to be bona fide TIF merchants, we can work with  
16 staff on confirming that in the process -- but they can buy  
17 up to 30 tickets at half price. And I'm assuming that is  
18 per merchant.

19 TREASURER SHEAFE: Yeah. And my thought is that  
20 if a merchant's real small, they can buy five. But they can  
21 get up to 30 at half price.

22 CHAIRMAN McCUSKER: Any questions, comments?

23 All in favor, say aye.

24 (Ayes.)

25 CHAIRMAN McCUSKER: Any opposed?

1 (The Board voted and the motion  
2 carried.)

3 CHAIRMAN McCUSKER: Thank you very much.  
4 Michele, we'll get to work on communicating to  
5 that.

6 Mark, you want to update us on the gift clause  
7 issue?

8 As a reminder, again, we tentatively approved an  
9 investment in the January 8th Memorial Foundation. There  
10 was some issues raised as to whether or not that's a  
11 charitable gift and therefore violates the constitutional  
12 gift clause.

13 We made that investment subject to approving this  
14 legality. And we assigned that to you, Mr. Collins. So  
15 what's the update there?

16 MR. COLLINS: Mr. Chairman, Members of the Board,  
17 as the Board is aware, it has been and -- is and has been my  
18 opinion that the District is not subject to the gift clause.

19 The gift clause was enacted as part of the Arizona  
20 Constitution in 1910, which would -- if that was all we had  
21 in the Constitution, it would subject you to that.

22 In 1940, however, the Arizona Constitution was  
23 amended with what is referred to as the exemption clause.  
24 And the exemption clause says that tax-leveeing, public  
25 improvement districts are not subject to the gift clause.



1           The statutes that created this District or that  
2 allowed this District and others to be created were enacted  
3 in 1990. And this District and others created under those  
4 statutes is a tax-leveeing, public improvement district.  
5 And, as such, it's my opinion that this District is not  
6 subject to the gift clause.

7           Since the last meeting, I've requested an opinion  
8 from the Attorney General's office. I haven't gotten a  
9 response yet. I also provided my analysis to the Goldwater  
10 Institute. And the Goldwater Institute, at least at this  
11 time, has declined to weigh in on the subject.

12           SECRETARY IRVIN: So what are your recommendations  
13 for us?

14           MR. COLLINS: My recommendations are, you're not  
15 subject to the gift clause. You're subject to a lot of  
16 other limitations. This is public money that you're dealing  
17 with. You have to keep in mind the purpose of the District  
18 and the use of the money. But the gift clause is not among  
19 your restrictions. That's my recommendation.

20           SECRETARY IRVIN: What's the situation, do you  
21 think, with the AG, as far as getting a response. You know,  
22 are we gonna get one, or are we going to be sitting here  
23 next meeting without one again?

24           I shouldn't say again.

25           MR. COLLINS: Mr. Secretary, I don't know. But if

1 I were a betting man -- and I'm unfortunately not -- I would  
2 say we'll have a response. Whether they weigh in or not's a  
3 different topic. It's certainly possible that they would  
4 elect to decline like the Goldwater Institute did.

5 That said, the Attorney General is really your  
6 attorney. And so I would expect that there will be an  
7 opinion. Keep in mind, however, that the Attorney General  
8 is changing and there's all kinds of changes going on up  
9 there, so . . .

10 CHAIRMAN McCUSKER: Given that, are they likely to  
11 just table everything they're working on to get new  
12 priorities from the new AG, or would they continue to  
13 process these kinds of requests?

14 MR. COLLINS: My opinion is that there's a lot of  
15 tabling going on. I understand that the floor of the  
16 building where the AG's office is and where Attorney General  
17 Horn had been living -- or officing is essentially empty and  
18 it's in transition. So, you know, the folks that are  
19 rendering these kinds of opinions are not on that floor, but  
20 it's going to have a trickle-down effect, so . . .

21 SECRETARY IRVIN: Mr. Chair, I'd just recommend  
22 that we table this to the next meeting. I'd love to move it  
23 forward. But I still think we ought to give them the  
24 respect of allowing them ample time to respond. Because,  
25 you know, we've just asked them about three weeks ago. I

1 don't remember what the date was.

2 CHAIRMAN McCUSKER: I agree. I think it's a  
3 sensitive issue. I think, you know, Mr. Hill made it pretty  
4 clear that he really wants to understand the legality of  
5 this. So I think we ought to wait and see what the AG says.

6 MR. COLLINS: I will take that as instruction to  
7 continue to press the issue with the Attorney General's  
8 office.

9 MR. HILL: Mr. Chairman?

10 CHAIRMAN McCUSKER: Yes?

11 MR. HILL: My experience with working with  
12 attorney general's over the years, typically, when they are  
13 requested for an opinion -- certainly at the legislative  
14 level, it was -- it was pretty common -- some of them  
15 responded quickly and others, they didn't at all.

16 But typically, as a minimum, somebody will call  
17 and say, well, we think it's this. Do you want us to put  
18 that in writing, or do you just want this to go away?

19 And many times, we would say, no, we don't like  
20 that, and just let it go away.

21 So I'm thinking somebody will call you. You may  
22 never get anything in writing. But I think you will get an  
23 answer that you will be able to convey to us their thought  
24 process on it. Or even if they don't have one, similar to  
25 the Goldwater Institute.

1           And I would, you know, certainly suggest too that,  
2 if they just don't get into the issue, it doesn't mean  
3 they're endorsing the position. That's the only clear  
4 point.

5           But sometimes their position on it may be worse  
6 than when you started. And they don't want you to opine it  
7 in writing. But I think you may hear from them.

8           MR. COLLINS: Mr. Hill, I appreciate that. And I  
9 will -- I will continue to press the issue. I recognize the  
10 importance of it, both generally and with respect to the  
11 immediate issues before the Board.

12          CHAIRMAN McCUSKER: Okay. And now is the time we  
13 have for call to the audience.

14          Michele, any cards filled in?

15          All right. I would like to publicly acknowledge  
16 Alberto Moore's contributions to this effort. He's been on  
17 the Board since the legislature intervened. It's not always  
18 been cozy between all of us. But, clearly, I think Alberto  
19 operated with a passion for his community. And we're  
20 grateful for his service.

21          With that, I can take a motion to adjourn.

22          SECRETARY IRVIN: So moved.

23          MS. COX: Second.

24          CHAIRMAN McCUSKER: All in favor, say aye.

25                               (Ayes.)

CHAIRMAN McCUSKER: See you in December.

(The meeting concluded at 2:19 p.m.)

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C E R T I F I C A T E

I, John Fahrenwald, certify  
that I took the shorthand notes in the foregoing  
matter; that the same was transcribed under my  
direction; that the preceding pages of typewritten  
matter are a true, accurate, and complete transcript  
of all the matters adduced to the best of my skill  
and ability.

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John Fahrenwald

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