

Approved by the Board of Directors of the
Rio Nuevo Multipurpose Facilities District
On July 21, 2011

**Minutes for Meeting
Of the Board of Directors of the
Rio Nuevo Multipurpose Facilities District
2:00 pm
Thursday, May 19, 2011**

**Tucson Convention Center, Greenlee Room
260 South Church Avenue
Tucson, Arizona**

A meeting of the Board of Directors of the Rio Nuevo Multipurpose Facilities District was held on Thursday, May 19, 2011, in the Tucson Convention Center, Greenlee Room, 260 South Church Ave, Tucson, Arizona, commencing at 2:00 pm.

1. Roll Call

The meeting was called to order at 2:06 pm.

	Appointee	Present	Absent/Excused
Jodi A. Bain, Chair	Senate	X	
Tim Bathen	Governor	X	
Jannie Cox	Governor	X	
Jeff DiGregorio,	Tucson		X
Carlotta Flores,	Governor	X	
Rick Grinnell,	Senate	X	
Jeff Hill	Governor	X	
Mark Irvin, Vice Chair	House	X	
Alberto Moore, Secretary	Governor	X	
Jonathan Paton	House	X	
Anne-Marie Russell	Tucson	X	
Victor Soltero	South Tucson	X	

Counsel:

General Counsel Keri Silvyn	X	
Special Counsel Mark Collins		X

2. Discussion and possible approval of the March 3, 2011 and May 5, 2011 minutes

Motion made to approve minutes from March 3, 2011 by Alberto Moore, motion seconded by Mark Irvin; passed 10-0. Motion to approve minutes from May 5, 2011 by Alberto Moore, motion seconded by Jeffrey Hill; passed 10-0

3. Announcements from the Chair

–Beautification Project (Jannie Cox elaborated) at the Tucson Convention Center will be discussed at next meeting on May 23, 2011, at 11:00 am. We will be planting a garden at the west entrance of the center with help from volunteers from the Tucson Convention Center.

4. Insurance renewal update with potential direction/action from the district

Mark Irvin and Jodi Bain – D & O Public insurance premium has gone down due to decrease in budget as proposed hotel no longer an issue. Lovitt secured renewal insurance policy. The premium is \$35,000 which did not increase. Motion to approved made by Jannie Cox and seconded by Mark Irvin; approved 10-0.

5. Presentations by potential bank providers with possible direction/action from the District

Acting Treasurer Grinnell called on several banks to come and present to become the banking institution of the District. He stated the ultimate goal is to write our own checks and not rely on the City. John Lewis spoke on behalf of the Bank of Tucson. He has no conflicts of interests with Rio Nuevo. Then Alliance Bank presented and they also have no conflicts of interests with Rio Nuevo.

6. District Financial Update and Preliminary Budget matters addressed by R & A CPA firm with discussion and possible direction/action.

Acting Treasurer Grinnell – He updated the Board on the CPA activities. He do not have all the information from the city as requested. Susan Vox, with R & A CPA, stated the firm was unable to confirm the cash position to date and has not obtained all records requests from the City. Also, many items requested were provided to R & A that were not the item actually requested. A draft budget was discussed and revised options to be provided for discussion and finalization the next meeting per direction.

7. Executive Director update

Chair Bain indicated that the point people on the review of the applicants (Tim Bathen, Carlotta Flores and Jodi Bain as the reviewers) determined collectively to also place the job description on craigslist and tucsonjobs to get the message out and to give the ad more visibility. As the Board previously instructed by direction, Tim Bathen, Carlotta Flores and Jodi Bain (as the reviewers) will pick as least 2 (3 if possible) candidates and they will ask this short list to present to the board at the meeting on May 25, 2011 at 11:00am. Recall the application period closes on Sunday May 22 at midnight and then the applications submitted will be reviewed as quickly as possible by the reviewers per board direction. The short listed applicants will be sent to the board to review for the May 25 meeting. The window turn around will be very short but this is to allow a few board members who have plans to be out of town to attend before they leave for extended duration.

8. Title matters to district owned properties with possible direction/action from the District

Mark Collins – We should consider a title search of properties involving the District in Pima County. Chair Bain and I have discussed this and it is suggested the District engage a title company to do a search. Discussion: Metro Title willing to work at reduced fees and they worked on some of the bond issues and property matters for the District previously as escrow. Motion made by Rick Grinnell to Authorize Chair Bain to work with Metro Title on title reports, chain of title, legal descriptions, etc. and enter into a property search for up to \$15,000. Motion approved by board 9-1. Acting Treasurer Grinnell abstained.

9. Solar panel and roof improvement city bond project waiver discussion with possible direction/action

The document and one waiver is done, vetted and approved by Lewis & Roca Bond Counsel Barber and is finished. It has been brought to be signed. Money to be invested from bond proceeds by City pursuant to the documents is approximately \$2.8 million. The City informed the District the roof is to be completed prior to the start of the monsoons.

10. Close-out of proposed hotel project: Construction audit, payment applications, punch list with discussion and possible direction/action

Engagement letter for R & A CPA to complete the forensic construction audit unanimously approved by the District came in at a special, reduced cost of \$65,000 for approximately \$95,000 of hours of work. R & A CPA is then thanks for this accommodation.

11. Report from Counsel with potential direction/action from the District

i. Fox Theater

Mark Collins – Presented a summary description of the Fox structure. Counsel reviewed the documents presented to the district by Fletcher McKuster and Larry Hecker, as well as, other applicable recorded and located documents made available from other sources to counsel regarding the Fox generally. Most of the documents set up the recognized pass through of funds to obtain the two forms of tax credits. The documents fit into at least two large binders and appear to have been partially consolidated and amended and revised. The City does not appear to be a part of the structure of Fox Theater although they were instrumental in negotiated parts of the Fox and its use of Rio Nuevo money. There was an effort to take advantage of tax credits – new market and historic and for this reason there is the complex entity structure. The lease on its face is a 50 year lease for a \$1 per year. Approximately \$9 million was loaned from Rio Nuevo to Fox Theater. The tax credits were sold to investors. The lease is for 50 years and the District is party to it and may get out of the lease upon certain defaults by the Fox. Regardless, there appears to be disputed defaults which would most likely give rise to litigation to enforce the default to break the lease. Council Collins reviewed in depth the organizational chart and various documents.

ii. Thrifty Block lawsuit and District documents/property matter

A full legal update to take place in executive session. There is no hearing date. There have been settlement discussions. Some meetings the BP Partner Investors and their counsel have failed to attend or cancelled last minute. Certain accounting documents have not been provided as requested or as agreed to as well.

13. (out of order) Call to the audience: (Presentations are limited to 3 minutes per speaker. All those interested in speaking should complete and submit a speaker's card that will be made available at the meeting).

Michael Toney

Sherise Dutton: Fox Theater. Are the contractors and utilities being paid? Watched? Monitored? Who's paying them?

Ally Miller: talked about the Fox Theater. The fundraising is down to nothing in the last 5 years. Is there a viable business plan in place? How were the contracts written? She commends the board for requesting financial information.

Motion made to go into executive session at 3:05 pm made by Rick Grinnell seconded by Jeff Hill. Motion passed 10-0.

12. Executive Session: Upon a public majority vote of members constituting a quorum, the Board of Directors may hold an executive session in accordance with A.R.S. 38-431.03 (A), (3) and (7) for legal advice concerning the following matters:

- i. The Fox Theater**
- ii. Close-out of the proposed hotel project**
- iii. Thrifty Block law suit and District documents/property matter**
- iv. Legal representation and requirements for a district**

Motion to come out of executive session at 4:02 pm made by Alberto Moore, seconded by Jonathan Paton. Motion passed 10-0.

Return to 10. Close-out of proposed hotel project: Construction audit, payment applications, punch list with discussion and possible direction/action.

Motion made to engage Rusing & Lopez to manage and work with the close-out and forensic auditors as discussed in executive session. Made by Alberto Moore, seconded by Anne-Marie Russell. Mark Irvin and Jodi Bain not voting. Motion passed 8-0.

14. Future meeting dates and possible planning retreat

Next meeting is May 25, 2011 at 11:00am

15. Adjournment

Anne-Marie Russell moved to adjourn the meeting at 4:05pm. It was seconded by Alberto Moore. Motion passed 10-0.