

RIO NUEVO MULTIPURPOSE FACILITIES BOARD MEETING

Tucson, Arizona
September 22, 2015
1:00 p.m.

REPORTED BY:

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1 (Meeting commenced at 1:02 p.m.)

2 CHAIRMAN McCUSKER: Okay. So we have a quorum.

3 It's 1:02 by the official Rio Nuevo phone. So I'm going to
4 call the meeting to order. Let's do the pledge.

5 (Pledge of Allegiance recited.)

6 CHAIRMAN McCUSKER: Michele, you call the roll.

7 MS. BETTINI: Edmund Marquez?

8 MR. MARQUEZ: Here.

9 MS. BETTINI: Fletcher McCusker?

10 CHAIRMAN McCUSKER: Here.

11 MS. BETTINI: Chris Sheafe?

12 TREASURER SHEAFE: Here.

13 MS. BETTINI: Jeff Hill?

14 MR. HILL: Here.

15 MS. BETTINI: Cody is on his way, and Mark Irvin
16 is on his way.

17 CHAIRMAN McCUSKER: And Jannie is going to dial in
18 after Exec.

19 MS. BETTINI: Correct.

20 CHAIRMAN McCUSKER: Okay. So we have a quorum.

21 And you have the transcribed minutes.

22 (Cody Ritchie enters the proceedings.)

23 CHAIRMAN McCUSKER: You missed the pledge, so you
24 have to recite it silently.

25 Minutes. You have the transcribed minutes; they

1 have been sent to us. Any comments? Concerns? Questions?

2 If not, we need a motion to approve.

3 TREASURER SHEAFE: Move for approval.

4 MR. MARQUEZ: Second.

5 CHAIRMAN McCUSKER: All in favor, say aye.

6 (Ayes.)

7 CHAIRMAN McCUSKER: We have an Executive Session
8 scheduled. We need a motion to recess.

9 TREASURER SHEAFE: So moved.

10 MR. MARQUEZ: Second.

11 CHAIRMAN McCUSKER: All in favor, say aye.

12 (Ayes.)

13 (The Board voted and the motion
14 carried.)

15 CHAIRMAN McCUSKER: Okay. We'll see you back here
16 in 47 minutes.

17 (The Board adjourned to Executive
18 Session at 1:03 p.m.)

19 (Meeting reconvened at 1:55 p.m.)

20 CHAIRMAN McCUSKER: Okay. We are all back. And
21 we need a motion to reconvene.

22 SECRETARY IRVIN: So moved.

23 MR. MARQUEZ: Second.

24 CHAIRMAN McCUSKER: All in favor, say aye.

25 (Ayes.)

1 CHAIRMAN McCUSKER: Okay. Here we go off on the
2 agenda. Please note that Jannie Cox is on the phone.

3 Welcome, Jannie.

4 MS. COX: Thank you. Nice to see you all.

5 CHAIRMAN McCUSKER: Well, you haven't seen any of
6 us.

7 MS. COX: But I have a great imagination.

8 CHAIRMAN McCUSKER: There you go.

9 Just a couple of quick things from me. We have a
10 very full agenda. We're going to try and move through it
11 pretty quickly. A couple of things that you follow with us
12 on that will probably be on future agendas.

13 We continue to talk to the City about a
14 certificate of participation for the TCC. We've believe,
15 ultimately, that's the best vehicle to finance improvements
16 to the exhibition hall and a ballroom, maybe a junior
17 ballroom. So we will see that develop, probably, as part of
18 the City's next budget. And I'm optimistic that we will
19 come to an agreement that both -- all of us can live with
20 that continues to invest in the TCC.

21 The Westside. I think the City, in a matter of
22 weeks, will present their consultant's findings regarding
23 the brown field challenges, the City owned property west of
24 the freeway, west of the Santa Cruz.

25 And staff will make some recommendations to the

1 Mayor and Council about how best to proceed with that
2 development, which, as you all know, includes some land swap
3 to the County for the regional orientation center, assuming
4 the bond package passes this November.

5 So it's -- it will be November before you know it.
6 And I think written ballots start October 8th. So people
7 will be voting on that package here pretty soon.

8 We've always said we would hold off on our plans
9 for the southern section of that property until we
10 understood better what's going on around us; namely, the
11 City's property to the north. So standby on all that.

12 And, Dan, you want to give us your financial
13 update?

14 MR. MEYERS: Hi. I'm Dan Meyers, CFO of Rio
15 Nuevo.

16 Okay. As of the end of August, we've got about
17 \$7.6 million of operating cash in the bank consisting of
18 about 2.2 million in Alliance in our operating account,
19 about 5 million in Alliance -- or ICS account, and about
20 420,000 in Bank of Tucson operations.

21 As far as commitments go, we've got about
22 \$6.5 million commitment remaining. The big ones are Mission
23 Gardens for a little over a million; the garage at the AC
24 Marriott hotel, which is not going to be expense until 2017,
25 for 4.29 million; Streetscapes, 750,000; and the remaining

1 on Tucson Community Center, approximately 370,000.

2 The good news is that Elaine was able to assist in
3 getting a rebate from TEP last month of \$52,000. So that's
4 been credited back to that account.

5 Regarding our TIF situation, we're adding new
6 merchants monthly. I think we're finding some new
7 merchants. And the City of Tucson has been helpful as well.
8 The big-box stores that were behind in paying have all been
9 caught up. And those are now coming in at the rate that we
10 would expect them to.

11 Some of the new merchants we've gotten in the last
12 couple of months -- I think some of those people have not
13 been filing properly before that. So I've given the City of
14 Tucson a list of those merchants. And I think we need to go
15 back and get some amended returns done. And I think there's
16 a -- you know, a pretty good chance of us getting a nice
17 windfall of money from that once everybody catches up and
18 amends their returns. But I'm not allowed to contact those
19 merchants directly. We work through the City of Tucson to
20 assist with that.

21 Good news is the last quarter of our fiscal year
22 we collected \$3.6 million in TIF revenue. Our budget is
23 825. So that's, you know, 1.1, \$1.2 million over our
24 budget. The reason for that is because some of those
25 big-box stores weren't filing properly. And so we

1 eventually caught up.

2 For the year, we've ended up with about
3 \$9.7 million. Our budget was 9.9. I'm somewhat optimistic
4 that we can meet that \$825,000 budget from this point on. I
5 think the new merchants that are onboard now, I think that's
6 going to make a significant difference.

7 We've also had money accumulating in our Wells
8 Fargo account. And I think we have somewhere close to
9 \$2 million sitting there that if we need it, we can pull
10 that out. That's there to cover interest and principal on
11 the bonds. But we accumulated some excess in this last
12 quarter because of the -- the big receipts. That's gone up.
13 So I think we've got some working capital there if we need
14 it.

15 CHAIRMAN McCUSKER: Any reason we wouldn't just
16 move that over to our account? I think we'd all rather have
17 it in our account.

18 MR. MEYERS: We can. I mean, last time we did
19 that we ended up having to send it back. But we can
20 certainly -- I'd rather wait another month or two and see
21 how the TIF stuff settles. But certainly we can put it --
22 it's earning a little bit of interest over there at least.
23 But we certainly could move it.

24 MR. MARQUEZ: Having three accounts, how do -- how
25 do we choose which account we send it to?

1 MR. MEYERS: Well, our primary account for
2 operations is the Alliance Bank account. We use the Bank of
3 Tucson for payroll-related stuff and we collect the rents
4 into that account.

5 MR. MARQUEZ: Okay.

6 CHAIRMAN McCUSKER: And the big one is an
7 investment account, right? That's --

8 MR. MEYERS: Yeah. It just sits -- it just sits
9 there.

10 MR. MARQUEZ: Oh, the ICS?

11 MR. MEYERS: Yes.

12 Any more questions?

13 Thank you.

14 CHAIRMAN McCUSKER: Thank you, Dan.

15 2008 revenue bond refinancing. Mark, we had
16 authorized, at the last meeting, to move ahead with that
17 refi. I think you have an update for us.

18 MR. COLLINS: The underwriter is scheduled to come
19 and visit the site prior to making its determination on
20 whether and to what extent to underwrite the bonds.

21 As I recall, the site visit is the first of -- the
22 first week of next month. So until that happens, there's
23 really nothing for this board to do.

24 CHAIRMAN McCUSKER: Anybody need an update for
25 what we're trying to accomplish there? Everybody remember

1 the refi?

2 Okay. Item 8, the Arena Site. Let me kind of see
3 if I can paraphrase the progress to date.

4 You'll remember at the last meeting we gave the --
5 Nor-Gen until the end of September to resolve their
6 preclosing issues. The chief amongst those was the status
7 of the Greyhound and its temporary location on the Arena
8 Site.

9 There's been an effort on our part to engage
10 directly with the City to help resolve this. Just in the
11 last few days, we've extended to the City an invitation from
12 the Rio Nuevo Board that we would entertain assuming the
13 Greyhound lease if that were to expedite this development.

14 And Mark and the City attorney have worked
15 extensively to see if, in fact, that's possible, and how we
16 might do that, and what the risks associated with all that
17 are. I do believe it is a way to resolve the challenges and
18 allow the developer to go forward. And I think we're in a
19 better position than the City to resolve any differences
20 there might be with Greyhound; and maybe, in fact, help them
21 relocate.

22 So, Mark, tell us the current status of the
23 development, its closing, and what's going on with
24 Greyhound.

25 MR. COLLINS: Mr. Chairman, Members of the Board,

1 there have been a lot of developments. I've been working
2 not only with the City attorney, but Mr. Lopez, the attorney
3 for Nor-Gen, rather closely over the past couple of weeks.

4 The status -- the situation now is, is that --
5 that the closing has to happen by September 30th. The
6 suggestion from the District Board that it take the -- an
7 assignment of the Greyhound lease has been incorporated into
8 the estoppel certificate that we talked about in Executive
9 Session. There are, you know, a lot of issues involved with
10 that.

11 But it is my understanding that based upon my
12 communications with the attorneys for both the City and
13 Nor-Gen, that if all parties agree to that particular
14 document, we can go forward and close the sale of the Arena
15 Site to Nor-Gen by the end of this month.

16 There are a few steps that need to be taken. You
17 would need to authorize the execution of that -- authorize
18 minor changes that might be need to be made, that sort of
19 thing. But it will, in fact, assuming the City agrees and
20 assuming Nor-Gen agrees, it will in fact allow the sale to
21 close by the end of this month.

22 CHAIRMAN McCUSKER: I do believe it's been
23 agendized, the -- or is to --

24 MR. COLLINS: Oh, yeah.

25 CHAIRMAN McCUSKER: -- be agendized for this

1 week's Mayor and Council meeting.

2 MR. COLLINS: Mr. Chairman, I have not seen it on
3 the agenda yet. I -- I haven't checked since we came out of
4 Executive Session. I have seen a memorandum from the City
5 attorney to the Mayor and Council.

6 My guess -- and it's a guess -- is that if this
7 Board goes forward and approves the estoppel certificate
8 substantially as it is now written, my guess is that the
9 City will then place it on the agenda.

10 As you folks are aware, the City likes to be the
11 last party to sign every agreement.

12 So that's my guess, Mr. Chairman. Nobody's told
13 me that, but . . .

14 CHAIRMAN McCUSKER: Thank you.

15 Mr. Sheafe?

16 TREASURER SHEAFE: Can you -- can you think of any
17 reason why, if we were to approve this, then it would not
18 then proceed as long as the City also approves it this week
19 on their agenda?

20 MR. COLLINS: It would have to be approved, not
21 only -- approved and signed not only by Mayor and Council,
22 but by Nor-Gen.

23 But, no. There's three parties to the agreement.
24 It's this Board; it's Mayor and Council; and it's
25 Nor-Generations. And all three have to agree. And all

1 three have to execute. And then that would go into escrow.

2 CHAIRMAN McCUSKER: And the tenant is not really
3 involved.

4 MR. COLLINS: Well the tenant is --

5 CHAIRMAN McCUSKER: Not anything they have to
6 approve.

7 MR. COLLINS: No.

8 CHAIRMAN McCUSKER: It's an assignable lease.

9 MR. COLLINS: No, no.

10 CHAIRMAN McCUSKER: We would assume the position
11 of the landlord for all rights, duties, and obligations.

12 MR. COLLINS: Correct, correct.

13 TREASURER SHEAFE: And there is an obligation, on
14 the part of the City, to pay the cost of moving Greyhound.
15 And that obligation would remain, irrespective, because
16 that's not covered in the estoppel, right? That's covered
17 in the original documentation.

18 MR. COLLINS: Well, actually the -- the agreement
19 provides for the City to pay what I call relocation costs --

20 TREASURER SHEAFE: Yeah.

21 MR. COLLINS: -- which are statutorily required
22 costs.

23 The point of issue is whether the City has an
24 obligation -- or whether the District would have an
25 obligation to build a new terminal for Greyhound.

1 CHAIRMAN McCUSKER: Right.

2 MR. COLLINS: But as far as the relocation, the
3 statutory obligations, the City has always said that they
4 would pay that. And the agreement provides that.

5 CHAIRMAN McCUSKER: I've spoken to Greyhound
6 leadership, told them, if there was a way that we could
7 engage and help resolve this for all parties -- including,
8 you know, the development that's about to occur on that
9 site -- but assisting them in relocating, we would be
10 amenable to even doing that. So I think it's a win-win all
11 the way around.

12 I think it gets this development done; it funds
13 the closing of this sale; it provides for this hundred
14 million dollar development that Nor-Gen has planned; and it
15 puts us in the driver's seat, Chris, as it relates to now
16 negotiating with Greyhound.

17 And, you know, I just can't imagine, unless you
18 tell us there's some crazy legal reason not to, that we --
19 we wouldn't agree to move all this forward.

20 MR. COLLINS: I'm not aware of any crazy legal
21 reason not to.

22 It's not a simple Tab-A/Slot-B situation. I think
23 Mr. Lopez would agree with me on that. But I don't see a
24 legal reason not to go forward.

25 CHAIRMAN McCUSKER: So the estoppel that we saw in

1 Exec is really the definitive document.

2 MR. COLLINS: It is in --

3 CHAIRMAN McCUSKER: That's what we would need to
4 authorize today?

5 MR. COLLINS: Yes. Yeah. You -- my -- if the
6 Board was so inclined, I think you ought to consider
7 authorizing the Chair and Secretary to execute the estoppel
8 certificate substantially in the form that we reviewed in
9 E Session, provided that, one, Nor-Gen executes it; two,
10 Mayor and Council not only agree to execute it, but execute
11 it; and, three, that it's not delivered into escrow until
12 all three parties have executed it.

13 MR. HILL: Mr. Chairman, I move that.

14 SECRETARY IRVIN: I'll second that.

15 I would like to ask a question though before we
16 vote, though -- of Pat -- if you might, Pat.

17 So, Pat, you know, I know you guys have worked
18 diligently on this agreement. And our counsel has briefed
19 us very well. And we understand, I think, the agreement
20 well. I just have a couple questions.

21 MR. LOPEZ: Okay.

22 SECRETARY IRVIN: Are you guys -- assuming that we
23 assign this agreement, you guys are prepared to sign this
24 agreement, let and Mayor and Council do what it needs to do,
25 so that we can get this thing closed on September 30th?

1 MR. LOPEZ: We are prepared to sign it and close
2 on September 30th.

3 And I will tell you Alan is in the hospital as we
4 speak having his knee replaced. Before he went in, he told
5 me that if he needs to be interrupted at the hospital to do
6 this, he'll get off his medications and he'll sign it, so .
7 . .

8 SECRETARY IRVIN: I don't think we need that. I
9 just want to make sure, if we vote to go forward, that we
10 can -- assuming that there's not a hiccup with City and
11 Council, which I would surely hope there's not, that you
12 guys are prepared to move forward on the 30th or before.

13 MR. LOPEZ: We are prepared to move forward and
14 close on the 30th.

15 SECRETARY IRVIN: Thank you.

16 CHAIRMAN McCUSKER: The motion is that we
17 authorize the Chair and the Secretary to sign the estoppel
18 certificate, provided that Nor-Gen also sign and execute,
19 and that the Mayor and Council affirmatively vote and
20 execute, and it would all, then, go into escrow.

21 Any further conversations?

22 Let's do a roll call vote, Michele.

23 MS. BETTINI: Edmund Marquez?

24 MR. MARQUEZ: Aye.

25 MS. BETTINI: Mark Irvin?

1 SECRETARY IRVIN: Aye.

2 MS. BETTINI: Chris Sheafe?

3 TREASURER SHEAFE: Aye.

4 MS. BETTINI: Jeff Hill?

5 MR. HILL: Aye.

6 MS. BETTINI: Cody Ritchie?

7 MR. RITCHIE: Abstain.

8 MS. BETTINI: Jannie Cox?

9 MS. COX: Yes.

10 MS. BETTINI: Fletcher McCusker?

11 CHAIRMAN McCUSKER: Aye.

12 So by a vote of six ayes, one abstention, it
13 passes unanimously.

14 (The Board voted and the motion
15 carried.)

16 CHAIRMAN McCUSKER: So, Mr. Collins, go forth and
17 conquer and praise Greyhound.

18 TREASURER SHEAFE: Make sure they don't work on
19 his signature hand.

20 MR. LOPEZ: Just his knee.

21 TREASURER SHEAFE: Just his knee.

22 CHAIRMAN McCUSKER: Pat, thanks for hanging with
23 us. I mean, you've been a huge piece of getting us here,
24 and we all acknowledge that.

25 MR. LOPEZ: If you'd just give me a second, I'd

1 just like to say thank you to the Board. And I want you to
2 know Mr. Collins has worked very hard. We've been working
3 really hard, you know, since the last meeting to get this
4 done. It's been a cooperative effort.

5 And I know, Mr. Chairman, you were instrumental
6 in -- in doing that too. So thank you all very much.

7 CHAIRMAN McCUSKER: We've gotten everything
8 crossed up here.

9 Okay. Mission Garden. Also from last meeting, we
10 had a --

11 MS. BETTINI: You skipped one.

12 CHAIRMAN McCUSKER: I skipped a -- I didn't mean
13 to skip it -- the Mercado annex. We had a brief
14 presentation last meeting from the Gadsden.

15 You are recused.

16 MR. HILL: Thanks, Chris.

17 (Mr. Sheafe left the proceedings.)

18 CHAIRMAN McCUSKER: I've met with them a couple of
19 times. Since then, a couple of Board members have discussed
20 a proposal whereby we could enable their retail development.

21 Adam, Jerry, do you guys want to give us the
22 update -- Kira -- on the project?

23 MR. WEINSTEIN: Thank you, Mr. Chairman.

24 In reference to the update on the project, as the
25 chairman just described, we did meet with him.

1 MR. HILL: Excuse me.

2 He needs to put himself on the record.

3 CHAIRMAN McCUSKER: Yeah. Let's put you on the
4 record.

5 MR. WEINSTEIN: I'm sorry.

6 CHAIRMAN McCUSKER: Name, address.

7 MR. WEINSTEIN: Adam Weinstein, The Gadsden
8 Company.

9 Do you need my address as well?

10 CHAIRMAN McCUSKER: No.

11 MR. WEINSTEIN: Okay.

12 In follow up to our last meeting with the board of
13 directors and some subsequent conversation with the chairman
14 that was assigned to work with our team on development of
15 the possible financing strategy for the Mercado San Agustin
16 annex, or the MSA annex, we've made considerable progress
17 with that discussion as well as with our proposed lender in
18 the structure, which is Clearinghouse CDFI, which is a
19 community development lending institution that we are
20 already engaged in other business with. They are the
21 permanent financier of the existing Mercado San Agustin
22 public market.

23 We had worked through a structure that proposed a
24 joint financing with participation from the District in an
25 amount -- in -- in \$2.2 million; and an equal amount to be

1 provided by the lender -- the senior lender, Clearinghouse
2 CDFI; as well as an equity investment from the sponsor,
3 which is the Gadsden Company and mission district partners
4 in the amount of \$1 million in order to facilitate a
5 13,300-square-foot build out of the annex property with a
6 battery of tenants, between 13 to 15 tenants, representing
7 food and beverage, pure retail, and a small entertain
8 complex.

9 So at this point in time, the Chairman had
10 directed counsel to work with us on a proposed term sheet,
11 which I believe the Board has had the opportunity to see.
12 It was a relatively unique structure.

13 MS. COX: Excuse me. Could I interrupt for just a
14 moment. I don't know whether you're coming close and then
15 far away from the microphone, but you keep coming and going
16 to me.

17 MR. WEINSTEIN: Sorry. I'll try to stay closer to
18 the microphone. Is that better?

19 MS. COX: Thank you very much.

20 MR. WEINSTEIN: The structure that was proposed
21 was to service the Rio Nuevo debt as well as the senior debt
22 of the entire \$4.4 million and pay that back over a term
23 loan along with credit for interest payments that would
24 be -- or credit for payments being made by way of the sales
25 tax revenue that we generated on an annual basis.

1 And check, Mr. Chairman --

2 CHAIRMAN McCUSKER: Let me just talk about that.
3 It's a unique proposal. I think it's maybe the first time
4 the District Board's considered anything like this. But it
5 accomplishes a number of things on a number of fronts.

6 We would participate in half of the investment
7 required to enable the retail. Your estimates indicate that
8 you expect to generate somewhere in the neighborhood of
9 450,000 a year of new sales tax that brings retail to a --
10 currently a vacant corner. It improves the tax generation
11 not only for us but the State general fund.

12 You would have to do the GPLET. I think we talked
13 about that. So whatever we would do would be conditioned on
14 your GPLET acceptance. We would try and time our
15 participation to the GPLET, so roughly an eight-year note.
16 And we would credit that note with 50 percent of the sales
17 tax that's generated from your project.

18 I think -- I'm assuming you're okay with those
19 terms. You know, we could have some conversation at the
20 Board. And then we could instruct counsel to move forward
21 on the documentation.

22 I know a couple of questions came up as I've
23 explained this to Board members. Do you know the interest
24 rate that Clearinghouse is going to charge you?

25 MR. WEINSTEIN: They have not quoted that yet.

1 They are working on that this week.

2 CHAIRMAN McCUSKER: Seems like the best thing to
3 do would be to dovetail on that. Wouldn't you think,
4 or . . .

5 SECRETARY IRVIN: At least to know what it looked
6 like. Right.

7 CHAIRMAN McCUSKER: So that's -- that's a gap in
8 our proposal.

9 MR. WEINSTEIN: Sure.

10 CHAIRMAN McCUSKER: Any other questions for --

11 SECRETARY IRVIN: Yeah. The second one that I had
12 was relative to positioning of the loan. So, you know, I'd
13 like to see the District in the first position of the loan
14 even if it means that we had to take a larger share of that
15 loan. How do you feel about that?

16 MR. WEINSTEIN: We're certainly open to that
17 structure. I have had very limited conversation, prior to
18 the meeting, with the lender. And they said that they were
19 more than willing to entertain that approach and were open
20 to further discussion about how that might look.

21 SECRETARY IRVIN: So, Mr. Chairman, are you -- you
22 know, we've asked you to take the lead on this. And so are
23 you envisioning that -- maybe based on some of these
24 concerns and what have you, that you guys would go back,
25 work on something a little bit more definitive, and then

1 come back?

2 CHAIRMAN McCUSKER: I would really like to tick
3 off the agreement and then authorize counsel to move
4 forward. I think we're kind of past negotiating that.

5 I think Cody had some questions he wanted to ask.

6 MR. RITCHIE: I -- one question I have is, in
7 the -- in the structure, they said a promissory note.

8 MR. WEINSTEIN: Yes.

9 MR. RITCHIE: But would the principles be willing
10 to possibly do a personal guarantee?

11 MR. COLLINS: Yes, we would.

12 MR. RITCHIE: Okay. Thank you.

13 CHAIRMAN McCUSKER: All right. So while you're
14 there, so we would offer to participate in the loan to the
15 tune of \$2.2 million at a yet-to-be-determined interest
16 rate -- let's call it market rate -- subject to you getting
17 the GPLET.

18 The payback of that note would be over eight
19 years. It would balloon, be due and payable in eight years.
20 I expect we could do quarterly or something on interest --
21 are you following this? -- and we would credit you
22 50 percent of the new tax generated from your project
23 against that note.

24 We've made it clear that we have to be really good
25 about identifying your merchants' tax. We don't want to

1 rely on the State to do that for us. So we would probably
2 have something in the agreement that, you know, made us
3 privy to their --

4 MR. WEINSTEIN: Right.

5 CHAIRMAN McCUSKER: -- tax status so that we could
6 stay current with you. First position preferred and
7 personally guaranteed.

8 Did I miss anything?

9 MR. HILL: Do you need a motion?

10 CHAIRMAN McCUSKER: Go ahead. Yeah. I think --
11 yeah, if --

12 MR. HILL: I authorize -- I move that we authorize
13 they have to put that package together that the Chairman
14 just articulated, with Gadsden, and hopefully bring it back
15 for resolution and adoption for our next meeting.

16 SECRETARY IRVIN: Yeah. And I'll second that.

17 And I'd also like to add, I think it would be
18 great is, if we had a situation kind of like we do with the
19 AC Marriott that allows them to prepay that if they would
20 like to. Because as much as I'm excited about starting
21 something on The Westside, if there was a chance when you
22 can get it stabilized, and the ability to take us out of
23 that -- and I'd love to see you take us out of that so we
24 can reposition that money and do something else.

25 Because I think this is a very innovative,

1 interesting thing for us to consider. And, as you know,
2 I've already seen a structure similar to this in what
3 they've done in downtown Christchurch over in New Zealand.
4 So I think it's a great way to kind of start something and
5 then build that -- I call it kind of an incubator thing --
6 to provide an opportunity for further growth. So I like --
7 I like the concept.

8 CHAIRMAN McCUSKER: Okay. Everybody understand
9 the proposed terms?

10 Michele, call the roll.

11 MS. BETTINI: Edmund Marquez?

12 MR. MARQUEZ: Aye.

13 MS. BETTINI: Mark Irvin?

14 SECRETARY IRVIN: Aye.

15 MS. BETTINI: Jeff Hill?

16 MR. HILL: Aye.

17 MS. BETTINI: Cody Ritchie?

18 MR. RITCHIE: Aye.

19 MS. BETTINI: Jannie Cox?

20 MS. COX: Aye.

21 MS. BETTINI: Fletcher McCusker?

22 CHAIRMAN McCUSKER: Aye.

23 MS. BETTINI: Chris Sheafe is abstaining.

24 CHAIRMAN McCUSKER: So by a vote of six ayes and
25 one abstaining, we're going to move forward with you guys on

1 a really cool project.

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

4 MR. WEINSTEIN: Yeah. Thank you very much,
5 Mr. Chairman and the Board.

6 CHAIRMAN McCUSKER: Thank you.

7 MR. DIXON: Thank you.

8 (Mr. Sheafe returned to the
9 proceedings.)

10 CHAIRMAN McCUSKER: Okay. Now Mission Garden, you
11 guys can come on up.

12 Let me update the Board and public on kind of
13 what's going on over there.

14 I think you have an update and some slides for us
15 as well.

16 Just to preface that I think everybody knows that
17 as far back as the settlement agreement with the City, we
18 have committed \$1.1 million to finish the Mission Garden
19 project. It's always been on our radar. Took us a while to
20 get the legal permission to do that. But once we did that
21 and they submitted a budget to us, we agreed to the budget.

22 We assigned our contractual agreements with
23 architects and contractors over to you.

24 Just recently we have heard from the County that
25 they will not likely approve any construction inside the

1 walls, which about half of the budget, I recollect, was
2 dedicated to a permanent structure. Obviously, that's going
3 to present some real challenges to your current plan.

4 So we kind of wanted you just to update us on
5 where you are; what's going on with that whole issue; and
6 then, you know, where we might go from here. So, Bill,
7 introduce yourself and take over.

8 MR. O'MALLEY: All right. Thank you, Chairman,
9 and Board Members. Bill O'Malley with the Friends of
10 Tucson's Birthplace. Also like to introduce Roger Pfeuffer
11 and Katya Peterson, cochairs of the board are here. Raul
12 Ramirez, Diana Hadley and Bill DuPont -- other board members
13 for Friends -- are here today also.

14 As you know, Friends of Tucson's birthplace are --
15 and I'm sorry. There's a handout here which shows the
16 slides that we'll go through today.

17 And, sorry, Ms. Cox, you may not have this yet.
18 But there will be one when -- when you return.

19 See if you can follow along with this.

20 Due to the efforts of the Friends, Mission Garden
21 has become a highly visible success story on The Westside.
22 The Friends have demonstrated our ability to develop Mission
23 Garden and fulfill the requirements of our commitments to
24 Pima County, Rio Nuevo, and City of Tucson.

25 The -- going on to some of the educational

1 programs:

2 The friends have well-established educational
3 programs with local schools and workshops to promote
4 cultural heritage. You can see a list of them here. Manzo
5 Elementary, particularly, as we have worked with them for
6 two years now in propagating trees that they returned to the
7 neighborhood -- a very successful program with the Manzo
8 schools.

9 Moving on to some of the workshops that -- that we
10 do. This is a large part of our educational mission. And
11 the workshops we hold for volunteers, school groups, and the
12 publics.

13 Volunteer training, particularly, we're obligated,
14 by our agreement with the City and the County, to train a
15 hundred volunteers. So far we've only got over 340
16 volunteers on our list.

17 Community outreach activities. We've developed
18 outreach programs to share knowledge and produce with the
19 community, particularly groups such as the Santa Cruz River
20 Farmers' Market, Community Food Bank, Iskashitaa Refugee
21 Network. As a garden, we produce plants and vegetables.
22 And we have been able to share them with the community
23 thorough those organizations.

24 Some of the events that we have these are yearly
25 events. We've had two San Ysidro celebrations, four

1 birthday celebrations. And you can see the number of people
2 that have attended each of those.

3 Again, the volunteer recognitions, 340 volunteers
4 on our volunteer list. And there's more listed in the
5 handout.

6 Some of the partners we have. We have a strong
7 program of tree stewards where individuals can sponsor a
8 tree, which helps with the ongoing operations of Mission
9 Garden.

10 We've worked closely with the Tohono O'odham
11 Nation. They provided us funding through their grant
12 program. And they've also been on site helping us plant and
13 sharing some of their other unique cultural expertise.

14 The agreement for development operation and
15 Mission Garden: This is the long title. This is what we
16 call the three-party agreement. The original agreement that
17 was signed in 2011 between Pima County, the owners of the
18 land, City of Tucson, and Friends of Tucson's Birthplace.

19 We're committed to completing our obligations of
20 this agreement, including developing the garden in the first
21 five-year period.

22 There are options to renew the contract. But our
23 commitment is to complete the development in the five years,
24 which ends next December of 2016.

25 We're obligated to raise 250,000 by the

1 three-party agreement. We've actually raised over 600,000
2 to date, through donations and grants.

3 CHAIRMAN McCUSKER: Bill, are the options to renew
4 your options to renew? Or does it require a mutual
5 agreement --

6 MR. O'MALLEY: Yes.

7 CHAIRMAN McCUSKER: -- with the County, or is it
8 just the --

9 MR. O'MALLEY: We have --

10 CHAIRMAN McCUSKER: -- I mean, what are the terms
11 of the renewal?

12 MR. O'MALLEY: And I didn't -- Linda Mayro is here
13 also with Pima County.

14 We can, within a year of the renewal date, request
15 the second option period or -- I'm sorry. The first option
16 period. And it has to be no later than six months before
17 the renewal date.

18 CHAIRMAN McCUSKER: And that's automatic renewal
19 for some period of time, or it's just . . .

20 MR. O'MALLEY: It's another five-year period.

21 CHAIRMAN McCUSKER: Right.

22 MR. PFEUFFER: If all parties agree.

23 MR. O'MALLEY: If all parties agree.

24 CHAIRMAN McCUSKER: So the County does have to
25 agree?

1 MR. O'MALLEY: And the City.

2 CHAIRMAN McCUSKER: And the City.

3 MR. O'MALLEY: Yeah. Three parties.

4 MR. PFEUFFER: The three-party agreement.

5 CHAIRMAN McCUSKER: Thank you.

6 MR. O'MALLEY: So moving on. Just quickly -- this
7 is the first phase of development of Mission Garden,
8 planting 122 fruit trees. This was planted and completed in
9 2012. In accordance with the three-party agreement, we
10 actually, through the three-party agreement, have five years
11 to do Phase I. But that was completed in 2012.

12 The second phase is a native plant area, and some
13 plantings outside the west wall. As you can see, that was
14 completed in -- first planted in 2012, with the help of the
15 Tohono O'odham grant and a Arizona State forestry grant.

16 The third phase. Native American timeline
17 gardens -- that was first planted in 2014. And we have just
18 replanted those areas for the third time. And, again, this
19 was a part of the Tohono O'odham grant.

20 Now, Phase IV is the completion of Mission Garden.

21 And as you can see, it's a significant amount of
22 work, more than half of the garden. And this is -- the work
23 is made possible with the funding from Rio Nuevo.

24 And going on to the next slide --

25 CHAIRMAN McCUSKER: Go back to that slide. Is it

1 the interpretive ramada and support buildings that are the
2 ones that are at risk?

3 MR. O'MALLEY: Those are the ones that the County
4 has objected to. And I'll touch on that in a minute.

5 CHAIRMAN McCUSKER: Okay.

6 MR. PFEUFFER: That's the corner right there.

7 MR. O'MALLEY: Okay. Next slide.

8 The agreement related to District contribution.
9 This is the funding agreement between Rio Nuevo and Friends
10 of Tucson's Birthplace in the amount of \$1.1 million. Our
11 original submittal had been 1.3, which comes up when I talk
12 about the estimate a little bit but -- and this was dated
13 April 7, 2015.

14 Next, this is a image out of the Mission Garden
15 master plan. As a part of the three-party agreement that we
16 have with the City and the County, we are obligated to
17 complete the development of the garden based on the master
18 plan. And the master plan is defined as the original
19 construction documents for Mission Garden.

20 And so we have complied with the work to date.
21 This is all Mission orchard, timeline gardens, native plant
22 areas, future vineyard, the future crop fields. So those
23 are all part of our plan.

24 Notable is the interpretive ramada and support
25 building.

1 So, as a part of the original master plan, which
2 is a part of our agreement with the City and the County,
3 includes the interpretive center and support building.

4 The next page, now: Building included support
5 functions necessary for Friends' operation of the garden.
6 Based on our four years successful experience operating
7 Mission Garden as a tourist destination and educational
8 facility, additional features are necessary -- such as
9 public toilets -- weren't originally planned inside the
10 garden -- volunteer support facilities, seed and produce
11 storages, office space, and a demonstration kitchen to be
12 used for education and public events.

13 So again, this was the original plan that was in
14 the master plan. Based on these additional functions, the
15 building needs to be about twice as big as that one is.

16 And as I mentioned, Pima County stuff has recently
17 raised objections to the building, even though it's included
18 in the agreement. So we're working, trying to resolve --

19 CHAIRMAN McCUSKER: Can we go back -- go back to
20 the master plan --

21 MR. O'MALLEY: Yep.

22 CHAIRMAN McCUSKER: You used the term "ramada"?

23 MR. O'MALLEY: Yeah.

24 CHAIRMAN McCUSKER: What does that say right there
25 in the corner?

1 MR. O'MALLEY: That square is the ramada. And the
2 L-shaped structure is the building.

3 CHAIRMAN McCUSKER: Building, four walls,
4 foundation --

5 MR. O'MALLEY: Roof, temperature control.

6 CHAIRMAN McCUSKER: -- roof, electrical. All that
7 stuff.

8 MR. O'MALLEY: Yeah, a building.

9 SECRETARY IRVIN: And that's -- that's a -- the
10 exhibit that is part of the triparty lease agreement?

11 MR. O'MALLEY: Yes. That's the master plan that
12 we're obligated to develop under.

13 MR. PFEUFFER: Bill, just to add a little bit --
14 that -- based on that square footage, you see the diagonal
15 line running -- running just above that, that's the --
16 that's the gas line.

17 MR. O'MALLEY: Just going to that. That's
18 actually the next --

19 CHAIRMAN McCUSKER: You'll pass on the gas line
20 runs through the -- go ahead.

21 MR. O'MALLEY: Next.

22 So, now, this is the concept plan. And the
23 funding agreement between Rio Nuevo, City of Tucson, and
24 Friends of Tucson's Birthplace included this -- this plan.
25 And by that agreement, it was approved. So this is the

1 approved --

2 CHAIRMAN McCUSKER: Unfortunately, it was not
3 approved by the County, who owns the project.

4 MR. O'MALLEY: Correct.

5 CHAIRMAN McCUSKER: Right.

6 MR. O'MALLEY: And a couple of things here, the
7 building is relocated to the southeast corner. Reasons for
8 that -- this is the gas line that Roger mentioned. There's
9 also a requirement in the agreement that we stay 30 feet
10 away from that, which didn't leave sufficient room for the
11 building in that corner. So it's been relocated up here.

12 That also reduces the impact on the archeology due
13 to the sewer line that is necessary for that building.

14 So the preservation and protection of the
15 archaeology is paramount to us. We're engaging
16 archeologists. We've been working with them the -- for the
17 entire four years that we've been in the garden, and we'll
18 be using them as we move forward with the project.

19 And per our funding agreement, additional detailed
20 plans will be submitted as they are prepared for each of the
21 areas.

22 Cost estimate now. As I mentioned earlier, our
23 original request was 1.3. Funding agreement approved,
24 1.1 million.

25 When we got our first cost estimate six years ago,

1 two months ago, it was 1.3 million. So we've been revising
2 the project since then to stay within the 1.1 million budget
3 that has been allocated.

4 There's additional detail included in your
5 handout. To keep the project in budget, we're doing much of
6 the work with the Friends of Tucson's Birthplace as we have
7 been doing over the years building the ramada structures and
8 doing a lot of the construction work on site.

9 SECRETARY IRVIN: Can you go back to the budget
10 for just a second? One more forward.

11 CHAIRMAN McCUSKER: I don't believe that's the
12 exhibit -- is that the exhibit in our agreement?

13 MR. PFEUFFER: No.

14 MR. O'MALLEY: No.

15 CHAIRMAN McCUSKER: That's a revised based upon
16 the bids you've actually received?

17 MR. O'MALLEY: This is based on the current
18 design. And it's been updated costs. So this is based on
19 the new cost information.

20 CHAIRMAN McCUSKER: How much of that's then
21 related to the structures that have been challenged inside
22 the walls? Obviously the support building.

23 MR. O'MALLEY: Well, that's the one that's in
24 question, interpretive --

25 CHAIRMAN McCUSKER: Now, that site work: Is

1 that -- I'm assuming part of that is site work for the
2 support building?

3 MR. O'MALLEY: That's grading, preparation of
4 plantings, site utilities. I don't -- I don't believe
5 that's in an area that's really in question. It's the
6 support building.

7 CHAIRMAN McCUSKER: So some 400 grand or more may
8 not be allowed.

9 MR. PFEUFFER: Actually, the site utilities would
10 be impacted if we didn't have a building inside.

11 CHAIRMAN McCUSKER: Sure.

12 SECRETARY IRVIN: Can you walk me through the
13 contractor's profit, overhead, and contingency, which would
14 appear to be about 20 percent of the project?

15 MR. O'MALLEY: It --

16 SECRETARY IRVIN: Just overhead fees, profit,
17 contingency.

18 MR. O'MALLEY: Yeah. It's about 14 percent.

19 If you look at the detail sheets that are included
20 with the handout, that is their overhead, fees, profit,
21 insurance, taxes. And I believe it's about 14 percent on
22 the detail sheets.

23 CHAIRMAN McCUSKER: All right.

24 MR. O'MALLEY: Okay. Schedule, cost estimate,
25 getting that resolved has put us back a little bit. Current

1 plans is that we will complete the design between now and
2 March 1st.

3 Design, getting permitting, start the heavy
4 construction March 1st, completing next August. And then,
5 that will give us time to complete the plantings after the
6 construction work is done to complete by December of next
7 year, the end of the five-year period.

8 Go back a minute, Roger.

9 There is the orchard expansion. It's a separate
10 area within the garden. That's actually primarily funded by
11 an Arizona State forestry grant. That work will be going
12 ahead. We start some preliminary work. And that will be
13 going between now and December of this year. That's
14 planting 47 trees, expanding the orchard.

15 Okay. If we go to the summary.

16 So summary. The Friends have completed almost
17 half the Mission Garden to date without funding from Pima
18 County, City of Tucson, and Rio Nuevo. Now, the funding
19 from Rio Nuevo will help us to meet our contractual
20 obligations to complete and operate Mission Garden.

21 We have received substantial support from City of
22 Tucson, primarily in helping us achieve some grants. So
23 they have been very helpful.

24 And the -- the functions included in the sort --
25 support building are necessary for us to operate Mission

1 Garden. And I want to make sure everybody understands that
2 those spaces are necessary for operation. And it's our
3 belief that they're included in the agreement and they're
4 included in the master plan. So we've got some work to do
5 with Pima County to get that resolved.

6 So with that, if there's any additional
7 questions...

8 TREASURER SHEAFE: There's a couple of things.

9 First, you got a \$45,000 line item in there for
10 archaeology, and you have a problem with Pima County
11 concerning archeology. What are you getting for the 45,000?
12 And will that in any way resolve your issues with Pima
13 County?

14 MR. O'MALLEY: Well, 5,000 of it is for an
15 archaeology -- archeology treatment plan. And that's
16 basically something that is done now working with the
17 archaeologists. And they give us guidelines on -- on how to
18 proceed with the project.

19 And then the other \$40,000 is an estimate. That's
20 an allowance. We know that we're going to need monitoring
21 work during construction as we do excavations. As we dig in
22 the utility lines, we'll need to have archaeologists on the
23 site. So that's providing for their time.

24 TREASURER SHEAFE: So in other words, am I hearing
25 you say that you will be able to go ahead and build because

1 you're working things out with the County staff? Or are you
2 still in a position where County staff is not allowing you
3 to build inside the wall?

4 MR. O'MALLEY: Well, the issue with the County is
5 the building.

6 TREASURER SHEAFE: Yeah.

7 MR. O'MALLEY: And so we're working to resolve
8 that. Again, our position, it's in the agreement, signed by
9 the County, that includes the interpretive center. And it's
10 in the agreement with Rio Nuevo, City of Tucson. And so
11 we're at this point operating under the signed agreements.

12 TREASURER SHEAFE: So you're operating under the
13 assumption that whatever objections there will be will go
14 away and you can commit to the plan that you're on and
15 you're kind of giving us an update so we know what the
16 funding process is going to be from our side.

17 Is that a reasonable way to state it?

18 MR. O'MALLEY: Yeah. Well, we're giving you an
19 update on where things stand at this moment. We -- the
20 meetings with Pima County have occurred over the last month.

21 CHAIRMAN McCUSKER: You think it's safe to say
22 we're not going to get in a fight with Pima County?

23 MR. O'MALLEY: Yeah.

24 CHAIRMAN McCUSKER: So if there's something within
25 that that they don't allow, then we're all kind of back at

1 the drawing board.

2 SECRETARY IRVIN: Square one.

3 CHAIRMAN McCUSKER: Yeah. I don't know that we're
4 there yet, is what I'm hearing from the -- well, out of the
5 Friends.

6 TREASURER SHEAFE: Is there's a representative
7 from Pima County that wants to --

8 CHAIRMAN McCUSKER: Yeah. I don't know that --
9 Linda's here. I don't know that I want to drag her into
10 the -- I don't want her to be negotiating with us for the --
11 or them for the Country's position.

12 The County has taken a position that they will
13 not -- will not likely approve any permanent construction
14 inside the wall.

15 They believe that's appealable. They're working
16 their way through that issue with the County. Maybe by the
17 next meeting or by the November meeting, we'll have full
18 resolution as to the -- the settlement agreement does
19 provide that we can invest our funds inside or outside of
20 the wall. And so if in fact the whole thing is revised from
21 the concept plan, you know, we're going to have to sit down
22 again and -- because pretty much half of your budget or
23 thereabouts is going to be disallowed.

24 But we can, on our property, use some of those
25 funds to construct the support building or educational

1 building or a new entrance or restrooms or, you know, all
2 sorts of things. I don't think any of us are there yet.

3 MR. O'MALLEY: Well -- and again, the Friends are
4 party to all of those agreements. So what is done needs to
5 meet with our approval also.

6 CHAIRMAN McCUSKER: Yeah -- no. I mean, you guys
7 are running it. We're just writing a check. So, you know,
8 we have to assume that everybody that's involved is getting
9 the proper authority, permits, zoning clearance, development
10 services clearance. You know, at the end of the day, the
11 way our agreement provides is once those things are approved
12 and you have final numbers, you do the work; you send us an
13 invoice. So, you know, we really don't want to get in the
14 weeds.

15 Now, what could happen because we own the property
16 outside. One, we have to resolve the property line issue.
17 You know, that's -- that we'll probably deal with. Maybe
18 not today. But at some point, if they cannot build inside
19 the wall, in order to make that project viable, we're going
20 to have to look at some sort of construction outside.

21 MR. O'MALLEY: Well, just -- just like to sum up
22 and say this is a very successful project on The Westside.
23 We're very visible. We're getting --

24 CHAIRMAN McCUSKER: Bill, go back to your -- your
25 concept plan.

1 MR. O'MALLEY: And -- and we're committed to
2 fulfill our contractual obligations.

3 CHAIRMAN McCUSKER: So what -- again, if the
4 County prevails, how does this affect the concept that we've
5 all seen?

6 MR. O'MALLEY: Well, again, the County's concern
7 is with the -- a building within the garden wall, so . . .

8 CHAIRMAN McCUSKER: And any support for that, like
9 sewer or plumbing and electrical, that wouldn't -- wouldn't
10 get done either.

11 MR. O'MALLEY: Assuming there's no toilets, yeah.

12 CHAIRMAN McCUSKER: Right. And there's no
13 toilets.

14 MR. PFEUFFER: Let me just add because I think it
15 needs --

16 CHAIRMAN McCUSKER: Put yourself on the record.

17 MR. PFEUFFER: I'm sorry. I'm Roger Pfeuffer,
18 cochair of Friends of Tucson's Birthplace. And I think -- I
19 think Mr. Sheafe's question is an appropriate one.

20 But I want to -- I want to -- I want to -- the
21 answer -- our answer is: This is -- this is not an attempt
22 to steamroll our ideas through.

23 This is an attempt to -- this is where we're
24 sitting right now. We're in the process of negotiating a
25 decision made by the County. And this has only come up in

1 the last couple of weeks, so we haven't had time to really
2 make progress on this.

3 But there obviously is going to be a final
4 decision. Whatever that final decision is we want to be --
5 we want to be party to it. We don't want to be told what
6 the decision is. Because we have been -- as Bill said --
7 successfully doing this for four years.

8 Part of the issue of the -- of the building in the
9 garden is the real need for those support services to be
10 immediately there at the garden.

11 CHAIRMAN McCUSKER: Sure.

12 MR. PFEUFFER: It's almost a health-and-safety
13 issue. If you garden in Tucson in the summer, you need some
14 place where you can get some -- you can get out of the heat.
15 Ramadas are fine. But you could have a volunteer staff and
16 you have -- you have school groups coming through where
17 you -- you need some protection from that.

18 CHAIRMAN McCUSKER: All right. Just keep me
19 posted. And then we'll bring you back when we move the next
20 step.

21 MR. PFEUFFER: Okay.

22 CHAIRMAN McCUSKER: Are you part of the official
23 presentation?

24 MS. PETERSON: I am. But I can't help myself. I
25 have to --

1 MR. O'MALLEY: You have to say who you are.

2 MS. PETERSON: Katya Peterson, Cochair, Friends of
3 Tucson's Birthplace.

4 But I have to make sure that you all know that we
5 are having a wonderful celebration in the garden
6 October 18th, from 4 to 7 p.m., Farm-to-Table heritage --
7 Harvest -- sorry -- Picnic. And you are all cordially
8 invited. I hope you've already --

9 CHAIRMAN McCUSKER: Say the -- say the date again.

10 MS. PETERSON: -- received --

11 I will.

12 I hope you've already received your invitations.
13 This is in conjunction with Native Seeds/SEARCH. And we
14 have amazing sponsors. And so it's October 18th from 4 to
15 7 p.m.; that's a Sunday evening/afternoon.

16 Please come. Please get your tickets now. There
17 will only be 200.

18 Shall I go on?

19 CHAIRMAN McCUSKER: Linda, do you want to say
20 anything on the record?

21 MS. MAYRO: Please.

22 CHAIRMAN McCUSKER: Go ahead.

23 MS. MAYRO: Thank you, Mr. Chairman, Members of
24 the District Board.

25 I'm Linda Mayro, Pima County Director of

1 Sustainability and Conservation. And I've overseen this
2 sort of preservation bonds passed in 1997 and then in 2004.
3 And I will be overseeing the historic preservation bonds,
4 should they get passed, going forward.

5 In 1997, voters passed a bond to preserve -- to
6 acquire and preserve Mission San Augustin del Tucson. The
7 City of Tucson owned the mission complex site. And Pima
8 County purchased the Mission Garden for inclusion. And it
9 was then intended to be part of the Rio Nuevo redevelopment
10 of historical features on The Westside.

11 In 2008, the City of Tucson adopted a general
12 master plan for --

13 MS. COX: Excuse me --

14 CHAIRMAN McCUSKER: All right. Jannie can't hear
15 you.

16 MS. MAYRO: I'm sorry.

17 MS. COX: Can you speak a little closer to the
18 microphone?

19 MS. MAYRO: I will. I'll speak right into it.

20 In 2008, the City of Tucson adopted a master plan
21 for the Mission Garden as well as for the Tucson Origins
22 Heritage Park.

23 Pima County subsequently entered into an agreement
24 in 2011 with the City and the Friends of Tucson's Birthplace
25 to development the 2008 plan. And the -- when it was

1 obvious that the El Paso Natural Gas would not approve the
2 building in the southwest corner, it was assumed it was
3 deleted and it was not required to be constructed. I just
4 want to clarify: When that building was deleted, it was not
5 considered necessary to move it to another place within the
6 garden.

7 Since 2011, we have worked very, very well with
8 the Friends of Tucson's Birthplace. Our only disagreement
9 is their proposed moving the building -- the support
10 building to the southeast corner.

11 I feel when we purchased the building -- or excuse
12 me -- the Mission Garden, the purpose of the bond was to
13 preserve the site. And I feel that too much cultural and
14 archaeological damage will be done by running utilities in
15 building this building. And I don't think it's a good use
16 of the funds, frankly, to pay for the archaeology.

17 MS. COX: Excuse me. Could I ask you to please
18 stay closer to the mic?

19 MS. MAYRO: Yes. I'm sorry.

20 And so, therefore our -- and our only disagreement
21 is the placement of the building inside the gardens walls.
22 And I just want to be on the record for that. Thank you.

23 CHAIRMAN McCUSKER: Okay. any questions for Linda?
24 Edmund?

25 MR. MARQUEZ: Is there -- I'm Edmund Marquez. Is

1 there -- is there something different -- is it different,
2 archeologically, outside the walls? Or is there something
3 specific going on just in that corner that's special,
4 architecturallywise?

5 MS. MAYRO: Well -- what I didn't go into -- there
6 was some precision archaeology done to allow the 2008 plan
7 for the garden to be constructed. And that meant that the
8 absolute footprint of the proposed building in the southwest
9 corner was excavated, as well as tree rows where the
10 orchards, where the canal was going to go. So it was
11 anticipated, in a very precise way, where impacts would
12 occur.

13 It was decided, after more than 260 features were
14 found and 34 burials, that we would not further impact,
15 through any kind of development, the interior to the Mission
16 Garden. So that said, that is why I'm taking the position I
17 have because I think it's consistent with the 1997 bond.

18 CHAIRMAN McCUSKER: The walls represent the
19 original boundary; is that right?

20 MS. MAYRO: Correct. Yeah.

21 CHAIRMAN McCUSKER: So the walls are sacred, to
22 the extent they do represent the original --

23 MR. COLLINS: -- the foundation, yeah.

24 If I can clarify that: The foundations to the
25 actual Spanish colonial period walls are preserved beneath

1 the surface of the ground. And the newly constructed walls
2 are offset so as not to impact those. So the boundary of
3 the garden -- the original garden and the walls you see is
4 somewhat different.

5 CHAIRMAN McCUSKER: So -- so --

6 MS. MAYRO: Outside the walls, there are areas
7 that have been previously disturbed that could be -- where a
8 building could be built, there are areas where there are
9 archaeological features that yet remain. It's a very, very
10 sensitive area overall.

11 So to answer your question, there are both areas
12 disturbed and areas not disturbed outside the wall.

13 MR. MARQUEZ: So how was it that El Paso Natural
14 Gas was able to put a gas line through there?

15 MS. MAYRO: I think, in 1934, it didn't matter.

16 CHAIRMAN McCUSKER: Nor did it matter to anyone
17 that it was a landfill.

18 MR. MARQUEZ: Yes, exactly. I was trying to put
19 two and two together here. All right. Thank you.

20 CHAIRMAN McCUSKER: Anything else for Linda?

21 Thank you.

22 MS. MAYRO: Thank you.

23 CHAIRMAN McCUSKER: Okay. Item 11, Mark, the Fox
24 has given us some proposed bylaw changes. Under the new
25 agreement, we get to approve or reject those. Do you want

1 to go through that with the Board?

2 MR. COLLINS: Mr. Chairman, Members of the
3 Board -- can you hear me, Jannie?

4 TREASURER SHEAFE: Hey, Jannie, could you move
5 closer to the microphone?

6 MR. COLLINS: Jannie, can you me?

7 MS. COX: I can hear you.

8 MR. COLLINS: Thank you.

9 Mr. Chairman, Members of the Board, the First
10 Amendment to the ground lease and loan modification
11 agreement with respect to the Fox provided that the
12 Foundation would submit, to this Board, revisions to its
13 bylaws. And it has done that. In a perfect world, I would
14 have gotten you a black line of all of that in advance of
15 this meeting. But unfortunately, I was dealing with the
16 Arena Site. So I'm going to have to just summarize them for
17 you.

18 There are several changes that have been made.
19 You don't have any of them in your documents there. That's
20 my mistake. That's my failure. The changes though I think
21 are benign. They are -- the changes are that they may elect
22 directors at any meeting rather than only at the annual
23 meeting; that certain major decisions by the Board must be
24 approved by a 2/3 vote rather than a majority vote; that
25 notice of meetings may be given on a week's notice rather

1 than ten days. They will not accept proxies in votes. The
2 requirements to take action without a Board meeting is
3 reduced from 100 percent to 75 percent of the Board. The
4 requirements for committees are less formal. The term
5 limits for officers, no more than two full consecutive
6 terms.

7 Description of officer's duties is a little more
8 general. They changed the requirement for annual audit to
9 financial review, eliminated the requirements for two
10 signatures on checks over 5,000 bucks, and provided for
11 loans -- interest-free loans from officers to -- to the --
12 to the Board.

13 You can elect not to do anything on this.

14 CHAIRMAN McCUSKER: My sense is we ought to read
15 these.

16 MR. COLLINS: Okay.

17 CHAIRMAN McCUSKER: I mean, since we've inserted
18 ourselves as the governance stewards, I think it would be --
19 we'd be remiss if we just kind of skipped over this. So
20 let's have you spread them around, and I'll table it
21 till . . .

22 MR. COLLINS: Okay.

23 CHAIRMAN McCUSKER: Is there any pressing reason
24 we need to do this?

25 MR. COLLINS: No. I think -- I'll get them to you

1 and we'll spread them around.

2 CHAIRMAN McCUSKER: All right. Item's tabled.

3 I didn't see anyone here from Borne. Are we going
4 to pass?

5 MR. COLLINS: No. Pass on that one.

6 CHAIRMAN McCUSKER: I'm going to table the
7 Westside Parcel.

8 So we move the executive officers to the last,
9 assume everybody's all right. And quickly talk to us about
10 the administrative rule.

11 MR. COLLINS: The administrative rule change, we
12 discussed last time. The question was whether or not it
13 could be any two signatures on checks, or whether it needed
14 to be secretary and one other. I provide -- I made an --

15 MS. BETTINI: Treasurer.

16 MR. COLLINS: What?

17 MS. BETTINI: Treasurer and one other.

18 MR. COLLINS: Excuse me. Treasurer and one other.

19 Candidly, the admin rules only require the
20 treasurer to sign. The agreement we have at the bank, I
21 believe, is what requires two signatures. So I made a
22 slight tweak in the admin rules which merely says that
23 checks shall be signed by at least two of the executive
24 officers.

25 CHAIRMAN McCUSKER: Any two.

1 MR. COLLINS: Any two.

2 And that's it. If you can --

3 CHAIRMAN McCUSKER: We would need a motion, unless
4 somebody passionately disagrees.

5 TREASURER SHEAFE: So moved.

6 SECRETARY IRVIN: Second.

7 CHAIRMAN McCUSKER: What a minute -- he's -- he's
8 but he -- he's a signer.

9 MR. COLLINS: Yeah.

10 MR. MARQUEZ: Second.

11 MR. COLLINS: We want a --

12 CHAIRMAN McCUSKER: Yeah. Somebody else probably
13 ought to make the motion.

14 MR. MARQUEZ: I'll make the motion.

15 MR. RITCHIE: Okay. Second.

16 CHAIRMAN McCUSKER: Second. All in favor, say
17 aye.

18 MR. HILL: -- to speak to the motion.

19 MS. COX: Aye.

20 CHAIRMAN McCUSKER: Hang on. Robert's Rules of
21 Order's caught up to me.

22 So speak to the motion.

23 MR. HILL: Mr. Chairman --

24 CHAIRMAN McCUSKER: Go ahead.

25 MR. HILL: I'll oppose that.

1 CHAIRMAN McCUSKER: Okay.

2 MR. HILL: Obviously, the treasurer's role is to
3 be in charge of that, particularly for nonprofits. Removing
4 him from the oversight by the other two officers, I think,
5 is fraught with peril. And I've been on a number of
6 nonprofit boards -- and there are certainly ones in the
7 media where people that were not aware of what their
8 responsibilities -- or things that would come natural to
9 somebody who has expertise as a treasurer, at least a
10 background, has gotten them into trouble.

11 So I think the purpose of having a treasurer,
12 obviously, is to keep track of the financial records, which
13 would mandate that they be in -- just like our rules are --
14 that it should be contained in that manner.

15 If there's a problem -- they can't find the
16 treasurer or what have you, that should be the fix -- not to
17 change -- for expediency's sake -- to remove that safeguard
18 that has been developed over a lot of years in governmental
19 function.

20 SECRETARY IRVIN: Jeff, I agree with you
21 conceptually. And I can tell you that I think -- you know,
22 the executive officers are probably pretty up to speed with
23 what's going on. And the only reason the change was
24 requested is because we've had -- I know during the summer
25 holidays and other periods of times, and sometimes when our

1 treasurer is not available -- we always struggle with
2 getting things signed.

3 So I think it's always been the precedent -- and I
4 hope it would always continue -- that the first person we go
5 to is to our treasurer. And if they're not available,
6 that's probably when that would kick in. So I don't really
7 see a change in the way we're doing things.

8 I would agree. I would think that we would always
9 want to ensure our treasurer was available to sign. But if
10 they're not, then I think it should trigger that, so . . .

11 MR. HILL: Well, this motion doesn't include that.

12 CHAIRMAN McCUSKER: No. This is a very different
13 motion. I mean, that would be kind of a backup --

14 MR. HILL: Yeah.

15 CHAIRMAN McCUSKER: -- plan in the event that the
16 treasurer wasn't available. That's a whole different
17 policy.

18 MR. COLLINS: If this motion were to fail, I could
19 draft something that addresses precisely what you folks are
20 talking about. I do think the avenue --

21 CHAIRMAN McCUSKER: The motioner could withdraw
22 the motion.

23 MR. COLLINS: True. I do think the admin rules
24 should specifically require two signatures though because
25 currently they do not.

1 CHAIRMAN McCUSKER: You know, I tend to agree with
2 Mr. Hill in this regard. I always thought the treasurer --
3 and the fact that we post items to our website gives us some
4 degree of transparency and credibility.

5 So, Edmund, you -- we can vote on it, or you can
6 withdraw the motion and we could ask Mark to do something
7 that's more of a backup motion. Maybe it's more palatable
8 to Mr. Hill.

9 MR. MARQUEZ: As transparency is ultimately
10 important to this Board, I withdraw the motion and I request
11 that Mark, then, draw --

12 CHAIRMAN McCUSKER: The second has to withdraw
13 too, right, Jeff?

14 MR. MARQUEZ: No. We're good.

15 MR. RITCHIE: I withdraw.

16 CHAIRMAN McCUSKER: Okay. So we're back to square
17 one. We got to send you something revised.

18 MR. COLLINS: Okay.

19 MR. MARQUEZ: Yeah. I withdraw the motion.

20 CHAIRMAN McCUSKER: Okay. And you might save
21 yourself a lot of trouble by consulting with the esteemed
22 Mr. Hill.

23 MR. COLLINS: With a little -- I will be happy to.
24 If we get the Arena Site closed, I'll have a little more
25 time.

1 CHAIRMAN McCUSKER: Okay. We are elected as
2 officers for two-year terms. Those have recently passed.
3 We are waiting for the governor to fill his seat with
4 Mr. Marquez. So we do have an agenda item now to look at
5 our executive officer positions.

6 We have three: Chairman; treasurer, which we just
7 discussed; and secretary. We are all appointed to the
8 Board. Each of us elect the executive officers.

9 We don't have a nominating committee or anything
10 like that. So this is all done out here in front of God and
11 everybody.

12 MR. RITCHIE: I don't want to run.

13 MR. HILL: Mr. Chairman, is there any particular
14 order?

15 CHAIRMAN McCUSKER: Mr. Collins, is there a
16 protocol?

17 MR. COLLINS: There -- Mr. Hill, Mr. Chairman,
18 there's no protocol in the administrative rules. It
19 occurred to me that you could -- somebody could nominate a
20 slate. You could nominate one at a time.

21 If you were going to do it one at a time, I think
22 you'd start with chairman and move then through secretary
23 and treasurer, but . . .

24 MS. COX: Mr. Chairman, I would like -- I would
25 move that we retain the officers we now have for Rio Nuevo

1 for a second term.

2 CHAIRMAN McCUSKER: So your motion would be to
3 nominate the slate.

4 MS. COX: That's correct.

5 CHAIRMAN McCUSKER: All right. That would have to
6 be seconded by someone other than an officer.

7 MR. RITCHIE: Second.

8 CHAIRMAN McCUSKER: Okay. We now have a motion on
9 the floor. Does anybody want to speak to that?

10 MR. HILL: Yes.

11 CHAIRMAN McCUSKER: Mr. Hill?

12 MR. HILL: Mr. Chairman, in conjunction with the
13 earlier problem or issue with the treasurer not available to
14 sign whatever documents you need, particularly financial
15 documents, the Article 6 passed out, talking about the rules
16 of each officer: 6.53 is the treasurer.

17 And I would like to make a substitute nomination
18 of the first two officers. And for the third officer, I
19 would like to nominate Dan Meyers.

20 He's already our CFO. These do allow him to be
21 the treasurer. And that would forever solve any problems
22 with availability and ensure that the taxpayers and the
23 Board had the best available person dealing with financial
24 issues as the treasurer and forever remove that problem and
25 certainly establish the vacancy of his position of CFO.

1 CHAIRMAN McCUSKER: Now we really need a lawyer.
2 So what do the District's bylaws provide for in
3 terms of executive officers?

4 MR. COLLINS: They have to be Board members.
5 Yeah. They've got to be Board members.

6 CHAIRMAN McCUSKER: Does the --

7 MR. COLLINS: The officers --

8 CHAIRMAN McCUSKER: -- does the -- is the
9 treasurer an identified officer?

10 MR. COLLINS: Yes, in fact. Oh, sure.

11 CHAIRMAN McCUSKER: So there are three
12 identified --

13 MR. HILL: It's an "or" Mark. "Board member
14 or..."

15 CHAIRMAN McCUSKER: What are you reading from,
16 Jeff?

17 MR. COLLINS: Six-five --

18 MR. HILL: 6.53. Or would say not a Board member
19 in construction...

20 MR. COLLINS: Let me see where you're reading,
21 Jeff.

22 MR. HILL: The first line of 6.53, treasurer. The
23 treasurer may be either a Board member or an outside firm or
24 individual with whom the Board has contracted.

25 That's Dan Meyers.

1 MR. COLLINS: Well, I'm reading a different one.
2 Let me see your copy. Because I --

3 MS. COX: But if that were the case, how would
4 we -- what would we do when we need input on decisions
5 and -- and decisions that the Board makes and asks the
6 executive board member to --

7 CHAIRMAN McCUSKER: Hang on. Mark's confirming
8 the document.

9 MR. COLLINS: This -- this -- Jannie, what's going
10 on right now is my copy of the amending District rules
11 doesn't have the language that Jeff is suggesting. He has a
12 copy of 6.53 that reads differently than the one that I
13 have. I can't explain that right now.

14 MR. HILL: Okay.

15 MR. COLLINS: I -- I don't know.

16 MR. HILL: Well, Mr. Chairman, if we --

17 MS. COX: Yes. No. I understand what's
18 happening. And I can see that there may be the possibility
19 that we could have Dan be our treasurer. But that doesn't
20 answer the question, what do -- how does that put us when we
21 need our executive Board member to finish the deal or
22 whatever it might be. We would now have two executive Board
23 members, not three, to carry off that task.

24 CHAIRMAN McCUSKER: Well, you can always -- I
25 mean, you have the executive officers -- we're not a

1 committee, remember.

2 MS. COX: Right.

3 CHAIRMAN McCUSKER: We're not an executive
4 committee. We're not assigned any committee functions.

5 MS. COX: -- committee.

6 CHAIRMAN McCUSKER: You could always appoint
7 someone to liaison any particular issue.

8 It does seem like we have a legal concern about
9 whether or not a non-Board member can, in fact, be the
10 treasurer.

11 MR. COLLINS: Right.

12 CHAIRMAN McCUSKER: I think -- are you going to be
13 able to answer that today or no?

14 MR. COLLINS: No. I don't know what that --

15 MR. HILL: Want to table until Mark has a chance
16 to research?

17 MR. COLLINS: Yeah. I'm a little mystified.

18 MR. RITCHIE: Do we still have a vote on the
19 table?

20 MR. COLLINS: Yeah.

21 MR. RITCHIE: I mean, why don't we go along with
22 the vote?

23 SECRETARY IRVIN: Well, is there a second on the
24 substitute motion?

25 CHAIRMAN McCUSKER: Hang on.

1 You have a motion and a second to elect the slate.

2 MR. HILL: And I substitute the nomination.

3 CHAIRMAN McCUSKER: And that would have to -- the
4 person who made the motion would have to accept.

5 MR. HILL: I would have to second it.

6 CHAIRMAN McCUSKER: Right.

7 And so Jeff has made a secondary motion to
8 identify Dan as the treasurer, if, indeed, it's allowed.

9 That would have to have a second, correct?

10 MR. HILL: Yes.

11 CHAIRMAN McCUSKER: Not hearing one, then we go
12 back to the original motion.

13 MR. HILL: True.

14 CHAIRMAN McCUSKER: Okay. So the motion on the
15 floor -- we'll do a roll call vote -- is to nominate the
16 current slate -- elect the current slate for another
17 two-year term.

18 Michele, call the roll.

19 MS. BETTINI: Edmund Marquez?

20 MR. MARQUEZ: Aye.

21 MS. BETTINI: Mark Irvin?

22 SECRETARY IRVIN: Shouldn't the executive officers
23 probably be the last one's to vote, or does it make any
24 difference?

25 MR. HILL: It doesn't make any difference.

1 SECRETARY IRVIN: Aye.

2 MS. BETTINI: Chris Sheafe?

3 TREASURER SHEAFE: Aye.

4 MS. BETTINI: Jeff Hill?

5 MR. HILL: Mr. Chairman, I just -- I just want to
6 explain my vote. Obviously, if -- if there -- these rules
7 that I were handed were not in play and it has to be a
8 nominated Board member by the governor, and the speaker, and
9 the president of the senate -- you know, it's moot; and this
10 motion is certainly valid.

11 But I would just hope that the suggestion that
12 Mark had -- Mark down here not Mark up at the dais -- has
13 said about the treasurer -- that language not being what's
14 been proposed but as an alternate in case we get in a jam --
15 so that the treasurer still has that primary responsibility.
16 Just because I would feel much better that the treasurer, if
17 we reelect Chris, is in that loop as much as possible.

18 CHAIRMAN McCUSKER: And I think there's a lot of
19 merit to that conversation.

20 MR. HILL: And with that understood for, you know,
21 the electorate and the press and the transparency, I will
22 vote aye on the slate, Mr. Chairman.

23 MS. BETTINI: Cody Ritchie?

24 MR. RITCHIE: Aye.

25 MS. BETTINI: Jannie Cox?

1 MS. COX: Aye.

2 MS. BETTINI: Fletcher McCusker?

3 CHAIRMAN McCUSKER: Aye.

4 And it's seven, zip?

5 MR. COLLINS: Yes, Mr. Chairman.

6 CHAIRMAN McCUSKER: Okay. So we're all around for
7 another two years.

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

10 CHAIRMAN McCUSKER: We do want to explore
11 Mr. Hill's suggestion as it pertains to check writing and
12 other treasury-type duties to see if it's possible that our
13 CFO could, in fact, be that.

14 So I think we could name him as a signer on the
15 check. But it --

16 MR. HILL: Assistant treasurer.

17 CHAIRMAN McCUSKER: Yeah, something. Maybe
18 assistant -- we'll -- so we'll research that further. But
19 the motion carried.

20 MR. COLLINS: And Mr. Marquez's -- there wasn't a
21 motion, but he asked me to move forward to do it. And one
22 of the first things I'm going to do is visit with Mr. Hill
23 about this so I can bring something a little more specific
24 and palatable to others on that.

25 CHAIRMAN McCUSKER: All right. It's the time

1 reserved for call to the audience.

2 Michele, you got anything?

3 All right. I'm going to entertain a motion to
4 adjourn.

5 SECRETARY IRVIN: So moved.

6 CHAIRMAN McCUSKER: All in favor --

7 MR. HILL: Aye.

8 CHAIRMAN McCUSKER: Somebody second -- somebody
9 second it first.

10 MR. MARQUEZ: Second.

11 CHAIRMAN McCUSKER: Ail in favor, say aye.

12 (Ayes.)

13 CHAIRMAN McCUSKER: Thank you very much. Good
14 meeting.

15 Thank you, Jannie.

16 (The meeting concluded at 3:12 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.



John Fahrenwald