RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

BOARD MEETING

Tucson, Arizona
September 26, 2017
1:00 p.m.

REPORTED BY:
John Fahrenwald, RPR
Certified Reporter No. 50901

KATHY FINK & ASSOCIATES
2819 East 22nd Street
Tucson, Arizona 85713
(520) 624-8644
BOARD MEMBERS PRESENT:

Fletcher McCusker, Chair
Chris Sheafe, Treasurer
Jeffrey Hill
Jannie Cox (telephonic)
Edmund Marquez

ALSO PRESENT:

Mark Collins, Board Counsel
Brandi Haga-Blackman, Operations Administrator

* * * * *

BE IT REMEMBERED that the meeting of the Board of Directors of the Rio Nuevo Multipurpose Facilities District was held at the Arizona State Building, in the City of Tucson, State of Arizona, before JOHN FAHRENWALD, RPR, Certified Reporter No. 50901, on the 26th day of September, 2017, commencing at the hour of 1:00 p.m.
CHAIRMAN McCUSKER: Here we go. Calling the meeting to order. It's 1:00.

Brandi, call the roll.

MS. HAGA-BLACKMAN: Jeffrey Hill?
MR. HILL: Here.

MS. HAGA-BLACKMAN: Chris Sheafe?
MR. SHEAFE: Here.

MS. HAGA-BLACKMAN: Edmund Marquez?
MR. MARQUEZ: Present.

MS. HAGA-BLACKMAN: Fletcher McCusker?
CHAIRMAN McCUSKER: Here.

We do need to do the pledge.

MR. SHEAFE: Mr. Sheafe.

(Pledge was recited.)

CHAIRMAN McCUSKER: Okay. We have the transcriptions from the August 22nd meeting. If there's no changes, edits, or concerns, please move to approve.

MR. SHEAFE: So moved.

MR. MARQUEZ: Second.

CHAIRMAN McCUSKER: This is time we set for Executive Session. We need a motion to recess.

MR. SHEAFE: So moved.

MR. MARQUEZ: Second.

CHAIRMAN McCUSKER: 20 minutes.
(The Board recessed for Executive Session.)

(The Board reconvenes at 1:37. Ms. Cox joins the proceedings by telephone.)

CHAIRMAN McCUSKER: I need a motion to reconvene the meeting.

MR. MARQUEZ: So moved.

MR. HILL: Second.

CHAIRMAN McCUSKER: All in favor say "aye."

(Ayes.)

CHAIRMAN McCUSKER: Thank you for your patience. It should be a relatively short meeting.

There's really nothing new on our agenda. Most everything we're going to talk about today we've talked about in public session before. So we're trying just to advance some projects that we've previously approved or discussed.

I am going to table item number 8; that's the election of officers. We really want everybody to be here in person when we do that; so we're going to postpone that to the October meeting.

Even though we've termed, Mr. Collins, I understand we stay in office until otherwise the election is held?

MR. COLLINS: Mr. Chairman, Members of the Board, that's correct.
CHAIRMAN McCUSKER: Quick update from me.

Even though this is a short meeting, and kind of just some progress items, you certainly see the fruits of our labor just driving around downtown. It's really quite extraordinary -- you've got cranes and construction work and demolition.

I think there are thirty projects currently downtown. Many of them are totally unrelated to us but clearly I think we've been the catalyst for pretty much everything that's happening in and around us.

The AC Marriott opened last week. If you've not had a chance to visit that extraordinary property, the lobby bar, especially in the early evening -- I swear you were in Madrid, Barcelona; it's very European.

Then moving on to the Moxie. We have our zoning hearing for the TCC hotel I think October 5th, Mr. Collins?

MR. COLLINS: Correct, Mr. Chairman.

CHAIRMAN McCUSKER: The City's done a very nice job expediting the zoning for that. So we should be able to have some decisions in our October meeting for that property as well.

And I think the HUB has reopened. Proper's closed.

I read in the downtown update the other day there are 85 restaurants now in the downtown core. So if you're down here Thursday, Friday, Saturday night, it's a
hopping little place.

We going to move on to Caterpillar's headquarters items. Sundt is here.

And Phil, you guys want to come up? For the Board and public's edification, we elected not to do a single approval of the Caterpillar project but asked Sundt to bring us back kind of progress reports so that we can approve funding it in stages.

We did approve what's called GMP 1. Today we're going to be discussing GMP 2.

Mr. Swaim.

MR. SWAIM: Phil Swaim, Swaim Associates Architects, 7350 East Speedway.

CHAIRMAN McCUSKER: You might want to speak up for Jannie.

MS. COX: Thank you. Yes, thank you. If you could speak directly into the microphone that would be really helpful.

MR. SWAIM: I will do so, Jannie. Thank you.

So we're here today with a Guaranteed Maximum Price number 2. As Mr. McCusker said, we're coming to you in stages because of the pace of the project.

The project is going incredibly well. As you know, you've already approved GMP 1 and 1 A, which was the landfill remediation and sewer relocation that you guys are
covering, as well as the initial mass grading that is the 
first step of the Caterpillar budget.

Sundt is actually on schedule --

CHAIRMAN McCUSKER: Can you give one to 
Mr. Ferguson, the handsome reporter there in the back?

MR. SWAIM: Now he's confused.

-- actually on schedule and under the budget 
within both of those scopes of the work to date. So doing 
incredibly well and being efficient on site.

This next package coming to you is for the 
foundations and some of the key components like retaining 
walls, a storm sewer, and the elevator, that they really 
need to get started with the construction of the foundations 
by the end of October, beginning of November.

In your next board meeting in October, we'll be back 
with another Guaranteed Maximum Price, a GMP for really the 
major components of the building, which is the exterior 
skin, the steel structure, and the mechanical/electrical 
plumbing portions. That's probably 65 percent of the 
project scope, so that's going to be a big one coming 
forward. And then we'll come in with the last GMP in 
January.

But so far the project is doing very well.

We're showing that we're hanging right in there within 
the tracking distance of the budget on all these components.
The team is working on refining some of the components right now. I know Caterpillar is pleased. We're certainly very pleased with Sundt and Smith Group's efforts. I think Ian McDowell here with Sundt can provide a little more detail on GMP.

CHAIRMAN McCUSKER: Do we have a handout for the actual GMP markers --

MR. COLLINS: We were supposed to. I can cannibalize them from the exec session and we can post them -- assuming the Board approves it, we can post it.

CHAIRMAN McCUSKER: We should probably be looking at it while we're talking to him, if you want to pull them.

MR. COLLINS: All right. That's my mistake.

CHAIRMAN McCUSKER: While he's doing that, put yourself on the record, if you would: who you are, and who you are with, and where you're from, kind of thing.

MR. McDOWELL: Thank you. Ian McDowell with Sundt Construction.

I shared some photos -- just some printed photos with members of the Board -- and thank you again for having me, by the way. It really shows the depth and breadth of the work. There's been a lot of earth work so far, really reshaping the site so that we can get the building pad ready, which is what we're doing in preparation
for this next GMP, which is for the foundation work.

Everything seems to be going on schedule. We have the final tie in and removal of the existing sewer, which is what's going to be the next step that will allow us to start the foundation work.

Really the timing of the second GMP is done such that we can keep the flow of construction moving at the pace needed to deliver the project for Caterpillar when they need it.

Regarding the GMP itself -- just to remind everybody -- just to remind everybody the way that we had captured GMPs in the past -- the document that you have in front of you on the far left side the GMP 1, the site preparation package, that was two different components in that initial authorization.

The far left column, the 4,884,161 -- that was the portion that Rio Nuevo has allocated for the site remediation; that was a little bit under the budget of $5 million that had been appropriated.

The additional 1,645,930 -- that was for the portion that was allocable to the Caterpillar budget. So this next GMP is exclusively for some additional scope to be authorized for the Caterpillar budget.

The total of all three GMPs -- as you see, bottom right corner of that table -- is 13,905,144.
MR. SHEAFE: Do you mind if we just say the Caterpillar budget is the 43 million so it goes into the capital amount that's used to establish the rent after the building is complete? The other budget is the budget that is being contributed outside of that. Correct?

MR. McDOWELL: Agreed.

So the second page is just a breakdown of those costs. As with any process where we're pulling together numbers, we had a couple of the numbers come in a little bit over budget, we had a couple of the numbers come in a little under budget.

Fortunately, as you tally those up -- and see in the bottom section in the white -- we anticipated that this work was going to cost 9,148,599. And we're currently tracking about $127,000 under that anticipated cost.

I'm happy to answer any questions anybody has.

CHAIRMAN McCUSKER: You got the detail there. Most of it is obviously in concrete since this is foundation work -- 2.7 million, 2.8 million of that total is concrete work.

Talk about the indirect cost; it's a big number, 2.9 million.

MR. McDOWELL: Sure. So the project -- again, we've got phased GMPs for the project. Indirects are comprised of several different components, the largest of
which that you see here is for the general conditions for
the project, which is just for the administrative staff that
will be administering the project. So we've got all those
costs included in this and that will really cover the
administrative costs for the balance of the $43 million
budget.

In addition to the general conditions -- that includes
taxes, insurance, fees -- those are the primary components
that are included in there, the largest of which is the
general conditions.

CHAIRMAN McCUSKER: Mr. Marquez?

MR. MARQUEZ: Maybe you mentioned it while I
was reading it here but -- so we're still in the midst of
GMP 1, our finishing that out.

What's the timeline for GMP 2, as we're into
7.3 million -- how long will that be spread out?

MR. McDOWELL: The way we'd staggered these
GMPs was such that we had all that site prep work to do.
The target was to have the building pad ready on the first
of November and that would allow us to put in the
foundation. So the foundation work itself will occur over
approximately the first 3 or 4 months of the project; it's a
deep caisson foundation system.

And so, again, everything was being timed out
here so when we get done with the building pad this allows
us to keep going with the foundation work and so we could
move right through November and go all the way into
approximately March.

CHAIRMAN McCUSKER: Any other questions for
Sundt? What's your pleasure?
MR. SHEAFE: I move that we approve GMP2 as
presented.

MR. MARQUEZ: Second.
CHAIRMAN McCUSKER: Any further conversation?

All in favor say "aye."
(Ayes.)

Any opposed, nay. So that passes.
Jannie?
MS. COX: Aye.
CHAIRMAN McCUSKER: Thank you. So that
passes 5-0.
(The Board voted and motion carries 5-0.)

Thank you very much. We're thrilled with
Sundt's progress and happy to be involved. You guys are
doing a great job.

MR. McDOWELL: We appreciate the opportunity.
CHAIRMAN McCUSKER: We'll see you in October.
Mr. Collins, we've got to pay for all this.

Item No. 7 is the Caterpillar financing. We are
financing -- as Mr. Sheafe indicated -- $43 million. That's the total portion of our commitment to Caterpillar.

Indeed that will be passed onto Caterpillar in the form of a 25-year lease along with the interest associated with that. So we need to give our attorneys some instructions to complete this process.

MR. COLLINS: Before you begin, Mr. Chairman, Members of the Board, Mr. Sheafe set out in his question to Mr. McDowell that the $43 million will be wrapped into the lease payments. It will be interest and principal that will be paid back. The term has been shortened up 20 years at this point.

CHAIRMAN McCUSKER: To 20 years.

MR. COLLINS: To 20 years. In fact, there's some indication we might shorten it further before their documents are finalized.

But on the financing component, do you want me to start about that --

CHAIRMAN McCUSKER: While you're talking about term, I think the Board's position has been to authorize this so long as they are not substantial or material changes.

Do you view that as a substantial change term that we would have to come back to?

MR. COLLINS: Not for the Board. Because all
that would do is shorten up the term. If Caterpillar was okay with it it would increase the rent and increase the speed at which the $43 million is paid back.

CHAIRMAN McCUSKER: Thank you.

MR. COLLINS: So it's been lots of twists and turns on how to finance this. But I'm -- I'm of the opinion that we are on the homestretch. And if the Board was so inclined to instruct the executive officers and counsel to finalize the various loan documents and related agreements -- as we discussed in e-session -- I think that would be enough for today.

MR. SHEAFE: Mr. Chairman, would it be appropriate to go ahead and make the motion that we authorize counsel to finalize those negotiations and authorize the executive officers to approve them once counsel has them finalized?

MR. MARQUEZ: Second.

CHAIRMAN McCUSKER: Unfortunately, that was a question rather than a motion. If you would move --

MR. SHEAFE: I'll reverse the question part and make it a motion. The motion is that counsel be authorized to finalize the negotiations -- the executive officers be authorized to finalize what the counsel has done to wrap this up.

MR. MARQUEZ: Second.
CHAIRMAN McCUSKER: Any further conversation?

All in favor say, "aye."

(Ayes.)

Thank you, Jannie. That motion passed 5-0.

(The Board voted and motion carries 5-0).

We have tabled the election of officers.

Mr. Collins, give us an update on the Flores concept status. Just to remind the Board, we have approved a small deal with Ray Flores and the Flores family to activate three buildings downtown. It would be in the form of a loan.

Mr. Ray Flores has agreed to provide some personal guarantees, but some of the terms have changed enough for you to bring that back to us.

So, Mr. Collins.

MR. COLLINS: Yes, Mr. Chairman, Members of the Board. Let me get to my notes, I couldn't find the right binder.

Back in the July meeting the Board authorized, as you indicated, Mr. Chairman, a loan of $250,000 of favorable interest rates, rate term with a guarantee by Mr. Flores. There became an issue on whether or not the rebate of the TIF revenue -- recall that this arrangement was one where once the loan is made the District was going to rebate a hundred percent of the resulting TIF revenue
from these three locations. But the question was whether
that was a hundred percent with no floor, or whether there
was a floor on that hundred percent.

The original draft that I did included a floor of
$50,454, which was in the materials that Mr. Flores
presented.

Since that time, I've determined that the
last year was less than that. Those places generated
$29,400 in revenue.

The question for the Board is: Do you want
to rebate a hundred percent of everything or a hundred
percent of everything over that floor of 29-4?

CHAIRMAN McCUSKER: I think clearly the
conversation is, was this was incremental?

MR. COLLINS: Yes.

CHAIRMAN McCUSKER: This was new. So I think
we all assumed there would be a floor. And we were relying
on the actual numbers. So we just weren't clear enough with
you to establish that floor.

Is that floor agreeable to Flores?

MR. COLLINS: It is.

MR. SHEAFE: Could we make that motion? The
motion is that we accept counsel to finalize the financing
with the floor in place as agreed.

MR. MARQUEZ: Second that.
CHAIRMAN McCUSKER: And that's $29,400. Are you using the exact number?

MR. COLLINS: I rounded that number based upon 2016 actual numbers.

CHAIRMAN McCUSKER: That's the only change we need to approve?

MR. COLLINS: Yes.

CHAIRMAN McCUSKER: Any other conversation? All in favor say "aye"?

(Ayes.)

Any opposed, nay.

That passes.

(The Board voted and motion carries 5-0.)

Mr. Collins, good work there. Probably spent that much money on legal fees.

MR. COLLINS: Yeah -- I hope not, by the way.

CHAIRMAN McCUSKER: I'm teasing. Mr. Sheafe reviews your bills.

MR. SHEAFE: We came close.

CHAIRMAN McCUSKER: The amendment to Brings. Mr. Collins.

MR. COLLINS: Mr. Chairman, Members of the Board, as you will recall -- let me get to my appropriate tab here.

Back in 2016, you entered into an agreement with the
developers at Brings. And, in fact, the District -- we
closed that deal. But after that the developers came to the
Board and offered an alternative and that alternative was
one that freed up some capital for the District.

And so the attorney for the developers and I have
worked through an amendment -- well, let me back up.

The concept for that amendment was approved by this
Board in May of this year. And there had been some twists
and turns -- it seems to be something that happened with
some regularity.

But what we have done is we have an amendment
that changes the term of the lease a little bit, shortens up
the time that the developer has to pay back or exercise the
option. The option was originally $650,000.

That option is now $800,000. They -- the developer
has -- my calculation now is about 12 months to bring that
money back to the District to exercise that option.

There's -- we made a change to allow an accommodation
deed of trust for a specific amount, $900,000, but if
there's anymore than that on the accommodation deed of
trust, the developers have to advance a similar amount to
the District on the option price.

In other words, the District will most
certainly get its $800,000 sooner than it would have ever
gotten under the old deal. Those are the principle changes
that we did in the amendment. And it's --

CHAIRMAN McCUSKER: You're recommending

approval of the amended agreement?

MR. COLLINS: Correct. In principle it was

approved by this Board back in May of this year.

CHAIRMAN McCUSKER: We would just need to

authorize the executive officers and for you to finalize the

agreement.

MR. COLLINS: And you to execute it, Mr. Chairman.

MR. SHEAFE: Would you mind just briefly

summarizing the incentive from the developer's side for

making the change?

MR. COLLINS: Well, they got a hundred

percent of the incremental TIF revenue through the sunset

date of the District, which is July 1 of 2025.

CHAIRMAN McCUSKER: If you don't remember, we
did this -- the Greyhound deal independent; it was a

standalone deal. Since then, the developers came back and

said we'd like to package all of our deals and all we really

need from you is the rebate -- is the TPT tax. So this

restored 800 grand of cash that we had already authorized.

And it also brought the entire Chicago Store block from the

Chicago Store to Wig-O-Rama into the same basic concept.

Those will be individual deals, but conceptually, we
approved that as a package. This is the first one we've actually executed.

MR. COLLINS: Correct.

But to Mr. Sheafe's comment -- and that sharing of TIF revenue caps out at $1.86 million.

MR. SHEAFE: Which if we had those caps in each case -- the central point here is that this dramatically improves our leverage as a District and we are getting now maximum leverage. I don't even know that you can calculate it because it's almost infinity.

CHAIRMAN McCUSKER: You're basically giving them their money back.

MR. SHEAFE: They're given their money back. And we don't really have an investment in it. It's a tremendous opportunity for downtown and actually a great incentive for extending --

CHAIRMAN McCUSKER: In the meantime, the Owl's Club there, the little speakeasy has become one of the most popular establishments downtown.

MR. SHEAFE: I didn't know that.

CHAIRMAN McCUSKER: Make a motion then.

MR. COLLINS: To the point of cash flow, getting the $800,000 back is certainly helpful to the District's cash position.

MR. SHEAFE: Let me make the motion that we
accept the amendment per counsel's recommendation and
approve it for final execution.

MR. MARQUEZ: Second.

CHAIRMAN McCUSKER: Does that work?

MR. HILL: Point of order. If we're just
adopting the amendment, we'll have to have another motion to
readopt the total contract.

MR. COLLINS: No. The contract has already
been adopted.

MR. HILL: So the amendment --

MR. COLLINS: -- is separate. We don't have
to separate them out, Mr. Hill. The agreement that we're
amending has already been executed, has been closed, and is
all in place. This is -- we call it an amendment, but it's
truly a standalone agreement.

MR. HILL: All right. I got it.

CHAIRMAN McCUSKER: Your motion, does that
authorize the executive officers then to execute --

MR. COLLINS: That's what I understood
Mr. Sheafe to say.

CHAIRMAN McCUSKER: We have a motion and a
second. All in favor say "aye."

(Ayes.)

CHAIRMAN McCUSKER: Jannie?

MS. COX: Aye.
CHAIRMAN McCUSKER: Any opposed, nay.

(The Board voted and motion carries 5-0.)

MR. COLLINS: And to Mr. Hill's comment, it does get confusing because it wasn't an amendment to a motion, it's an amendment to an existing agreement.

CHAIRMAN McCUSKER: Item 11. Ochoa Street improvements. You will recollect we are working with the Catholic diocese on the Cathedral Square Project. We're investing in the public right of way sections there along the southern side and in the middle of Ochoa Street. That will be a contract that we ultimately end up procuring because there will be competitive bids for that.

In the meantime, Mr. Collins, I do believe we have the authority to hire a project manager to help us with that project without requiring competitive bids. This proposal would be that we retain the current project manager that's under contract to the Cathedral to also provide similar services to us.

MR. COLLINS: It's a professional service so you can direct select, yes.

CHAIRMAN McCUSKER: We have not negotiated an amount. This would basically authorize the executive officers to negotiate with the current project manager so they would work directly for Rio Nuevo for our portion of that project, which is, again, improvements into the
sidewalk right of way street north of the Cathedral property.

MR. MARQUEZ: I move we authorize executive officers to work with the project manager of the Cathedral Square via the Catholic diocese.

MR. SHEAFE: With a cap of 1 million.

CHAIRMAN McCUSKER: This is only project management so --

MR. SHEAFE: For the whole project.

CHAIRMAN McCUSKER: The whole project is capped. I didn't put any words into Mr. Marquez's motion.

MR. MARQUEZ: Yes. With a cap of $1 million for this entire project.

MS. COX: Second.

CHAIRMAN McCUSKER: Jannie understood that well enough to second it.

Any further conversation?

All in favor say, "aye."

(Ayes.)

Any opposed, nay.

CHAIRMAN McCUSKER: Jannie, we got your "aye."

(The Board voted and motion carries 5-0.)

MS. COX: I'd like to ask a question about the timeline on that. Do we know anything about the
 timeline?

CHAIRMAN McCUSKER: We will be last in. I think they are a year to a year and a half away from completing the Cathedral portion of the project. So we have plenty of time to deal with the construction, the architecture, the bidding. We're talking to the City about the ownership and rights and all that. So there's plenty of time, Jannie, on that project.

MS. COX: Okay. Thanks.

CHAIRMAN McCUSKER: Time we set aside for a call to the audience.

I don't see any cards. Entertain a motion to adjourn.

MR. SHEAFE: Just make one comment, Mr. Chairman. We normally have a financial report.

MR. COLLINS: Oh, good point.

MR. SHEAFE: We do have a written one here. I apologize. But I have put together a little written summary of where we are. I'll get that to Brandi so it can be entered into the record and distributed to any member of the Board as well.

CHAIRMAN McCUSKER: We'll post it to the website.

MR. COLLINS: Post it to the website, right.

CHAIRMAN McCUSKER: Is there anything you
want to say while you're looking at it?

MR. SHEAFE: No. There's nothing we need to put into the record right now. I just want people to know that we will be putting that where it's fully available.

CHAIRMAN McCUSKER: We have a motion to adjourn. All in favor say "aye."

(Ayes.)

See you in October.

*****
CERTIFICATE

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, RPR