

**Minutes for Meeting  
of the Board of Directors of the  
Rio Nuevo Multipurpose Facilities District**

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**Thursday, June 17, 2010**

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

A meeting of the Board of Directors of the Rio Nuevo Multipurpose Facilities District was held on a Regular Meeting on Thursday, June 17, 2010 in the Tucson Convention Center, Greenlee Room, 260 South Church Avenue, Tucson, Arizona commencing at 2:00 pm.

**1. Roll Call**

The meeting was called to order at 2:30 pm.

	<b>Appointee</b>	<b>Present</b>	<b>Absent/ Excused</b>
Jodi A. Bain, Chair	Senate	x	
Dan Cavanagh, Member	Governor		x
Jeff DiGregorio, Member	Tucson	x	
Scott Egan, Member	House		x
Carlotta Flores, Member	Governor	x	
Mark Irvin, Member	House	x	
David N. Jones, Member	Governor	x	
Alberto Moore, Member	Governor	x	
Anne-Marie Russell, Member	Tucson	x	
Victor Soltero, Member	South Tucson		x
Alan F. Willenbrock, Member	Governor		x

**2. Discussion and possible action with regard to financial advising and financing services for the District – Alan Willenbrock and Jodi Bain.**

Chair Jodi Bain indicated that there were four firms contacted to give presentations to the Board regarding financial advising and financing services. Out of the four firms, one declined, one was unable to make a presentation due to a family medical issue, and two came and spoke to the Board. They were RBC Capital Markets and Wedbush Morgan Securities. Both completed their presentations prior to the regular Board meeting,

A motion to accept RBC Capital Markets as the Board's Financial Advisor subject to negotiations was made by Board Member David Jones, seconded by Board Member Jeff DiGregorio.

Board Member Alberto Moore suggested that the Board wait until the other two firms could come before the Board with their presentation. Board Member Jeff DiGregorio indicated that in his opinion that the firm that was not able to come due to a family emergency had the opportunity to send someone else from their firm, and did not. Mr. Moore indicated that he believes that in waiting until the other firms can also make a presentation, the Board would be receiving the best information possible to make a decision. Mr. Jones indicated that it was his understanding that all of the firms could have submitted something in writing that could have been used by the Board to make their decision. Since RBC Capital Markets has a history with the District and the City of Tucson and are very capable and very qualified, he believes the Board should go ahead with the decision to choose RBC Capital Markets with the understanding that if they do not work out, they can change firms at a later date.

Chair Jodi Bain asked for a roll call for the motion on the floor. The results were as follows: Alberto Moore – No; Carlotta Flores – Yes; Mark Irvin – Yes, Jodi Bain – Yes; David Jones – Yes; Jeff DiGregorio – Yes; Anne-Marie Russell – Yes; motion passed 6-1

**3. Review and possible action with regard to the Minutes of June 9, 2010. (The June 2, 2010 minutes will be ready for review and approval next week.)**

Chair Jodi Bain indicated that the approval of the minutes will be delayed until the next meeting.

**4. Interim Executive Directors Report - Richard Miranda**

Interim Executive Director Richard Miranda indicated that this report includes the discussion of the Mayor and Council meeting that was held on Tuesday, June 13, 2010. The discussion centered on the time line that was before the Mayor and Council and voted on. The direction of Mayor and Council was to get District Board authorization and prepare to begin negotiations specific to the hotel IGA with the City of Tucson and the District Board dependent on the Board's proposed time line with the City of Tucson. The City is prepared to review any discussions respective to the time line which came up with a compromise or a schedule that is amenable to both entities. Staff awaits direction from the District Board in terms of the time line.

**a. Discussion and possible action with regard to a schedule for decision-making on the hotel.**

Chair Jodi Bain indicated that she has been working with Board Counsel and others trying to put together a working draft for the time line. There are different motivators on time that we are trying as a District to come to grips with. The District should negotiate with the key people at the City to move forward in a cooperative manner. It is the sincere hope of this District Board that we move forward on this time line whether it is tentative or final. We have attempted to put together a working draft of a time line that has just been distributed, and will make it available electronically as requested.

Chair Jodi Bain indicated that the time line is organized in four-phases instead of the 2 phases presented by Mayor and Council. It is meant to be a working draft to be accepted or further developed with Mayor and Council. This is a discussion and negotiation that has now gone back and forth between the key players that I have been instructed are going to be Richard Miranda, Kelly Gottschalk, Mike Rankin, and possibly the City Manager. I did speak with some Mayor and Council staff so that there is no misunderstanding. The discussion at the last meeting became confusing between the negotiating team that was set up to deal with the components on the pieces of the hotel, depot garage, TCC expansion, etcetera, as well as how the time line was going to work. Some of us walked away with one idea and others went away with another; however in the end what is going to happen is certain folks are going to liaison with the negotiating team that was meant to deal with the hotel, garage, and TCC component with the staff from the City and work on a time line. This is a working draft, Phase I will be June and July, Phase II would work into July, August, September, Phase III would cross over September/October, and then the last phase would be the actual issuance of a bond or closing if appropriate and it is October, November, December, and possibly pushed into January depending on what makes sense and on whether the components of the project are phased in or done all in one big package.

Finance Director Kelly Gottschalk indicated that she had questions on some of the items on the time line, but those could be discussed with the negotiating team. But once we get to the Hotel Operating Agreement, since we are spending a significant amount of money, we need to make sure that we are okay or at least pretty close to being okay on the other items before we start spending money, along with City pledged items. These are pieces we can work through.

Chair Jodi Bain indicated that in regards to the Hotel Operating Agreement there is an inherent issue of when we start spending the majority of funds with regard to consultants, and counsel of the various bonds for the Hotel component and/or the key term sheets. If by keeping with the capital plan, and what the cost is going to be under a hotel operating agreement; there is a crossover. That is why it was in the same section. Whether or not it is a fully engaged, double counsel or not, it is going to have to be part of the relationship that goes into finishing off of this time line.

Board Member David Jones asked if future expenditures have been stopped on the planning, architecture and design while we are going through negotiations so that we do not just continue spending money. Mr. Tony Traub indicated that the District has paid them for everything up to this point, until such time when the Board adopts the resolution to go ahead with the issuance of bond. Mr. Jones asked about the Pre-Opening expense and where do the funds come from. Mr. Traub indicated that normally that expense is part of the financing.

Mr Miranda indicated that his expectation was to get approval by the Board to sit down and discuss and start working on the time line, and from that start working on the Hotel

cooperation agreement or IGA. I believe the time line can be worked out when we sit down and get together and work it out.

Chair Jodi Bain indicated that after today's meeting, she would contact Mr. Miranda's office to set a time that would be good for everyone to meet to discuss the time line and the negotiating team matters.

**b. Discussion and potential action on 2011 draft budgets.**

Finance Director Kelly Gottschalk indicated that she distributed material that will cover the questions that were submitted to her from the Board. (

QUESTION 1 - How will the Balance Sheet reflect the \$1.7 M if the District does not acknowledge the validity of the claim.

ANSWER 1 - Assumption: "validity of the claim" means the debt does not exist – not that it will not be paid, it is essentially "written off". Depending on the assumption, one of the following will be true.

- a. Loan amount is "written off"
  - Current Portion of Long-Term Liabilities would decrease by \$1.7 million
  - A Prior Period Adjustment would increase Net Assets
  - Cash would remain unchanged
- b. Loan amount is not paid but is not "written off"
  - Current Portion of Long-Term Liabilities would remain the same
  - Net Assets would increase
  - Cash would remain unchanged
- c. Loan amount is paid in FY 2010
  - Current Portion of Long-Term Liabilities would decrease by \$1.7 million
  - Net Assets would be unchanged
  - Cash would decrease

QUESTION 2 - Further explain what Kelly said last week that an item does not become an obligation by just being included in the budget and that inclusion only means that the District can spend/incure an obligation by further Board action.

ANSWER 2 - Given the limited amount of time before the budget needs to be approved and the fact there are many questions on the capital projects Kelly's suggestion was as follows:

- Adopt a budget that would allow sufficient expenditure capacity to preserve decision making flexibility. This allows the Board to decide at a later time how best to use the unencumbered portions of these project funds.
- Kelly was suggesting, that as part of adopting the budget, the Board could clarify their intention on what additional approval would be required before any further encumbrances were made. Kelly is assuming Board action would be required for further encumbrances, even without this action. It would clarify the intention of the Board that additional Board action was required in the future on these projects, or to move the funding to other projects, if allowed legally.

QUESTION 3 - The payment of the \$1.7 M in 2010 or 2011 will result in the District becoming insolvent. How is this proposal fiscally responsible?

ANSWER 3 - This is a question best addressed by the Board, Treasurer and Legal Counsel.

QUESTION 4 - Explain the “nexus” of each 8 capital projects included in the Draft Budget to the District and/or the District’s Mission.

ANSWER 4 A - District Mission:

- "Multipurpose facility" means any facility or facilities that include:
- (a) A primary component that is located in the District on the multipurpose facility site and on lands that are adjacent to each other or separated by public rights-of-way, that the District owns or leases and that is used to accommodate sporting, entertainment, cultural, civic, meeting, trade show or convention events or activities, fire, police or other public safety facilities and tourism offices. The primary component may not include any structure or part of a structure that is used or designed for use as a county, city or town hall, as meeting space for the county, city or town governing body or for general municipal administrative office space other than for the administration, maintenance and operation of the multipurpose facility.
- (b) Secondary components that are located in the District and that the Board determines are necessary or beneficial to the primary component, limited to on-site infrastructure, artistic components, parking garages and lots, and public parks and plazas. In addition, secondary components may include related commercial facilities that are located within the multipurpose facility site.

ANSWER 4 B - Rio Nuevo Board Approvals and History for each project in the FY 2010 Capital Budget. Ms. Gottschalk indicated that for each project we have listed the dates of the minutes, where you can read the conversation on that happened, the approving resolutions, if there was one, and the executive actions that were approved, have been included in the information distributed to the Board today.

Board Member David Jones indicated that when it comes to the caliber of the members that serve on this Board, we want to pay any obligations that we deem as legal and within the latitude of our responsibilities. This is one that we look at as a little disputed, a little grey, and in no way would I want the Mayor and Council to believe that we are being obstinate, we just want to fulfill what we see as our fiduciary responsibilities and as soon as we can get clarification on that, I would say that reasonable people would get that money to you. But we do have the responsibility to be absolutely certain that what we are doing is correct. Ms. Gottschalk indicated that she and Mr. Miranda would convey this to the Mayor and Council.

Board Counsel Bob Gugino indicated that there were some questions about the projects and since there is a lot on the agenda today, maybe we could schedule a follow-up presentation by Mr. Jessie Sanders that he started two weeks ago. It would be helpful if we could finish that presentation, it will give everyone an opportunity to ask questions about the individual projects and hopefully find out what they are all about.

Chair Jodi Bain indicated that the presentation will be scheduled for a future agenda.

**5. Status report and possible direction regarding convention center/hotel based activities –David Jones and Greg Shelko.**

Chair Jodi Bain indicated that as the District moves forward with looking at the hotel, as of last week, it appeared that we had 90% plans and were moving forward to the final decisions with the final approval. The District has been trying to get a handle on what is going to be required from the construction perspective as it moves ahead subject to final approval. Ms. Bain asked Greg Shelko to give an update on what is going on with the Hotel.

Greg Shelko indicated that he had a short update. The east entrance is substantially complete, with no issues to affect opening.

- The June 25<sup>th</sup> final completion date is being worked toward and he believes it will be met and under budget.
- There are some payments pending from May 31, 2010, and 90% to 92% of the funds have been paid out. Payments are in process of being paid by fiscal year end.
- The Hotel design was completed in May, and an in depth presentation will be given to the Board
- The GMP from Turner and Sundt/Garfield Traub was received on June 15, 2010.
- Capital Plan – financial models using Build America Bonds.
- Payment from May 31, 2010 is 99% paid out, there is \$150,000 for the architect that will be left at the end of May, but used up by the end of June.

Chair Jodi Bain asked where the plans are located. Mr. Shelko indicated that they are at several locations: Phoenix – DLR, Tucson – Builders, and Kansas City. Plans are based on final documents.

Mr. Jones asked if the plans were online. Mr. Shelko indicated that they were on an .ftp site. Ms. Bain asked when the Board will have access to them online. Mr. Shelko indicated that they should be available today.

Mr. Shelko indicated that all of the Hotel payments have been made with the exception of the payment to the Architect.

Mr. Moore asked what Mr. Shelko's roll will be from this point on. Mr. Shelko indicated that this is a decision the Board will need to make if he is to stay, since his existing contract will be completed at the end of this phase, and it is coming to the time of the GMP.

A motion that any payments that are to be paid or further sign-offs on plans, or otherwise need to come to the Board first for their approval and direction was made by Board Member Mark Irvin, seconded by Board Member Alberto Moore.

Mr. Miranda indicated that he has not been signing off on any payments until it goes to the Board first.

Motion passed 7-0.

**Item 4. b. was readdressed.**

Board Member Mark Irvin indicated that he had a question that relates to the Item 4. b. Discussion and potential action on 2011 draft budgets. One of the pages was entitled, "Executive Action Item Approvals of Capital Projects". I was not here in November, but I see on March 16, 2010 that we had additional funding for A&E costs for hotel projects, transferred downtown infrastructure funds to cover undergrounding TEP lines on Arizona Avenue, and additional funding to cover the caisson issue for the TCC new main entrance; I do not recall ever approving this. Board Member Jeff DiGregorio indicated that if his memory serves him correctly that at the first or second meeting as a new Board the reports were approved.

Deputy Finance Director, Silvia Amparano indicated that during the November 18<sup>th</sup> Executive Director's Report, which Mr. Irvin was referring to, was the protocol that Mr. Miranda had in place at that time. Any change order or any budget change that was made would need Executive Director's action and be reported to the Board. The items that were reported to the Board took place before that date. The item for the additional funding for the caissons was to keep the TCC main entrance on schedule. Therefore action was taken by the Executive Director. This protocol has been changed; everything is now coming to the Board for approval.

Board Member Mark Irvin indicated that Chair Jodi Bain handed him a note that said she would be right back, and wait to address item 6 until she returns.

**Item 7 was moved out of order.**

**7. Update on general liability and premises insurance - Mark Irvin**

Vice Chair Mark Irvin indicated that at the last meeting the Board went ahead with the premises insurance. DM Lovett is currently reviewing general liability insurance coverage. He will coordinate with Madam Chair and ask her to put DM Lovitt on the agenda to come in and visit with the Board regarding general liability insurance needs. The piece that we will still need to look at is making sure that we are named as co-insureds on some of the properties that we own.

**6. Report and possible direction on how to handle payment of existing contractual obligations - Jodi Bain and Mark Irvin**

Chair Jodi Bain indicated that she has been working for weeks to try and get invoices put through for payment. The Board is trying to get their hands on how much money is involved so wanted to open up for discussion as to whether one person or two members of the Board would initial off before the invoice would be approved for payment.

After some discussion by the Board, a motion was made that when an invoice comes in, as the City starts to look at it, they forward a copy to the chair, and in the absence of the Chair, then the Vice-Chair, with a note indicating that the District has the money to for pay it, and then the Chair or Vice-Chair would select one other person, whether it be the Vice-Chair,

Secretary, or Treasurer, to also go through the approval process in an expedient manner, seconded by Board Member David Jones. Motion passed 7-0.

- 8. Update on Auditor General's office and Crowe Horwath on the audit - David Jones**  
Board Member David Jones indicated that the Auditor General has received a signed contract from Crowe Horwath and they want the entrance to be for the date of July 14, 2010 in Phoenix and they would like a representative from the City and representatives from Rio Nuevo. Board Counsel Keri Silvyn, myself, and Dan Cavanagh are planning on attending the meeting. Deputy Finance Director Silvia Amparano indicated that they have not been contacted by the Auditor General's Office. Mr. Jones indicated that the Board should follow up on that tomorrow because right now, July 14, 2010 is the date they are targeting.

Board Counsel Keri Silvyn indicated that she should have the update on the Crowe Horwath contract and also the fee arrangement agreement with the Auditor General's Office. She indicated that she will come back to the Board next week and advise them on both of these documents so that the Board can get an agreement in place.

- 9. Discussion and possible action with regard to Bond Counsel services for the District. - Jodi Bain**

Chair Jodi Bain indicated that Bond Counsel presentations will be scheduled for the firms to come and address the Board beginning at 12:45 pm.

- 10. Report from Legal Counsel – Keri Silvyn and Bob Gugino.**

**a. Report on negotiations of City of Tucson IGA.**

Board Counsel Keri Silvyn indicated that the Board had a meeting with the City Attorney and Kelly Gottschalk to talk about the current draft of the IGA. We have acknowledged that we are going to continue with negotiations. That is mainly what we are going to talk about in executive session.

**b. Report and possible action regarding Administrative Rules revisions.**

Board Counsel Keri Silvyn reminded the Board that attached to the revised IGA is the amended administrative rules. Our administrative rules still reflect the old statute and we are going to need to update those. There are a couple of issues that I need to direction for from this Board on relating to how we are going to operate with this Board in the District. One of them is the way the Administrative rules work right now, once the Treasurer is elected and we have a treasurer, that treasurer alone can sign anything related to a bank account, checks, etc. There is no requirement for dual signatures.

One of the things in light of the previous conversations, it is the potential for putting together a protocol that in the administrative rules it automatically requires specifically more than one signature or acknowledges that it can be just the Treasurer or additional signatures as advised by the Board so that we have some flexibility in the administrative rules, for the next generation of the Board, without having to amend the administrative rules. But I need some direction from the Board on how many signatures you want and



if you want that determined by the administrative rules or acknowledged that the Board can make that decision from time to time.

One more thing on the administrative rules which is voting and quorum. Currently, we are technically a twelve person Board, but we have only eleven members appointed, one member has not been appointed. For quorum purposes the majority of the directors, according to our administrative rules and statutes. We have been interpreting that to be the majority of the directors actually seated and appointed which I believe is the correct interpretation.

Board Counsel Keri Silvyn indicated that she is suggesting that the Board decide that it takes a majority of the Board members who are currently seated to make the quorum. So, if the situation were to arise where the Board has a notice to proceed on the hotel on the agenda and are ready to take action and only six people come, what it requires is that all six must vote yes to move it forward. If any less than six show up, the Board cannot take action because they do not quorum. Chair Jodi Bain stated that decisions should be subject to the majority of the Board and not a Board quorum at a given meeting. There was some discussion regarding certain pivotal decision should require a majority of the Board and others may not. The issue was to be deferred for further discussion.

Board Counsel Keri Silvyn also suggested that the administrative rules have some flexibility. Right now we have eleven people who are coming almost a hundred percent of the time every week. For future Boards we do not want to stymie the Board just because their situation is different. I think we need to work in some flexibility. If there is not flexibility, and since the administrative rules are being adopted as an exhibit to an IGA with the City of Tucson and City of South Tucson, they would need to agree to update the IGA which is difficult and time consuming. Chair Jodi Bain satte the administrative rules should be removed from the IGA as the District is allowed to make its own rules and it does not need to be part of an IGA.

Board Member Anne-Marie Russell indicated that the administrative rules will read differently depending on whether the District hires an individual as the Executive Director or not. She believes that decision needs to be made before the Board finalizes the administrative rules.

Board Counsel indicated that the goal will be to extricate the administrative rules from the IGA.

**Item 10. e was moved out of order.**

Board Counsel Bob Gugino indicated that he would start with Item 10. e and work backwards.

**e. Report on 351 S. Brickyard (West side hole in ground).**

Mr. Gugino reminded the Board that when Gugino and Mortimer, PLC was hired, they were charged by the Board to determine what assets and what properties the District owned and the current status of ownership and/or right flowing from those properties.

We identified properties as part of the ongoing discussions regarding the IGA. We have also reached agreements with the City regarding these properties. Item 10. e is the 351 S. Brickyard property. It is affectionately known now as “the hole in the ground”, west of Congress. We have relayed to the City our position that the District should be deeded that property, once the District has completed its due diligence. This is part of the ongoing discussions with the City.

**d. Report regarding Arena site.**

As to the arena site, there have been discussions by the City to sell that site. The District has spent approximately \$900,000 in expenses when that site was being considered for the arena. We have again asked the City for a separate agreement for those funds to be reimbursed to the District from the sale. This is still on the table.

Board Member Mark Irvin, in speaking for himself, indicated that he thinks it is a mistake to sell those properties. I think that is something that may come back to bite us or them later. I am concerned about the sale of that site for a couple of reasons. First, we are selling it in a depressed economy right now and I understand the City wants to generate some cash, but I think it is the wrong time. The second thing is that just from maximizing your value, assuming we will be going forward with a hotel, that site will have a lot higher value afterwards than it will right now. And also, that I have not seen a parking schematic that really gives a comfort level that the parking garage and some of the other things that will support the site are adequate. I think we make sure that the City understands that issue that we think it is a mistake for them to do this, and we should be vocal about it.

Board Member Carlotta Flores indicated that there are many pieces of property that are out there that the City could sell, these are not the ones they should sell.

Mr. Gugino indicated that his concern is primarily parking for a new hotel and this convention center. I have expressed that with the City Attorney and have sent several memoranda about the parking as required for the development plans. The ability to use excess surface lots rather than a parking garage has been proven by many hotels and convention centers to be much more advantageous but it is ultimately a City owned property and the City will make its own determination. I would hope that our message has gotten through to the Mayor and Council. They do own the property and if they do decide to sell it at least our position is that the District should be reimbursed for the monies it has spent on the planning of that property.

**c. Report regarding Depot Plaza Parking Garage.**

Mr. Gugino indicated that the most complicated issue has to do with the Depot Plaza Parking garage. There are some events that have surfaced since last Thursday that has

brought this to the forefront. Since last April, Chair Jodi Bain, Vice Chair Mark Irvin, Board Counsel Keri Silvyn, and I have requested in several meetings with the City information about the Depot Plaza Garage. You might recall the District has invested about 95% of the roughly \$16 million that has gone into that development. This Board felt that it was important that its investment be recognized through either ownership or through the revenues produced by that garage.

The amended IGA that controlled that property, which was entered into in September of 2008, including the City and the District and was known as the "Depot Plaza Investors," provided a lack of clarity as to ownership and it provides "the City and/or the District shall own operate and maintain the garage." I have not been able to find anything in these records. I have spoken to Mr. Hicks and I have never received anything from the City in response to our request of them which clarifies how the property was ultimately to be owned once it was completed.

Our charge from this Board was to go in and try to resolve that issue. We have asked for documents for several months and last Thursday I received the documents, *pro forma* from the City Attorney which basically outlined operating expenses that Parkwise, the arm of the City that runs the City parking garages estimated that it would cost somewhere around \$62 to \$65 a space a month to operate and maintain the garage.

I had heard that the City was entering into a settlement that would tie up some of those spaces. The IGA provides that the developer project would be provided with 100 parking spaces at an agreement to be decided between the City and the developer.

Last Thursday the City had entered into a settlement with the developer of the project and the current developer, a different entity than the developer mentioned in the IGA and we will hopefully be able to get from the City some assignment documents that show that the original developers rights were assigned to the current party that the City had entered into a settlement agreement with. Per the terms the City agreed to lease 142 spaces which are approximately half of the spaces in the garage at a rate of \$25.00 a month for five years, then increasing to \$35.00 a month for the second 5 years, with a cap of no more than \$100, a perpetual cap for the rest of the time. We learned that there are also 20 spaces that were leased perpetually for \$20.00 per month. I just found out that those spaces are not leased per the settlement agreement but are needed by the City's Housing and Community Development Department (formerly Community Services) to serve the residents of the MLK residences.

The City is basically proposing to tie up 162 of the spaces for below these market rents that the City has acknowledged are \$85.00 a space a month.

The remaining spaces that are not tied per this arrangement would be 22 spaces that would be leased out at the market of \$85.00 a month. The remaining 143 spaces would be left for a daily rental, with an anticipated \$5.00 a day charge with two turns a day. Assuming that there would be an 80 percent use of those spaces, this would result in a

net operating of about \$152,000 per year that would be available for the project. If the 142 spaces had not been made part of the settlement agreement, and the other 20 spaces had not been committed at \$20.00 a month, that revenue would come to about \$240,000 a year. It is a substantial decrease in the ultimate revenues because of these agreements that have been entered into by the City.

We subsequently learned on Tuesday night of this week, we had a meeting with the City that Ms. Bain, Mr. Irvin, Ms. Silvyn, and I had attended on Monday, about the same time we were in this meeting the City was signing the settlement agreement tying up the spaces. We probably learned about it at the same time Mr. Odell learned about it because he had an article in this morning's paper.

The settlement agreement with an entity known as "Downtown Tucson Development Company" that was entered into on Monday contemplates that within 60 days there will be a permanent parking agreement entered into. That agreement is important because it contains issues, at least in the parking agreement that I have been involved in, of the commencement dates for the rents. In addition to the problem of the rents being at \$25.00 per space per month for the first five years we do not know when the commencement date of those spaces will be.

I know those developers completed one of the two buildings so they may not need 142 spaces at this time and that may be decided by parking agreement as to when those rents will commence.

All of this brings us to the problem that this Board needs to now consider and those have to do with the issues of the City going out, despite the language in the IGA, and making an agreement potentially to the City's financial benefit to use these spaces to settle a claim against it, which is potentially to the District's financial disadvantage.

There is also the issue about the District not being at the table when these decisions were being made and the City has been clearly aware of our position since April. We did not find out about all this until the deal was cut. We ask this Board to consider these issues and give us further direction on how to proceed with the possible resolution of this issue and what position we should take.

Board Member Mark Irvin indicated that he has been involved in this, and it appears that this has been going on for quite some time and I guess I would direct my questions to Chief Miranda. Was this is not something that you knew was cooking?

Mr. Miranda indicated that he was not part of any negotiations or discussions involving the Depot Garage. The discussion was being held by the City manager himself and the City Attorney and I was not involved in the discussions or details, nor did I attend any of the executive sessions that were involved with the Mayor and Council respective to this arrangement. Only peripherally did I know that the manager and the City Attorney were in discussions, but what specifically what was going on in the discussion I had no idea.

Vice-Chair Mr. Irvin voiced his concerns with this issue. First off, there is \$16 million dollars in funds expended by Rio Nuevo and it bothers me incredibly that while I am sitting in a meeting with Kelly Gottschalk, City Attorney Mike Rankin, and our counsel and our chair trying to go through an IGA and then I get a copy of the agreement that was signed on the exact same day that we were meeting with them. I think that is extremely problematic and it really bothers me that we were not seated at the table.

Vice-Chair Mr. Irvin indicated it is also important to note that the agreement and the release between the Downtown Tucson Development Company, LLC and the City of Tucson is not one that we are named as a party to, so in my mind the City has used assets that really they do not have any money in, to settle a suit. I have been trying, and made it very clear since day one that I really want to play nice. I find it very difficult to play nice when I do not have any seat at the table.

A motion that the Board direct Counsel send a letter to the City Attorney and also to the representatives of the Downtown Tucson Development Company, LLC, letting them know that we do not agree with that settlement offer and advise them accordingly, was made by Board Member Mark Irvin, seconded by Board Member David Jones.

Chair Jodi Bain asked for clarification. In the IGA that set this up was between the District, the City, and the Downtown Partnership. It was a tri-party contract and it was a bi-party settlement.

Mr. Gugino indicated that it was a tri-party contract with a different entity. The original IGA was with the Depot Plaza Investors, LLC and the settlement was with Downtown Tucson Development Company LLC. I am guessing that there some relationship, that there was an assignment.

There are three parties to the original agreement and the reason that there was a settlement and lease between the two parties is that there was not a claim against the District. The claim was entirely against the City by the Downtown Tucson Development Company arising out of a pre-development agreement entered into between the City and the Downtown Tucson Development Company in December of 2008. So we would not be a party to that, but we certainly should be at the table and should be a party to the parking agreement. Based on the documents that I have seen, there should have been consultation with the District to determine whether the District would allow the City to enter into an agreement for those rights.

Chair Jodi Bain indicated to Mr. Miranda that the Board has over and over and over again stated that we are here to cooperate, we are trying to make this work, we want a place at the table, show us the table, and here is the negotiating team, even with prior Board counsel; what is not getting through? What needs to be said to who, or multiple people, to get it through that things of this nature or items that are District assets or in negotiation of becoming a District revenue stream or assets, that we want to be there?

Mr. Miranda answered, I am sitting here listening to this and I am asking myself the same question. In terms of what dialogue and communication needs to occur, so that these issues do not arise in the future, in terms of what we are going to be doing regarding the hotel and other projects. Listening to the dialog and the critique and criticism, I think it is important to take this back and sit down with the City Manager and the City Attorney and provide this information to them and with the discussions with your attorneys, suggest clarification that needs to be amplified and to the City Manager and have him come here and hear you directly in terms of what your feelings are.

As you said, with Kelly Gottschalk, City staff is in an uncomfortable situation because I am here as your Executive Director and I feel like I am sitting here, I am supposed to be representing you and so I take that charge very seriously. Again, I think that the issues that you presented, the community is of the utmost importance and the tax dollars are equally important, but I think that the credibility and trust that we need between each other needs to be worked on. So, the message that has been amplified here today, I will take it back and I will speak directly to both of them in terms of what he says about the garage and what happened there, but more importantly issues that come up in terms of trust needs to be worked on, and express your feelings on what happened with the garage and then work on a framework in terms of the other issues presented and feelings towards the City respective to the hotel and other projects.

Board Counsel Keri Silvyn re-read the motion as amended. The motion is to direct counsel to write a letter to the City of Tucson and the Downtown Tucson Development Company advising them that there was no authority in which to agree to any parking agreement between those two parties without the District reviewing pieces of that agreement, and at this time we are not giving it. Board Member David Jones seconded the amended motion.

I also want to make a clarification the District does not own that garage. What we have been working on with the District and with the City, has been an acknowledgement that there is an ongoing revenue stream that we may or may not have a right to and we feel that we do. So as we are discussing the garage, I just want everyone to remember that we believe it is an asset because we have invested in it substantially and there is a revenue stream that is going to come out of it, which is the part of the reason the agreement was written where it would set the parking rates at the then market rates and moving forward. But when we are talking assets we are not necessarily talking titled assets.

The motion passed 7-0.

After some discussion, Item 12 was addressed.

**12. Call to the Audience**  
No Response.

**13. Future Meeting Dates and Agenda Items.**

June 23, 2010, 2:00 pm.

**11. Executive Session**

A motion to go into Executive Session was made by Board Member Jeff DiGregorio, seconded by Board Member Alberto Moore, approved 7-0.

**i. Negotiations with City of Tucson on IGA.**

**ii. Existing District contractual obligations.**

**iii. Financial Advisor Independent Contractor contract and possible action.**

**iv. Depot Plaza Parking Garage.**

Motion to come out Executive Session by Mark Irvin, seconded Jeff D, approved 6-0.

Motion to direct legal counsel to negotiate with the City of Tucson on the IGA as directed in Executive Session and also to explore placing liens on properties where the District invested Rio Nuevo funds by Mark Irvin, seconded Jeff D, approved 6-0

Motion to remove the April 8th tabled motion from the table made by Mark Irvin and seconded by Alberto Moore. A reminder that the motion was that the Treasurer was to make no further payments to the City of Tucson from the District until further directed by the Board, approved 6-0.

Motion to amend that April 8th motion as follows: The City is to make no further payments of the \$1.7 million to the City of Tucson from the District fund subject to a negotiated settlement of this issue within the IGA or until further directed by the Rio Nuevo Board. Motion made by Mark Irvin and seconded by Alberto Moore, approved 6-0.

**14. Adjournment.**

The Rio Nuevo Board formally adjourned the meeting after the executive session at 6:25 p.m.

*NOTE: It is the intent of these meeting minutes to get the general meaning of the discussion, summarize what happened, and record official actions. The minutes are not intended to be a verbatim transcription of all that was said. Audio files of the meetings are available for review at City Hall, Finance Department, 255 West Alameda, 5<sup>th</sup> Floor West.*