

**RIO SALADO CROSSING MULTI-PURPOSE FACILITIES DISTRICT
BOARD OF DIRECTORS' MEETING**

The Board of Directors of the Rio Salado Crossing Multi-purpose Facilities District met in a Board Meeting in the City of Mesa Lower Level Council Chambers, 57 East 1st Street, Mesa, Arizona, on January 7, 1999 at 5:36 p.m.

BOARD PRESENT

Marty Whalen, Chairman
Pat Gilbert
Marjorie Heckman
Dave Johnston
Jim Lykins
Roseann Sweet

BOARD ABSENT

None

**MESA COUNCIL
PRESENT**

Jim Davidson
John Giles
Keno Hawker
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy

STAFF PRESENT

C.K Luster
Linda Crocker
Mike Hutchinson
Barbara Jones
Greg Marek
Andrea Rasizer
Becky Richardson
Larry Woolf
Others

OTHERS PRESENT

Dana Belknap
Charlie Deaton
Kurt Freund
Larry Givens
Julie Pace
George Pettit
Scott Rigby
Robbie Sherwood
Bill Sims
Mary Jo Whalen
Dave Wier
Fred Williams
Karen Wittmer
Others

Chairman Whalen requested that the Board present and vote on a motion to ratify the actions of the reappointed members of the Rio Salado Crossing Board of Directors.

It was moved by Boardmember Johnston, seconded by Boardmember Heckman, that the Board ratify the actions of the reappointed members of the Rio Salado Crossing Board of Directors.

Carried unanimously.

1. Adopt minutes from the December 11 and 22, 1998 meetings.

It was moved by Boardmember Johnston, seconded by Boardmember Heckman, that the minutes of the December 11 and 22, 1998 meetings be approved.

Carried unanimously.

2. Discuss and consider a term sheet for a Stadium Use Agreement and Preliminary Development Agreement.

Assistant City Manager Mike Hutchinson advised that a copy of the proposed term sheet for a Stadium Use Agreement and Preliminary Development Agreement was received approximately ten minutes ago and suggested that Chairman Whalen declare a recess to allow the members of the Board to review the contents of the documents.

Chairman Whalen declared a recess at 5:36 p.m. and the meeting reconvened at 5:57 p.m.

Chairman Whalen welcomed those present to the meeting and stated that although significant progress has been attained toward arriving at a final agreement, a number of formatting issues remain to be considered and requested that the members of the Board review and address those items at this time.

In response to a request from Chairman Whalen, Assistant City Manager Mike Hutchinson reviewed the contents of the proposed term sheet for a Use and Preliminary Development Agreement.

Mr. Hutchinson advised that over the past several weeks, staff has worked on the development of a term sheet with representatives of the Arizona Cardinals. Mr. Hutchinson reported that a prior proposal that was forwarded to the Cardinals' organization indicated the Board's preference that the Cardinals assume all operations and maintenance (O&M) risks for the stadium. Mr. Hutchinson noted that a counter-proposal received from the Cardinals has indicated their willingness to allocate a portion of funds towards that but added that over time as the recapture revenues became available, the organization has requested an opportunity to receive reimbursement for those expenses. Mr. Hutchinson reported that a counter proposal that was forwarded to the Cardinals was subsequently rejected. Mr. Hutchinson said that recent negotiations have resulted in the Districts' assumption of O&M risks and an agreement that the Cardinals will a) pay rent in the amount of \$2 million, and b) make a contribution in the amount of \$75 million.

Mr. Hutchinson highlighted the proposal (Attachment) and commented that estimated costs for the facility and related improvements is approximately \$507 million. Mr. Hutchinson noted that according to the proposal, the Cardinals will contribute \$75 million to cover such costs and the City and District will provide the remaining amount.

Discussion ensued relative to the fact that the Cardinals' organization is proposing that they allocate \$10 million in up-front costs for the project, the fact that they will post a letter of credit for the remaining commitment as a condition of the implementation of the new Mesa sales tax, the fact that the word 'irrevocable' should be inserted into the agreement before the words 'letter of credit,' the fact that the Cardinals will provide the final \$65 million two years after the start of construction, the fact that the District and the Cardinals will enter into a "design-build," a guaranteed maximum price contract, the need for environmental and other due diligence, and the importance of adding a Phase I investigation to the list of contingencies.

Mr. Hutchinson provided the Board with a brief overview of the proposed Cardinals' use of the facility and advised that the term of the use agreement between the Cardinals and the City/District will be 25 years, commencing with the first National Football League (NFL) season after completion of the facility. Mr. Hutchinson added that there will be ten 5-year extensions at the Cardinals' option.

Additional discussion ensued relative to the fact that the Cardinals will pay an annual rent in the amount of \$1,750,000 per year, adjusted for increases in game day operating expenses, the addition of a 'cost of living' inflator in the rent, the fact that the Cardinals will be responsible for marketing naming rights for the facility, minor clarifications/additions that remain to be addressed throughout the document, the fact that the City will retain the right to reasonably approve such name, the fact that the Cardinals will receive all naming rights proceeds and will pay the District \$250,000 annually from such proceeds, subject to an annual cost of living inflator, the fact that the Cardinals will receive 100% of ticket receipts from all home games, the marketing of luxury suites and club seats, concessionaire selection and the fact that the Cardinals will receive all net concession revenues collected as a result of home games, and the fact that the Cardinals will be responsible for marketing interior and exterior signage and other facility advertising rights and will receive all revenues generated as a result of these activities.

Mr. Hutchinson outlined the proposed City/District use of the facility and discussed the fact that a manager jointly selected by District and the Cardinals will manage and operate the facility, operating and maintenance expenses for the stadium and convention center, facility scheduling, the fact that the City and the District have agreed that the Cardinals would receive 100% of the football game parking income, net of expenses, and the fact that the Cardinals are also proposing that they receive 50% of net parking revenues that are received in connection with non-home game facility uses, the fact that the citizens of Gilbert and Queen Creek will receive the same game related cost benefits as City of Mesa residents, operating surpluses and recapture revenues, proposed uses for any surplus revenues and the fact that the repayment of debt will be a priority use for any surplus funds, the fact that should the Cardinals leave Tempe, they will be responsible for paying approximately \$675,000 a year in additional rent to the City and a suggestion from the Cardinals organization that any remaining excess funds from the recaptured revenues, after contributions to the O&M and capital replacement and obsolescence fund, be used to pay the additional \$675,000 rental fees, and the fact that any final funds would be used to reduce the City's principle on their debt and a portion of it be used to implement other improvements to the project.

Mr. Hutchinson emphasized that the recapture funds will be generated from two sources: 1) the City sales tax and bed tax, and 2) the surcharge placed on the developers who are involved in the project. Mr. Hutchinson clarified that the monies generated from the City sales tax will be used to reduce the debt and the monies that will be generated as a result of the developers, will be used to invest into the project.

Mr. Hutchinson commented on the development of the remaining components of the Rio Salado Crossing project and noted that the City, the District and the Arizona Cardinals recognize the importance of ensuring that the related development occurs in order for the approved financing plan to be achieved.

Additional discussion ensued relative to the selection and role of the master developer and 'conditions precedent' as outlined in the proposal.

Chairman Whalen thanked Mr. Hutchinson for his input.

In response to a request from Boardmember Gilbert, Chairman Whalen advised that following extensive discussion, the Board has determined that assuming the O&M risks is essential to proceeding with the project. Chairman Whalen added that the Cardinals prefer to be tenants in the project. Chairman Whalen advised that the Board's final revisions have been forwarded to the Cardinals' organization and reiterated that clarifications and a number of formatting issues remain to be discussed. Chairman Whalen also commented on non-game day parking revenues said that

since the City and the District has agreed to assume the O&M expenses, it appears reasonable that the City retain all of those revenues. Chairman Whalen stated that this issue has been raised with the Cardinals but no reply has been received as of yet regarding this matter.

Chairman Whalen encouraged the members of the Board to present their input and stated the opinion that the words 'design build' or acceptable development plan for the facility should be added to the agreement.

Discussion ensued among the members of the Board regarding the following items:

Boardmember Gilbert's preference that the City retain all net parking revenues generated on non-day game events; changing the year 1998 to 1999 on page one of the document, seconded bulleted item; adding the word 'irrevocable' to the letter of credit issue; Chairman Whalen's opinion that the words 'design build' or 'acceptable development plan for the facility' be added to the document, adding the words 'cost of living adjustments' or 'an appropriate inflator to be negotiated in the use agreement' as previously discussed, the fact that net parking revenues will be net less incurred expenses, sales tax recapture as opposed to food, beverage and bed taxes, and a statement from Mr. Sims relative to the fact that the January 7, 1999 document that was faxed to the Boardmembers this morning, contains five (5) stipulations.

In response to a request from Chairman Whalen, Mr. Sims stated that following Board discussion, the following items remain to be addressed/clarified: 1) the letter of credit should be irrevocable; 2) that the issue of the construction contract will be included as a condition and will be an 'appropriate document'; 3) for payments by the Cardinals, an appropriate inflator will be negotiated; 4) net parking revenues for non-game days are revenues that are allocable to the District given that this document shifts the O&M responsibilities from the Cardinals to the District; 5) a provision will be included which was previously agreed to by all parties regarding the District's use of the concessionaire that is selected; 5) development rights will be postponed to a condition (a contingency that is entered into pending an appropriate development agreement); 6) the five previously listed conditions that were included in the City/District's draft will be added to the agreement, one of which includes a condition concerning environmental due diligence; 7) the recapture paragraph will be modified to clarify the ambiguity that exists in b.i and b.ii on page 4 of the agreement regarding which taxes may be utilized for the early retirement of City debt and which charges will be allocable to the developers; and 8) that in view of the fact that the City/District is assuming all risks for O&M expenses, all non-football game parking revenues that are generated should be allocated to the District.

In response to a question from Chairman Whalen relative to a proposal that any final surplus funds be used to pay the Cardinals' rental payments to the City of Tempe, Boardmember Gilbert stated the opinion that this item remain part of the proposal.

Following additional discussion, it was moved by Boardmember Gilbert, that the Board of Directors forward to their respective City Councils for consideration, the document with Mr. Sims' recommendations as outlined in the Board's discussions. Boardmember Gilbert requested that Mr. Sims read into the record as part of the motion, the proposed changes to the document as follows: 1) The letter of credit should be irrevocable; 2) the construction contract should be deferred as a contingency, it should be in appropriate form, not necessarily 'build to suit;' 3) payment amounts should be appropriately inflated as was included in the Cardinals document received 24 hours ago; 4) non-game day parking revenues will be the property of the District; 5) the District will be entitled to use of the Cardinals' concessionaire on terms similar to the terms the Cardinals have negotiated with the concessionaire; 6) development rights will be deferred to a condition precedent to triggering the tax; and 7) the five (5) contingencies (as listed below)

shall be incorporated and modified to reflect the fact that the development rights in the development agreement will be a condition precedent. Those contingencies include: There will be adequate due diligence concerning the land acquisition, financing, design and construction of the facility; the parties agree upon a stadium use agreement; necessary amendments will be made to the Arizona Revised Statutes; the District must conclude that the plan for financing the construction and operation of the facility is adequate, the recapture formula will be modified to clarify which of the sales taxes and charges can be used for the early retirement of City debt, with the residual to be used for the benefit of the project; Cardinals promotional events will be deferred (discussion of those will be deferred) to the stadium use agreement; the use of recapture revenues must be prioritized, and final excess surplus funds will be used to pay the Cardinals' rental fees to the City of Tempe.

Prior to voting, Boardmembers Heckman and Lykins commented that their approval was conditional upon securing an indemnity for the member towns. Mr. Hutchinson responded by saying that he believed the City of Mesa would have no problems with such a request.

Boardmember Gilbert stated that his motion includes all of the above as read into the record. Boardmember Johnston seconded the motion.

Carried unanimously.

Chairman Whalen thanked everyone for their efforts regarding this project and commended Mesa Tribune publisher Karen Whittmer on her involvement and support.

3. Discuss and consider a preliminary financing plan.

Assistant City Manager Mike Hutchinson recommended that the Board approve the preliminary financing plan and recommend same to their respective Councils subject to any future revisions.

It was moved by Boardmember Johnston, seconded by Boardmember Heckman, that the preliminary financing plan be approved and that same be presented to their respective Councils for review and consideration, subject to future revisions deemed necessary and appropriate by all concerned parties.

Carried unanimously.

4. Discuss and consider a preliminary Rio Salado Crossing Multipurpose Facilities District Development plan concept.

Mr. Hutchinson referred to renderings displayed in the Council Chambers and stated that the concept has been revised and improved. Mr. Hutchinson recommended that the Board approve the preliminary Rio Salado Crossing Multipurpose Facilities District Development plan concept and forward same to their respective Councils for review and consideration.

It was moved by Boardmember Johnston, seconded by Boardmember Lykins, that the preliminary Rio Salado Crossing Multipurpose Facilities District Development plan concept be approved and forwarded to the respective Councils for review and consideration.

Carried unanimously.

5. Discuss and consider the format and recommendation of the final report to the City Councils of Mesa, Gilbert and Queen Creek.

Chairman Whalen reported that he and Boardmember Gilbert will present the Board's recommendations to the City Council at a 7:45 a.m. meeting tomorrow morning at a Council briefing session.

Boardmember Lykins noted that the Gilbert Town Council's vote on this issue is scheduled to occur on Tuesday, January 12, 1999 at 7:00 p.m.

Boardmember Johnston stated that the Town of Queen Creek will vote on this issue at a Special meeting to be held on Monday, January 11, 1999.

Mr. Hutchinson stated that the Mesa City Council will take action at this meeting at a Special Council Meeting scheduled for Monday, January 11, 1999 at 5:30 p.m.

6. Review potential ballot language for the proposed District election.

Mr. Sims stated that in accordance with Statutes, the Board should approve the preliminary ballot language substantially in the form that exists today, subject to technical revisions as required.

In response to a request from Chairman Whalen, Mr. Sims read the proposed ballot language into the record as follows:

"Shall the District be authorized to use State sales tax revenues generated by the Rio Salado Crossing project as permitted by law for such project, such uses may include among other things the pledging of such revenues to secure the District's bonds or other financial obligations issued or incurred for the construction of multipurpose facilities within the project?"

It was moved by Boardmember Gilbert, seconded by Boardmember Lykins, that the potential ballot language (substantially in the form that was read into the record) for the proposed District election be approved.

Carried unanimously.

Mr. Sims clarified that the Boardmembers will be submitting ballot language to their respective Councils along with a request to call a District election and to submit that language to the voters at such election. Mr. Sims presented the following modification to the motion:

The ballot language is to be submitted at an election for which the District is now seeking authority from each of the member municipalities.

Boardmember Gilbert amended his motion to include Mr. Sims' revision. Boardmember Lykins seconded the amended motion.

Carried unanimously.

7. General information and scheduling of future meetings.

Mr. Hutchinson stated that the schedule is as outlined in agenda item number 5.

The next meeting of the Board of Directors was scheduled for Thursday, January 14, 1999 at 5:00 p.m.

6. Adjournment.

Without objection, the meeting adjourned at 7:39 p.m.

Carried unanimously.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Board of Directors' Meeting held on the 7th day of January 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of January 1999

JIM LYKINS, BOARD SECRETARY