

Ward 6 Staff



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# Ward 6 – Newsletter

OCTOBER 6, 2011

## A Message from Steve

Late last week, the Rio Nuevo Board filed a Notice of Intent to sue you, the taxpayers, for both ownership of property, and \$47,000,000 of your tax money. Nearly a year ago, **both** the City and the Rio Board voted to move forward with the term sheets that they have refused to put into the final form of a settlement agreement, and now those term sheets are again in dispute. Since that vote, several new members have been added to the board, evidently not compelled to abide by the wishes of their colleagues who voted to move ahead with a settlement agreement. I have put together a table that shows what we had agreed to, and in the last column what this threatened lawsuit now does to that agreement. It is difficult to negotiate with a moving target that appears to be less than sincere about making and keeping their word.

Here's the table:

Property/ Project	Disposition per Term Sheet	Notes/Other	Change per threat- ened Rio lawsuit of taxpayers
Arena Site [Congress/I- 10]	COT owns	Any sale is per competi- tive process, for develop- ment that benefits RN and COT; RN gets \$894k from proceeds; RN has 2 reps on recommending commit- tee	Rio is now demanding that City transfer title to them and take no action with respect to selling and/or developing the parcel
351 S. Brick- yard	COT transfers own- ership to RN	Legal description to be determined by survey, to be obtained by COT	Rio is now demanding that City both transfer title to them, and also pay the costs incurred for improv- ing and/or remediating the parcel (approx. \$3.2M)
Tucson Origins Properties	RN and COT to jointly solicit Mas- ter Developer; fu- ture development to benefit Components of RN, but also must be consistent w/ Prop 400 ele- ments, including cultural and transit- oriented	Joint committee, with equal representation to make recommendations to each governing body; ap- proval of both is required. Any proceeds from dispo- sition shall be reinvested in mutually beneficial pro- jects or distributed as mu- tually agreed	Rio is now demanding that title to all of the west side parcels be transferred to them, and taxpayers pay Rio Nuevo\$47M (includes the \$3.2 for Brickyard, noted above.)



### Important Phone Numbers

Tucson Police  
Department  
911 or 791-4444  
nonemergency

Mayor & Council  
Comment Line  
791-4700

Neighborhood  
Resources  
791-4605

Park Wise  
791-5071

Water Issues  
791-3242

Pima County Animal  
Control  
243-5900

Street Maintenance  
791-3154

Planning and  
Development  
Services 791-5550

Southwest Gas  
889-1888

Gas Emergency/  
Gas Leaks  
889-1888

West Nile Virus  
Hotline  
243-7999

Environment  
Service  
791-3171

Graffiti Removal  
792-2489

AZ Game & Fish  
628-5376

## Continued: A Message From Steve

### What Rio members are saying:

If you're receiving this, you also received a Media Advisory I sent out last weekend expressing my thoughts related to Rio Nuevo suing the taxpayers of Tucson. Since that time, the media has run stories that make it clear some of the Rio board members either do not understand the enabling legislation, are more interested in pitting the interests of taxpayers in other jurisdictions around the State against those who live in Tucson, or are intentionally inventing their own reality to make their lawsuit sound palatable.

One of their members said they were not asking for any cash in the settlement. The final lines of their Notice of Intent to sue state the following:

"The District will accept Title to the property described in Exhibit A and the sum of \$47,000,000 in full satisfaction of the claims outlined above" (my added emphasis). That sounds like they want your money and your property. It also sounds like the Rio Board should read their own legal documents before it votes or comments.

Another of the Board members has been saying things such as "the money belongs to the State", "the City stole the money", and "they took the money from us and used it as a slush fund to pay for other City services."

When you buy a house that you know has termites, you don't have the right to claim surprise later and ask the mortgage company to come in and both pay to repair the property, and to give you the house. This Rio Board took their appointments with the full knowledge that the prior Board had voted to approve every project that was funded over the past 12 years of Rio's existence. They can take exception to the arms-length relationship that did or did not exist, but the termites were there, they knew they existed and now it's disingenuous to claim that the City acted unilaterally on any of the work. As duffers on the golf course say – 'you gotta play with what you brung.'

Even more troubling is the attempt to rewrite the legislation that provides funding for the Rio projects. The City didn't "take the money from us", and the money doesn't "belong to the State." A very little homework on the part of the Rio Board would disclose to them that Arizona Revised Statutes provided for the creation of the District, and also for the manner in which it would be funded. I'll redact some of the legalese so it's readable, but here's what they want you to ignore when they claim the City stole State money:

#### ***ARS 42-5031. Distribution of multipurpose facility revenues to district***

***A. ...if a county stadium district is authorized by an election pursuant to section 48-4237 to use the amounts paid to the district pursuant to subsection B of this section as permitted by law, then... the state treasurer shall pay each month, ...the amount determined under subsection B of this section to the district. Payments under this section shall continue until July 1, 2025 or until the date all authorized debt service payments are completed...***

***B. The amount to be paid each month under subsection A of this section is one-half of the amount of state transaction privilege tax revenues received in the second preceding calendar month from all persons conducting business under any business classification under this article at a multipurpose facility site.***

### How Rio is using your money now

To boil it down – The tax flows to the Trustee to pay Rio's debt – then any remaining balance is remitted to the City for credit into Rio's accounts. In its FY 2012 budget, Rio stated they had \$10.2M cash on hand. But at the Board meeting they only discussed the



### Important Phone Numbers

Senator John  
McCain (R)  
520-670-6334

Senator Jon Kyl (R)  
520-575-8633

Congresswoman  
Gabrielle Giffords  
(D)

(8<sup>th</sup> District)  
520-881-3588

Congressman  
Raul Grijalva (D)  
(7<sup>th</sup> District)  
520-622-6788

Governor Janice  
Brewer (R)  
Governor of Arizona  
602-542-4331

Toll free:  
1-800-253-0883

### State Legislators

Toll Free  
Telephone:  
1-800-352-8404  
Internet:  
[www.azleg.gov](http://www.azleg.gov)

Mayor Bob Walkup  
791-4201

City Infoguide  
[http://  
cms3.tucsonaz.gov/  
infoguide](http://cms3.tucsonaz.gov/infoguide)

“restricted funds” held by Wells Fargo, ignoring the “unrestricted funds” held by Alliance Bank. In mid-August they asked the City to forward to them from their accounts another \$10M. That’s over \$20M in cash in their coffers since July 1<sup>st</sup>. This is the link to the latest posted financial statements on the Rio Nuevo Website:

[http://rionuevo-tucson.org/wp-content/uploads/2011/documents/finance/FY11\\_Oct\\_Cash.pdf](http://rionuevo-tucson.org/wp-content/uploads/2011/documents/finance/FY11_Oct_Cash.pdf)

These figures do not reflect the additional funds transferred to Rio Nuevo recently. It is also important to realize that a full audit was performed in 2011 by Beach Fleischman. Here are some comments from the Beach Fleischman audit “these financial statements are the responsibility of districts management, our responsibility is to express opinions on these financial statements based on our audit”. The audit found inadequacies of accounting records for “capital assets and accumulated depreciation” but found that “the financial statements referred to above present fairly, in all material respects, the respective financial position of the government activities and each major fund of the Rio Nuevo Multi-facilities District”. Clearly, everyone except the Board seems to know where their money is. Now they’re suing you, the taxpayers, for another \$47M more? And members of this board are talking about a “City slush fund?” There’s an old saying about glass houses...

Perhaps they need some ready cash to pay their new rent. Since the middle of 2009, they have not had a formal office. I don’t begrudge them having someplace to call home – perhaps using room for free in one of the buildings they own that has vacant space (the now empty second floor of the Fox Foundation building for example.) Instead, they moved into the State Office Building for \$13,000 per year of your money. While they talk about how they are too cash-strapped to make improvements to the Primary Component to the District--the TCC--they apparently have enough cash to consider funding necessary upgrades to the insufficient restrooms at the Rialto Theatre. The Rialto is one of the few things that Rio Nuevo has touched that is working Downtown, so my point is not that making improvements to the Rialto is not a worthy expenditure. My point is that there has been a selective willingness to spend District funds on one asset versus another. Every time we point out that the Primary Component needs attention, the District pleads poverty. Who knows, if they hadn’t threatened to sue the City, they might have had a chance to be housed free rent in some meeting space in the TCC – after all, they own the building. Perhaps it’s not ‘up-town’ enough for this group.

Or maybe it’s the appearance, if not the reality of a cozy affiliation with the State that they’re after in preferring to be in the State Office Building...

At their meeting on Wednesday, this Rio Board said yet again that they don’t know how much money they have. They were appointed nearly 2 years ago and they’re still saying they don’t know where their money is? Forget their own adopted budget for the moment. That might confuse things. The latest culprit in this game of playing the victim is their own Bond Trustee, Wells Fargo. Evidently, their own third party neutral Trustee won’t tell them what’s in their own account. So the pivot is now from the City withholding information, to their Trustee doing the same. When their members say things such as “I don’t get this bond stuff,” or ask if the TCC “is in the District”, I guess I have to wonder how serious they are about working towards any productive solutions to revitalization of the downtown core.

### **Rio Nuevo money = your money**

When the legislature formed the District, they did it under a Stadium District statute that provided Tax Increment Financing for work done in the District. The money does not “belong” to the State. The money is, by Statute to be directed to fund work in the District. We can argue about whether or not it was used wisely, but it was not stolen from the Dis-

strict and it did not belong to the State.

Regarding how wisely the money was used – we have an Auditor General’s report that said it was ‘grossly mismanaged.’ I agree with that. City Staff, Mayor and Council, and the Rio Nuevo Board in place at the time have some level of culpability for that. There are two forensic audits in progress, plus an FBI investigation that is on-going that will demonstrate whether that mismanagement translates into criminal wrong doing. All of those investigations are warranted. But to add a \$47,000,000 lawsuit against the taxpayers of the City on top of that, claim that this Board was not somehow joined at the hip with the actions of its predecessor, and ignore State enabling legislation is indefensible.

I have stated on the air the following:

"Rio Nuevo is using taxpayer money to fund the lawsuit. The City of Tucson is defending the lawsuit with taxpayer dollars and the settlement will come from taxpayer dollars. This is a losing situation for the taxpayers all across the board. This makes no sense at all."

I have also asked what I hope is a rhetorical question: does Rio really want to win this lawsuit and effectively shut down core City functions if we are asked to transfer \$47M from City coffers into those of the Legislature/Governor appointed Board? Is this group really so self-absorbed that they would consider that a victory – or might there be a better solution that points to the greater good, and allows us to move forward and use the funding that is in fact increasing to produce tax-generating assets in the downtown core to help fund the services that Rio will eliminate if they were to win this suit.

In as much as it appears this Rio board is more interested in fighting than in finding solutions, the City Council voted on Wednesday to temporarily go it alone and will be asking the City Mgr and Finance Director to search out Grant funding sources so the City can continue to perform the capital and aesthetic upgrades to the TCC that we have already begun. Rio can continue to spend your money on attorney’s, their new rent, new executive director and consultants – maybe even a face lift to the Rialto restrooms. Very simply put, I continue to invite serious discussion with the Rio board about how we can move TCC renovation forward, serious discussion about the distribution of properties mentioned in our term sheets, and serious discussions about ensuring all parties are provided all of the documentation necessary for carrying out good and productive public policy dialogue. But you don’t encourage a willing partner to the bargaining table by threatening a lawsuit. **As soon as they get serious and pull their threatened lawsuit of you, the taxpayers, we can resume our dialogue.**

Let the audits and the FBI investigation continue – complete them before dipping into the taxpayers pockets yet again.

And a note to the Legislature and their local champions – attempts to further divide this community by adopting legislation that further empowers an appointed Board at the expense of local control will not end well for anybody involved in such an initiative.

It will be interesting to see if any of the current Rio Board members have the chutzpah to show up at any Gem Show meet & greet meetings next spring.

### Neighborhood Issues

The Goodman vs. Jefferson Park mini-dorm issue has passed through the Board of Adjustments process. The Board heard from the City Attorney that mediation efforts have resulted thus far in an agreement that in R-1 areas, homes may not be occupied under a lease agreement by 5 or more unrelated persons. Those homes now occupied by 5 or more will be allowed to continue –

what this is intended to do is to cap the growth of those houses at the level at which they now exist.

There are other elements of the dispute still being mediated, but the intention is for the City Attorney to attempt to draft a Code Amendment that establishes this portion of the agreement and to bring it to M&C for further discussion. No particular time line has been identified for that.

The Arizona Daily Star correctly quoted me as having said that I think this agreement is a good compromise – as far as it goes. It leaves several questions yet unanswered, questions that deal with fundamental privacy rights. As you know, the City is juggling 1<sup>st</sup> Amendment speech rights in terms of deportment during calls to the audience. Now we've got another one to wrestle through; that is, 4<sup>th</sup> Amendment rights to being secure in your own home from the State coming and knocking on your door, and demanding entry. While I agree that 5 or more unrelated people living together is a reasonable standard by which to protect single family residential areas, there are still a series of fundamental issues yet to be resolved that fall under the umbrella of how the rule will be enforced, how it relates to R-2 zoned areas, how lot-splits will be handled and more. It's a tough balancing act that we'll be discussing in more depth in the weeks ahead. I have asked the City Attorney to prep for a study session conversation on the whole enforcement, privacy issue.

Walmart has also passed through the Board of Adjustments process. El Encanto Neighborhood Association protested the Development Agreement by which El Con allowed the proposed Walmart to occupy the old Macy's building. At issue was the contention that the D.A. had expired and Walmart should have had to go through a full approval process. The Board, deciding on the merits of the D.A. only, and not on any of the neighborhood objections to the Walmart plan per se (hours of operation, orientation of the storefront, marketing of certain items in the store,) found for El Con management and declared the D.A. allows for the Walmart to move forward. El Encanto has appeal rights that it is presently considering.

In the most recent E-Tracks, on-line Republican newsletter, the following comment appeared: *Then each of us needs to attend the council meetings periodically and be willing to state our issues during the Call-to-the-Audience. As Councilman Steve Kozachik explained, if the only people making demands on the Council are the Neighborhood Associations then the interests of us in the county get ignored. Also if business people don't attend, their issues are ignored too.*

I have worked too hard to establish my own identity, one in which I look for common sense and inclusive solutions to our community problems. I objected to the possible misinterpretations coming from that alleged quote (I didn't even speak at the meeting being referred to.) So this is a link to the correction I asked the Party to post on their next newsletter

[http://cms3.tucsonaz.gov/sites/default/files/ward6/10-6-11\\_e\\_track.pdf](http://cms3.tucsonaz.gov/sites/default/files/ward6/10-6-11_e_track.pdf)

End of story.

One more link related to neighborhood issues. I wrote last week about the residential rainwater harvesting program that we asked to have staff implement. Several of us were concerned at the amount of money being earmarked to "develop" the program. With that concern in mind, Council members Cunningham, Uhlich and I sent the following memo to City Staff clarifying our intent relative to the amount of money we want to see invested in the program vs. the amount we want to see spent on developing the program

[http://cms3.tucsonaz.gov/sites/default/files/ward6/10-6-11\\_water\\_harvesting.pdf](http://cms3.tucsonaz.gov/sites/default/files/ward6/10-6-11_water_harvesting.pdf)

Finally, please pass on through your neighborhood email chain this information. The fifth annual "Angel Thunder" Personnel Recovery and Rescue exercise will be hosted by the 563d Rescue Group and Davis-Monthan AFB, from October 9<sup>th</sup> through the 21<sup>st</sup>. The purpose of the exercise is to allow airmen to team up with UMC, local, State and Federal agencies and work together on defense support of civil authorities – an interoperability exercise to prepare for catastrophic events.

The emphasis of this years exercise is an outflow of the January 8<sup>th</sup> shootings. On October 11<sup>th</sup>, several HH60 helicopters will be running operations to the UMC trauma one center, as well as to an alternate landing zone at the UA farms on Campbell, near River Road. You may notice an increase in that air traffic during the time frame of the exercises.

The agencies involved will include the National Park Service, United States Forest Service, Customs Border Protection, USAID, Pima County Sheriff, Cochise County Sheriff, Gila County Sheriff, Graham County Emergency Management, Scottsdale-Osborne Hospital, University Medical Center and the University of Arizona Police.

Too much heavy duty – let's close w/something fun. From October 7<sup>th</sup> through the 9<sup>th</sup>, three Mexican professional baseball teams will play a round robin tournament at Kino Baseball Stadium. The organizers anticipate north of 20,000 spectators over the weekend. There will be 3 days of doubleheaders starting at 4pm on the 7<sup>th</sup>. If you like professional baseball, go. If you're not a baseball fan, but would like to have fun at an outdoor event, go. If you don't fit either of those and you stay home, you'll miss out on what over 20,000 others will experience. Go to the Vamos a Tucson's website for ticket information. Thanks to the Tucson Padres organization and Mike Feder, the MTCVB and the Pima County Sports and Tourism Authority for bringing this event home.

Sincerely,



Steve Kozachik

## Downtown Arts and Entertainment District Events

This week at the arts and entertainment venues on and near Congress Street, Scott Avenue, and the TCC in Downtown Tucson . . .

### 2<sup>nd</sup> Saturdays

Saturday, October 8. 6:00pm to 10:30pm. Congress Street from Church to 4<sup>th</sup> Avenue. Scott Avenue Stage at Broadway and Scott Avenue.

[www.2ndSaturdaysDowntown.com](http://www.2ndSaturdaysDowntown.com)

### Saturdays on 4th

Live music at various venues along 4th Ave.

### Tucson Shot Rock and Roll: Rock Photos by Tucson Photographers

A special pop-up exhibit gallery at 245 E. Congress St., Suite 171 (next to Sparkroot). Exhibit opens Saturday, October 8 at 6pm, with reception running from 6pm to 11pm.

<http://www.tucsonshotrock.com/>

### Fox Theatre, 17 W. Congress St.

Thursday, October 6, 7:30pm. **Kris Kristofferson**. All ages. \$38 and up.

Saturday, October 8, 7:00pm. **Tucson Symphony Orchestra** presents "**Celebrating Elvis with Robert Shaw: A Symphonic Concert Experience**" in conjunction with 2<sup>nd</sup> Saturdays

Sunday, October 9, 2:00pm. "**Adventures of Priscilla Queen of the Desert**" (film). \$8 or \$6 for students, seniors, and active military.

[www.FoxTucsonTheatre.org](http://www.FoxTucsonTheatre.org)

### Rialto Theatre, 318 E. Congress St.

Thursday, October 6, 9:30pm. **PeaceTreaty** (electro/house/progressive). 18 and up. \$11 advance/\$16 day of show.

Friday, October 7, 7:30pm. **Tucson Film & Music Festival** presents "**Better Than Something: Jay Reatard**" (film). \$7 advance

Saturday, October 8, 8:00pm. **Insane Clown Posse** (rap) with Twiztid, Blaze. All ages. \$35/\$38.

Wednesday, October 12, 8:00pm. **Tech N9ne** (rap) with Special Guests. \$32/\$36

[www.RialtoTheatre.com](http://www.RialtoTheatre.com)

Box Office: M-F 12:00-6:00pm. (520) 740-1000

**The Screening Room**, 127 E. Congress St.

Friday, October 7, 7:30pm. “**Presunto Culpable**”. \$7

Saturday, October 8, 8:00pm. “**Poets on Congress**”, in conjunction with 2<sup>nd</sup> Saturdays. Free admission.

Sunday, October 9, 3:00pm. “**Presunto Culpable**”. \$7

[www.azmac.org/scroom](http://www.azmac.org/scroom)

**Temple of Music and Art**, 330 S. Scott Ave.

Arizona Theatre Company presents

“**Sherlock Holmes and the Adventures of the Suicide Club**”, through Saturday, October 8.

[www.arizonatheatre.org](http://www.arizonatheatre.org)

**Beowulf Alley Theatre Co.**, 11 S. 6<sup>th</sup> Ave.

No shows this week.

[www.BeowulfAlley.org](http://www.BeowulfAlley.org)

## **Tucson Convention Center Events**

Starting Thursday, October 13, “**Disney on Ice: Toy Story 3**”

<http://cms3.tucsonaz.gov/tcc/eventcalendar>

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### **Know Where to Throw:**

Crayons, eyeglasses, bras, and athletic shoes -- will be collected at the Ward 6 Council Office from October 3 through October 28.

**Crayons** will be donated to the City’s Parks and Recreation Department for use in classes and programs for school-age children.

**Eyeglasses** will be delivered to the Lions Clubs International which distributes the glasses collected worldwide.

**Bras** will be collected and delivered to the Bra Recyclers, a company that has partnered with New Beginnings, Primavera Foundation, and the Gospel Rescue Mission to provide the undergarments to women in need.

**Athletic shoes** will be shipped to Nike, where they are broken down and shredded and then used for athletic court surfaces and in new shoes.

For more information here is the link:

<http://cms3.tucsonaz.gov/home/announcement/know-where-throw>