

**DOWNTOWN DEVELOPMENT DISTRICT
BOARD OF COMMISSIONERS SPECIAL MEETING
Tuesday, August 24, 2021 – 4:00PM
Zoom Teleconference**

MEETING MINUTES

Chair Marsh called the meeting to order at 4:03pm.

Roll was taken and a quorum was present.

Members Present: Leo Marsh, Gregory Curtis, Chris Ross, Cleveland Spears, Coleman Adler, Judy Barrasso, Damon Burns, Jim Cook, Jade Brown-Russell, Carla Major

Members Absent: Michelle Craig

Staff/Counsel Present: Richard McCall, Anthony Carter, Sabrina Smith, Devona Dolliole, Leigh Ferguson, Ryan Bordenave, Joshua Vairin, Bill Aaron (Counsel),

Members of the Public:

Joshua Cox – City of New Orleans
Justin Boone – City of New Orleans
Kristi Taglauer – Historic Restorations, Inc.
John Oliver – Ritz Carlton
Jessica Williams – Times Picayune/Advocate
Tina Winner – Winner Partners
DeMarcus Johnson – Resident

John Pourciau – City of New Orleans
David Piscola – Hilton Riverside
Travis Tague – Hyatt Centric French Quarter
Tod Chambers – Roosevelt Hotel
Jerry Reyes – Westin New Orleans
David Hammer – WWL – TV
Tara Richard – City of New Orleans

Notice: The time, location, and agenda had been adequately and publicly noticed.

Public Comments – Mr, Piscola, who manages one of the largest taxpayers and stakeholders, has worked closely with the DDD over the last four years. He highly approves of Anthony Carter being placed in the interim position and finds that he is uniquely qualified to fill this temporary roll, being that he is so intimately knowledgeable of everything that the DDD has done. He had an opportunity to speak with Tina Winner of Winner Partners, as we are close to having a permanent person in the position by year's end. He does not understand that the DDD Board would take this unusual action that was just taken to reverse the unanimous decision to appoint Anthony. He feels it is a distraction from what the DDD's mission is and asks that the Board continues on with Anthony's appointment as the Interim CEO and work in the endeavor of putting your energy into finding the permanent replacement into Kurt's position.

Action Items

- Approval of Meeting Minutes from August 3, 2021 Board Meeting
- Motion to reconsider the appointment of Anthony Carter as Interim President & CEO of the DDD and to place another candidate into consideration.

Approval of Minutes from August 3, 2021 Board Meeting– Action Item – Commissioner Marsh requested a motion to approve the August 3, 2021 meeting minutes. Moved by Commissioner Barrasso; Supported by Commissioner Curtis. The motion carried unanimously.

The Untimely Passing of Ms. Cheryl Teamer – Commissioner Curtis made a motion to remember Ms. Cheryl Teamer, who was a great friend not only to the hospitality industry, but also to the City of New Orleans as a whole. Asked that we mark in the minutes that we remember her and that we give our condolences to her family. Supported by Commissioner Major. The motion carried unanimously.

Motion to reconsider the appointment of Anthony Carter as Interim President & CEO of the DDD and to place another candidate into consideration – Action Item – Chair Marsh began by updating the Commissioners on what had taken place. On July 30, he received a call from Richard McCall, current Interim President & CEO, that he would be resigning his position effective August 27. On the following Monday he forwarded Richard’s letter of resignation to the Board. On August 3 at the regularly scheduled meeting, he requested that the agenda be amended to discuss the filling of the position. A motion was made to amend the agenda, which passed on a vote of 8 yeas and 0 nays. After some discussion, there was a motion made to appoint Anthony Carter as Interim President & CEO and that motion passed on a vote of 8 yeas, 0 nays. On the 10th of August, on his way to the DDD’s office to sign the employment agreement with Mr. Carter, he started receiving phone calls from people employed at City Hall concerning their dismay at Mr. Carter’s appointment. On August 18 he received an email from a Board member requesting this meeting to reconsider and rescind the offer to Mr. Carter and to hold further discussions concerning the selection of an interim. Their reasoning was to give the public more opportunity to provide feedback on the replacement and to ensure maximum board participation. Chair Marsh then opened the floor for others to respond.

Commissioner Barrasso stated these actions are highly irregular. It was a unanimous decision of approval for the appointment of Mr. Carter at our prior meeting, an offer was made to Mr. Carter, which was accepted. In her view, the Board is no longer in the position to be rescinding an offer. We are in a position where someone is asking us to terminate an employee’s position or essentially fire them. She restated that we made an offer and it was accepted and there were going to be negotiations about salary. She feels that to come in now and try to undo it is possibly illegal and that there is a contract in place that they are trying to end. Commissioner Barrasso also echoed what Mr. Piscola stated, basically that Anthony Carter is a perfect match. There is no reason to continue with this set back. She further stated that no offense to Mr. Pourciau, but it is highly irregular to expect us to consider this appointment today without seeing a resume, an application, or an interview or anything. Her highest point she is trying to make is that we have a contract that someone is trying to undo.

Commissioners Adler and Cook both agreed with Commissioner Barrasso’s assessment. Commissioner Cook also stated that he finds this irregular. Since Commissioner Burns was not present at the meeting, he should not be able to call a meeting to rescind what was voted on. You need someone that was present who voted in favor of the action to make such a motion. He requested an opinion of legal counsel on the matter. He stated that he has worked for several years on the DDD Board and found Anthony to be incredibly knowledgeable in both the financial activities of the Board but also of the operations and overall structure. We are very

fortunate that when we were faced with Richard's departure, that we actually had an internal candidate who was prepared and able to fill the void, as described by Mr. Piscola between now and the filling of the permanent position. Our true obligation is to ensure a continuance in good form of the District during that time period. One of his biggest concerns when they had the conversation at the previous meeting, was were they able to manage the risks of a lack of separation of duties, knowing that the senior leadership team was relatively light at that point. He stated that we were fortunate to have Sabrina on staff who could handle the financial components while Anthony could then step away and do the approval and meet those obligations. Personally, he felt very confident in the placement that was made based on those criteria and it seemed with the vote, that the Board felt that way as well.

Commissioner Burns stated that the motion was made by him and he wanted everyone to be clear that it was not anything against Anthony at all. He knows that Anthony is very committed to the Downtown Development District and the City. His concern is the process that was taken by the Board. He feels that something like this should not just be put on the agenda during a meeting and that it should be discussed as the Board with time to deliberate. That item should have been placed on the agenda and he would have made arrangements to be there had he known about it.

Commissioner Marsh stated that every agenda that is sent out has New Business on it. He does not want to get into the habit of saying that something that is voted on by a quorum is inappropriate because the quorum did not include everyone. There was nothing done that was questionable. He then asked if anyone had any issues with asking Tina Winner of Winner Partners, the executive search firm, to give us as much background as she could without giving too much away. No one had an issue and Ms. Winner introduced herself and gave the information.

Commissioner Barrasso commented on the statement by Commissioner Burns in reference to the placement of the offer to Anthony on the agenda under new business. She reiterated that eight members were there and they all voted yes. There was a verbal contract. This was not a fly by night decision.

Commissioner Spears stated that he supports Commissioner Burns in his position. The idea that an appointment of an Interim President & CEO should not be treated as any other piece of new business and not on the agenda in advance. Had he known that it was going to be on the agenda he would have moved his schedule around.

Commissioner Marsh asked Commissioner Spears if he feels that the discussion should have been at that meeting and a decision done at the next meeting scheduled for September 14, which is after Richard is gone. Commissioner Spears stated that it did not have to fall specifically in that manner but a special meeting such as the one we are on could have been called in advance.

Commissioner Brown-Russell stated she was at the last meeting and supported moving forward. She did not at that time think about the position that Commissioners Burns and Spears are raising now. She now feels that we did not give the public an opportunity to weigh in. She agrees that it is a major undertaking to appoint anyone to oversee an entire agency. She sent questions to legal

and did not get a response. When we gave the opportunity to others to weigh in, we now have someone else who is interested. Since both interested parties are on the call this may be an opportunity to hear from them both. Commissioner Marsh stated that he doesn't feel any of this is fair to anybody since advance warning was not given that this would be taking place.

Bill Aaron, DDD Legal Counsel, stated he received an email from Commissioner Brown-Russell at 9:18 pm the night before and would like to take this time to answer those questions.

He stated that Commissioner Barrasso raised an issue as to whether or not a contract existed, and if the contract does exist what is the effect on the ability to do a motion to reconsider a matter? The by-laws of the DDD provide that except as otherwise provided by law, Robert's Rules of Order shall govern. Under Robert's Rules of Order, technically a motion to reconsider should be made at the same meeting or within a day of that meeting and except holidays. That said, most public agencies disregard that restriction and allow for a motion to reconsider to be taken up at the very next meeting, regular or special, after the meeting the original motion was made. The City Council of the City of New Orleans, has formalized that process in the Council's rules, which basically state that you can follow Robert's Rules of Order and the motion be made at the same meeting or the day after and except holidays, or you can do it at the next regular or special meeting of the Council. His opinion is that the consideration at this meeting would be appropriate considering the fact that with respect to when you would be able to do it, most public bodies would take the very next meeting. That's where we are right now at the very next meeting. That said, Robert's Rules of Order provides that a motion to reconsider may be made by anyone who was at the meeting and voted on the prevailing side. So, in order for the motion to go forward it would have to be made by one of the eight people who were actually at the meeting.

The next point would be is the effect, if any, if there was a contract created, and Robert's Rules of Order basically says is that if a contract is extended and made at the meeting, and the person who would be a party to it is given notice of that; then it would be inappropriate and not allowed under to proceed with a motion to reconsider. His understanding of what occurred at the last meeting was that action was taken by Board to amend the agenda and to add to the agenda the appointment of Mr. Carter. Vote was then taken on that and it was unanimously passed and a vote was taken with respect to the actual appointment of Mr. Carter and what occurred was the Chairman was authorized to negotiate the financial terms of the engagement. His understanding is that after the meeting and after the vote was taken actually appointing Mr. Carter, the Chairman did in fact meet with Mr. Carter and the two of them worked out the financial details, time period, increase in salary, etc. They perfected a document, which was sent to him by email for review. He reviewed the document and replied back indicating that he approved the document as to form and legality. His understanding is that the document at this juncture has not been signed, but the parties did in fact reach a meeting of the minds with respect to the terms and conditions of the interim appointment and most importantly how long it would last and what the salaries and responsibilities would be and what would occur after a new person would come on board with respect to a transition period.

Commissioner Brown-Russell stated that at this point there is no written contract. Bill Aaron, stated that it is his understanding that the parties were ready to sign the document and then a

phone call came from the City Hall and Mr. Pourciau's name was entered into the mix. The Chairman and Mr. Carter would have to deal with what they did.

Another issue was that there was a concern raised as to whether or not Anthony could serve as CEO and also prepare financials as would the Director of Finance. His opinion is that this issue could be addressed in either of two ways. First, being that he does have an assistant, Sabrina Smith, whose title is Finance & Administration Manager; she handles procurement, HR matters, payroll matters, etc. She does not handle financial reports, which the Board could simply hire a CPA firm for 90 days or whatever time is needed to compile financial reports. The CPA that was selected could be any firm, other than the firm that performs the audit, because it would be a conflict of interest. In terms of the separation of functions that could easily be achieved. Also the Board Treasurer could temporarily fulfill the treasury functions, the outside accounting firm could prepare financial reports and anything else having to do with those financed based functions that Anthony currently performs could be done by Ms. Sabrina Smith.

Other issues that came up were dealing with Mr. Pourciau. One was that if he left his position with the City Hall, which is a public position, and took up a public position with the DDD as the Interim CEO, to what extent would the Louisiana Ethics Rules apply to public employees kick in. The rules specifically provide that if an employee has participated in a transaction with his employing governmental entity leaves that entity and goes to another entity, that employee would be prohibited for two years from participating in the same transaction. So, in the case of Mr. Pourciau, any transactions involving the DDD he may have been involved in on behalf of the City, when he comes to the DDD, he will not be able to participate in those same transactions as a DDD employee. Because if he did, in his opinion, he would be in violation of the Louisiana Code of Ethics.

Mr. Aaron believes that has covered all of the issues that were in the email sent to him by Commissioner Brown-Russell, and she agreed. However, she asked about the issue of the ethics rules applying only to personal benefit. Bill reiterated that rule says assisting a person in a transaction. He relayed that in his experience representing someone before the ethics board with this same situation, they performed a function with one governmental entity and were involved with a contract matter and left that agency and went to another agency and got on the other side of the transaction and charges were brought by the Ethics Board. They were able to work something out but charges were in fact brought. The problem is that the desires that someone would not be on both sides of a transaction, basically. It is a conflict-of-interest kind of situation. At first blush, he knows Mr. Pourciau was involved in the infrastructure CEA on behalf of the City. That matter is still to be dealt with between the DDD and the City. He feels that is at least one matter where he should have some pause if he should come on not to participate from the DDD side because it will probably trigger the ethics provision. Bill does not know what else he may have participated in and for Mr. Pourciau to be safe, and he is not trying to give him legal advice, to get his own lawyer. We need to determine if there is anything else that might come under this so there are not future problems.

Commissioner Marsh stated that the emails he received from Commissioner Burns did not at any time mention the name of the other candidate. He was just asking for reconsideration. He also

stated that Bill was correct in his assessment of what happened in reference to the contract with Anthony Carter. He was on his way to meet with Anthony when he began getting the phone calls. When that happened, he made the judgement call that it perhaps wasn't the time to sign the contract. Commissioner stated that it was completely and 100% on him.

Commissioner Barrasso interjected that not having a signed document is not dispositive. In typical employee situations you have oral agreements all the time and this one is even more documented than most. It is her concern now that what is before the Board is a motion to reconsider when a contract is in effect. Bill Aaron replied that in his opinion if the contract is effective, then technically the Board would have to fire Anthony from the position. You would need Board action to do it. If in fact there was a meeting of the minds on the appointment then in fact he was appointed. Therefore, you would have to unappoint him. To unappoint him you would have to technically terminate the employment. You would have to an action to not merely reconsider it but you would have to terminate him from the Interim CEO position.

Commissioner asked that if they would terminate or do a reconsideration would he not go back to his original position? Bill Aaron replied that he would go back to his original job, but if in fact the appointment was affective, the only way to do it is to terminate him. In either situation he is an at will employee.

Commissioner Spears wanted clarification on what the Chair stated about based on the calls he received from the City, Commissioner, constituents, and the public that there is not a signed contract. Chair Marsh interjected that he did not get calls from Commissioners only from employees of City Hall.

Commissioner Barrasso stated that she feels there is a contract and we would have to terminate that position and there is nothing on the agenda that allows that to happen. Bill stated to correct that you would have to vote to amend the agenda like it was done last time to add it to the agenda and it would take a unanimous vote of the members present to amend the agenda. In the absence of unanimity, you could not do that today.

Bill explained, an amendment to the agenda was done at the previous meeting based on the open meetings law. However, to be done legally it can only occur if there is a unanimous vote to do so. If one member at the last meeting had objected to it you could not have done it. To amend the agenda today to add something that is not currently on it, you need a unanimous vote of the members currently present.

Chair Marsh asked if we are 100% of the opinion that we are terminating not rescinding or are we still in disagreement on that? Commissioner Curtis stated that he was in disagreement on that because we did not terminate his employment when we made him interim. So, why would we terminate his employment to remove him as interim? He has been in HR for twenty something years and that doesn't fly. He does not have to be terminated. He was made interim and was not fired. He was voted to be interim. The employment relationship stays the same regardless. There is no need to take adversarial employment action against the employee. He is the whole

employee of the corporation. If we go back to December when the vote was taken to put in the first interim, he was already furloughed.

Bill Aaron stated that if in fact the position was taken, that there was a contract. Assuming that is true. If that is true, then the legal way to undo that is to terminate that appointment, which is at will.

Commissioner Majors asked if there was a motion on the floor? Bill Aaron stated that there was no motion on the floor.

Chair Marsh stated that since we were in this special meeting to give the public the opportunity for input on the matter at hand. Commissioner Barrasso felt this was not made public. It is being said that this is being done because the public did not have the opportunity to be heard and two people did not have the opportunity to be heard after eight of the Commissioners voted but now without having the benefit of Mr. Pourciau submitting a resume and having an opportunity to mull it over, you are asking the Commissioners to make that decision at this time and fire Anthony from a position that we have given him a contract for with an increase in pay. She also stated that she disagreed with Commissioner Curtis and that if you give someone an increase in pay and give them a contract that does take action to terminate. Commissioner Barrasso asked that there be another meeting where it is actually placed on the agenda and if you want to open up the process there may be other people interested in the position. Let's not have something rushed to the decision. We were not informed of his interest until recently so let us be fair.

Commissioner Major inquired as to what motion would be made.

Bill Aaron stated that Commissioner Barrasso has raised a question as to whether or not a contract exists. If you read the current iteration of Robert's Rules of Order, it basically says that if there is a contract and the other party of the contract has been notified of the action taken in pursuit of that contract, which would be that appointment then you cannot do a motion to reconsider. She has raised an issue as to whether or not the motion would be legal because she has taken the position that she thinks that there is a contract. If you read Robert's Rules of Order it basically says that if there is a contract and it is in effect, and the other party, which is Mr. Carter, has been notified of the action taken, to further that contract, which was his appointment, then you cannot move forward with a motion to reconsider. She is raising a procedural argument as to the legitimacy of motion to reconsider.

Chair Marsh asked if that needed to be decided before we can even vote on that motion? Bill Aaron stated that if you don't and it is ultimately decided that there was a contract then whatever action is taken on the motion to reconsider is invalid. The question was raised as to who ultimately decides that. Bill Aaron stated that he did not know if this was going to court or not but the lawyer in him simply suggests to you that it may be some other forum that resolves this. He does not know what Mr. Carter's position is on this. Commissioner Barrasso asked if we could get an opinion from the Attorney General? There was issue with how long that opinion might take. Bill stated that he could ask it be expedited but does not know if it will be done.

Commissioner Adler asked from the legal standpoint, do we not recognize something called an oral contract? Is there something like that in the law? Would the DDD be in such a position to ignore such a thing if it was determined that an oral contract does exist here? Bill stated that there is nothing in the state of Louisiana that would prohibit an oral contract involving employment. In fact, most employee/employer arrangements do not have a written contract. There may be something in writing that says we are hiring you and here is your salary but in the context of a formal contract most employers do not have a written formal contract. Let us assume a written contract is unnecessary. Was there an offer of employment made to Mr. Carter and also, did he accept it? Commissioner Cook stated that during the last meeting that not only did they vote to appoint with the only outstanding item was for the chair to finalize compensation with the individual, which is typical of how they proceeded in the past as was done with Mr. McCall as well. The offer was made and at that point Mr. Carter accepted and thanked the Board for their support. In his opinion the horse had left the barn at that point.

Commissioner Spears feels that context is important and the context states that there was a series of events that had taken place and the Chair paused on executing a contract based on a material change in circumstances. That change in circumstances is hearing from the Chief Executive or representatives of the Chief Executive Office of the City at that time. Based on that there was not an executed contract at that time. We all know that verbal agreements are a thing. But there was a series of events that adds context to this and says that we did not execute a written contract based on this series of events, which sounds very reasonable as a business person.

Bill Aaron stated that the Board voted and gave the Chairman a directive. The directive was for him to finalize the financial details with Mr. Carter. The Chairman elected not to follow the directive of the Board based on a phone call he received.

Chairman Marsh said after listening to everyone there was actually no need for a written contract. An offer was made on the August third and he did not hear from anyone for a week. Then he began to get the phone calls. What he is hearing from legal, whom he chooses to defer to is we did have an agreement.

Mr. Piscola, Hilton Riverside, asked to comment. He feels that this is a waste of time of the Board. It sounds like if they were to take the motion or the decision of removing Anthony from the position then we would be back to square one to having Tina Winner to go through getting resumes and interviewing for a search for an interim candidate. There is so much valuable work to be done by the DDD in our City and in the district and Anthony is the perfect position to serve in the interim to fill this roll for merely just a few months and to please spend your energy on filling the permanent position. He didn't realize that John was interested in the position and assumes that if he was interested it would be in the permanent position and that he would want to go through the vetting process. But it seems silly now to spin our wheels spending our time on issues that are not really critical to the City right now.

Commissioner Barrasso asked that the Board take a step back for a minute and think about the appearance of impropriety here and what is going on. We made an offer. It was accepted. We were moving forward and now someone else wants to step in but we need to follow the rules of

law. This is not just about the Board it is about the Downtown Development District and the City of New Orleans and we're trying to impress upon somebody to want to come here and we are going to look like we are all fools. We can't make it up as we go.

Tod Chambers, Roosevelt Hotel, who was on the DDD Board for many years, stated he feels that Anthony has done a spectacular job for the Board and the DDD for years. He hits the ground running completely. There is no interim of any time he has to have or would need to learn what the position would require. The Board could get back to some of the great work that the DDD does and to echo on David Piscola this has taken a large amount of the board's valuable time to charge forward with the mission of the DDD. You have someone who's there and knows it so intimately and can be such a solid leader in the short term as the permanent CEO is determined. He would recommend as a stakeholder within the District that the Board move forward and agrees to have Anthony who clearly would be the best candidate to be able to take the on-going mission so the Board can continue to move forward. In his opinion is a far and away easy decision.

Commissioner Marsh asked if the sole argument of rescinding the offer hinges on the offer that a contract was not signed. That is his fault. They may want to talk about removing him from the Chair. Should we fault someone else because he chose to stall after getting phone calls later? If your argument is that the contract wasn't signed, that is his fault. Commissioner Spears stated that they were not using the Chair as a basis of an argument. Just as things unfolded some of the Commissioners thought that there was a signed contract and found that there wasn't.

Commissioner Brown-Russell stated that Bill Aaron mentioned something in his comments that put this into a purview of what we should be looking at, which is should Anthony ascend to interim position he vacates the finance position he doesn't currently have anyone to step into his current position. Since we don't have that we would have to go in and hire a new firm to basically serve as the CFO of the agency. Bill Aaron stated that he does have an assistant but that between the Treasurer and Ms. Smith they could do the financials. Chairman Marsh asked if we have a CPA on contract at this time. Mr. Carter stated that we have the CPA firm which is currently performing the audit, but we also have other firms qualified to provide accounting services. We have an outside auditor and we cannot mix the role of audit with on-going financial functions. You have to have a separation of duties otherwise it would be a conflict of interest.

Anthony Carter stated that in reference to Commissioner Brown-Russell's question and the explanation that was given by legal counsel. The situation is such that Ms. Smith has not done financials in the past. She has done the other functions that are in his purview. She's done the banking transfers, she's done the payables, she's done the HR. She is responsible for procurement and all of those things are well within what she is capable of doing. What was suggested to him earlier in the same day by legal counsel is that we can cover that one area of conflict, which is the actual monthly financial reporting, which takes about three hours every month to complete that, we could easily obtain an accounting firm at a reasonable cost to just compile the monthly financial reports.

Commissioner Curtis stated that for the sake of putting this to rest he would make a motion, since Commissioner Burns was unable to, to reconsider the appointment of Anthony Carter as Interim President & CEO of the DDD and to place another candidate into consideration. At this point Chairman Marsh stated that there is a potential for some conflict with some personal relationships and would like to ask if that is the case? Commissioner Ross stated that he has a personal conflict with Mr. Pourciau in a professional manner. With the motion on the table, it was supported by Commissioner Ross. Commissioner Barrasso asked what do we do about the fact that some of the members believe that they cannot move forward with this without breaching a contract? She asked that they suspend this motion while we get a real legal opinion as to whether or not there was a contract. Commissioner Marsh stated that to Commissioner Barrasso's point if we rescind Anthony that we are in the same boat that we still won't have somebody in charge come Friday when Mr. McCall departs. It would seem that he would just rather wait and get an answer rather than violate a contract. Because either way we have not appointed anyone to this position if we take Anthony out. He would like to rely on the attorneys here and asks does that make sense? Bill Aaron asked for clarification on what he was asking. Chairman Marsh stated that Commissioner Barrasso wanted us to wait until we get a legal opinion as to whether or not there was a valid contract. Bill Aaron stated that there was a motion and a second so technically under Robert's Rules of Order it would be a motion to table to get a legal opinion from the Attorney General or whatever else. After further discussion a motion would have to be made to table the motion prior to the vote being taken because once it has passed it cannot be tabled. Someone has to make a motion to table and a vote would be taken on that. If that then fails you can go back to the main motion and see what happens.

Commissioner Barrasso made a motion to table the motion of reconsideration pending the determination of the legality of that action so we are not violating a contract illegally. Supported by Commissioner Adler.

Commissioner Spears wanted clarification on that the Board is taking up another motion while the first one is on the floor. Bill Aaron stated that the motion to table would take precedent because the way Commissioner Barrasso has phrased it she wants to get a legal opinion as to the legality of the original motion. He further stated that the problem is if you take up that motion first and it passes, the motion to table becomes irrelevant and if you did do violence to a contract you've stepped into the problem she is trying to avoid.

Commissioner Major wanted to know the rationale behind tabling this motion and how long are we tabling it for? She feels this is adding additional time to the process. Commissioner Barrasso explained once again why the motion was being tabled and stated that all of this could be avoided by at another meeting having a motion being put on another agenda to terminate Anthony's position, which is sought to be done here and to do it transparently and legally. Absent that, she would like to have an opinion on how to proceed so we don't do something illegal.

Chairman Marsh asked if we vote to table today are we getting a firm commitment from Bill Aaron or someone is going to get this information because he does not want this to go on forever. Commissioner Barrasso stated that the other option is to have a different motion before

us and her problem is that we are being asked to reconsider the making of an offer that has already been accepted. We are asking to fire Anthony from a position that we put him in.

At that point a roll vote call vote was taken to table the motion and with the final vote as follows: 4 Yeas (Commissioners Marsh, Adler, Barrasso & Cook) and 6 Nays (Commissioners Curtis, Ross, Spears, Burns, Brown-Russell & Major). The motion to table failed. Comments made during the vote were from Commissioner Major - Nay based on not knowing what is the time line for this. Commissioner Brown-Russell – Nay based on that she disagrees that this is not a legal issue and it is not whether we are breaking the law are against the law it is a contractual matter.

Commissioner Curtis re-read the motion already on the floor and supported. The motion to reconsider the appointment of Anthony Carter as Interim President & CEO of the DDD and to place another candidate into consideration. The roll call vote was taken with the final vote as follows: 6 Yeas (Commissioners Curtis, Ross, Spears, Burns, Brown-Russell and Major) and 4 Nays (Commissioners Marsh, Adler, Barrasso and Cook. The motion passed. Comments made during the vote were from Commissioner Spears – This Board was in an unfortunate position last year to make some staff changes. It is important to him that it is read into the minutes that those changes were not any indication of the staff's performance but more of a finance position the Board was in. As he makes this vote now, he wants to make sure it is known that this is no reflection on Anthony whatsoever, his vote is Yeah. Commissioner Barrasso – She wanted to clarify that what they were voting on now is whether or not to then debate and reconsider what to do. This is not the decision on whether or not we are moving Anthony from the position. Commissioners Curtis and Marsh stated it is removing.

Commissioner Curtis made a motion to put into consideration John Pourciau for the Interim. He finds that his experience not just in government, but also at this critical time in New Orleans his ability to lead the DDD into the next leadership phase, in the interim position is a great opportunity, not only to make that connection with our other stakeholders and partners but with key issues that are going on within the District including Charity Hospital District renovation, what is now Four Seasons and all the good things that are happening in the District and the development of these many key sites he thinks that Mr. Pourciau can lead us in a very real way. He would ask a couple of things of him. That he serves until we find someone and also that he would not seek the permanent position and not to make any suggestions on his career pathway but just as we did before it frees up the organization to go out and seek other talent moving forward. If he does want to be considered for the permanent position that he makes that known at this opportunity. But he would make a motion to put him into consideration. Bill Aaron interrupted in saying that according to the Louisiana Open Meeting Law in order for the Board to consider that motion we need a unanimous vote of the members present to add it to the agenda. After it is added to the agenda you can vote on it. But until it is added to the agenda by a unanimous vote you cannot without violating the Louisiana Open Meeting law, take it up at this time.

Commissioner Curtis contended that we did put in the open meeting that we would consider another candidate. Bill Aaron stated to Commissioner Curtis that his motion was to appoint a specific individual. That is not what is on the agenda. It didn't mention Mr. Pourciau. You

mentioned Mr. Pourciau specifically. Commissioner Curtis stated that we put in the agenda that we would appoint an interim. Someone else in the consideration. It was clearly noticed. Bill Aaron stated that if you want the motion as you worded it to have Mr. Pourciau's name in it, he thinks he should get the Board to amend the agenda to specifically put that on. Otherwise, it would be a violation of the open meetings law. Chairman Marsh asked would both of those motions have to be unanimous or a majority? Bill's response was that in order to add something to the agenda, his motion was to specifically appoint Mr. Pourciau so if that what the motion is you need a unanimous vote of those present to amend the current agenda to add that to the agenda. If that is done, then if he gets a second to his motion then he gets it voted on then that's what happens. The problem is that he specifically talks about appointing a specific individual. His opinion would be that you need to amend the agenda to actually state that motion as he has worded it. Chairman Marsh has another question and states that the last two interims that were appointed were existing employees. An existing employee is not going to be subject to background checks and everything else. He sure there is nothing there. Do we even want to think about putting someone in a job that hasn't been vetted? Commissioner Curtis stated in reference to Bill's comments, neither of the last two people were public noted. Getting back on the question at hand Chairman stated that it is kind of dicey to put somebody in a job that hasn't been through the procedures that any external candidate would go through.

Mr. Pourciau asked to make a comment. He was going to say a few words in relation to the motion. He informed the attendees that his name is phonetically pronounced "Pooshow". The Chairman allowed Mr. Pourciau to speak as long it was brief. He stated that he looks forward to working with Mr. Carter in an interim capacity should the Board elect to make him the interim. He feels the DDD is at a fantastic time of opportunity to be able to put in long term leadership in this role. Unfortunately, what we see today is that some of the nature of the conversations back and forth that's happening in relation to the Board speaks to the fact that we are in a place of conflict but also again of opportunity. He believes that having an executive director in an interim capacity, which he does not intend to take the job long term, but having someone with both the knowledge of how the DDD operates from an outside perspective but also is coming from a place that's not within is going to provide him with a unique perspective to both engage in a way that's not something where he is learning all of this completely ignorant of any of the DDD processes, he does understand that there will be some things that he has to be made aware of. That outside perspective combined with some understanding of how this organization has worked from his perspective on the Council's side and also working for the mayor, is actually going to be beneficial to set this up appropriately. He thinks there is a tremendous opportunity. He thinks the DDD has done great things and can continue to do them but we do need to make sure we are assessing where that path is and setting that assessment up and that engagement up with stakeholders at this point prior to having somebody new come in and it is the ideal situation to ensure that the DDD is successful not just now but in the future. Chairman Marsh asked if it was his intention to resign from the City and not take a leave of absence? He replied yes.

Commissioner Curtis stated that in reference to Bill's point that he can understand but both votes one that was added to the agenda and one was not publicly noticed, Richard McCall at that meeting by name, it was just as his motion was and just as the public notice was given out today. You can go back to that meeting and it was noticed that we would vote on an interim CEO. There was nothing about a name of a person. He would like to call a vote on his motion that has

been second by the Board. Commissioner Barrasso commented that if you read the agenda doesn't say that the Board will vote on this. It says we are placing a new candidate into consideration, which is very different from saying that we're going to vote on someone. Commissioner Curtis feels since it has Action Item next to it on the agenda, he says we are going to vote. Commissioner Barrasso reiterated that the vote is to reconsider. It does not give anyone notice that today for the first time without seeing his resume or anything and no opportunity to discuss it you're asking us to vote on it without even amending the agenda. Commissioner Curtis stated that he is asking and is calling the vote and if you don't agree then vote against it. Chairman Marsh asked if he was suggesting that we offer the job on the spot here or are you suggesting that we put him in consideration? Commissioner Barrasso stated that he wants the Board to vote and give him the job today. Commissioner Curtis said he wants to vote to give the Chairman the authority to negotiate with him just as we did at the last meeting.

Chairman Marsh said that some of the members are saying that the last offer was not an offer and others who are saying that there was an offer and now you want to extend another offer. We could be extending two offers that are valid. Mr. Pourciau asked to speak and was allowed to under the understanding that it would be brief. He asked Commissioner Curtis if what he was saying is that when Mr. McCall was appointed there was a point in using the exact language that's currently in this agenda to appoint him? He was informed that the previous agenda stated that an appointment would be made.

Commissioner Spears raised his hand to be heard. He stated that this is not properly noticed seems absurd to him. In his opinion as a commissioner, a Downtown stakeholder, and a business owner, it was adequately noticed and more noticed than the previous actions taken by this Board. He feels like the counsel today is walking the Board down a specific path and not unbiased counsel. He wanted to put that out there and to speak on it further with the Chair at a later date. Again the idea that this was not properly noticed. He supports Commissioner Curtis' position. It was noticed it was clear and that is the entire purpose today's special meeting.

Bill Aaron stated that he has known Commissioner Spears for a long time and he doesn't take his comments personally. Going back to when there was an appointment for Mr. McCall the language of the motion was to appoint. That language does not appear in the current motion. Mr. Aaron's advice to Commissioner is whatever you do is do it right. There is a way you can do it right. He just cautioned him that if he proceeds in a way that is not right it is going to have repercussions. You are the Board. As long as you have a majority to do what you want to do and you do it right that's what happens. His only concern is that he thinks there is a problem with how it is being done. Bill stated that that is his job to tell them. He also stated that the Board could take his advice or not. The record will reflect that he gave his advice. The Board can do as it chooses.

Commissioner Major asked for clarification on whether or not Commissioner Curtis' motion was second and a clear understanding that his motion is to take what Commissioner Burns has indicated to reconsider Anthony Carter from this position or is it to reconsider and to place Mr. Pourciau in the position? Commissioner Curtis stated that it was to place Mr. Pourciau in the position.

Commissioner Barrasso responded to Commissioner Spears' remarks. She stated that the difference here is that at the last meeting the Board unanimously amended the agenda to move forward with appointing Anthony. Here we don't have that. The fact that Commissioner Major had to ask that question shows it is not clear from what the agenda items says. It doesn't say appoint or place someone into the position.

Commissioner Major asked that if she seconds the motion now can the vote be taken? Chairman Marsh asked if this has to be unanimous? Bill Aaron stated that if you want to do it at the meeting today, his recommendation is that you unanimously amend the agenda and to go with the exact wording that Mr. Curtis has. If you can't get that unanimity then do another meeting and specifically put the language that Mr. Curtis has on the agenda that is proper then you have the vote and if it comes out 6 – 4 or 7 – 4 or whatever, however it comes out it comes out. His only concern is that the way it's going right now he feels there is a legal impediment there. Bill said that back to Mr. Spears, he is not telling the Board what to do, he is suggesting that there is a way to do what you want to do and do it right. Either get everybody else to agree to Mr. Curtis' language right now or put Mr. Curtis language on an agenda for the next meeting.

Chairman Marsh asked if there was a second to the original motion. It was second by Commissioner Major. Commissioner Cook stated in reference to the motion that he is very concerned about the procedural approach that is being used and he would defer to the advice of the counsel that the Board just received. He feels we should be very thoughtful about what actions we take as there may not only be procedural repercussion but his assumption would be that there would be additional repercussion from that. He would prefer to have sufficient time to have this investigated completely and allow us the opportunity to fully understand the decision we are being asked to make. If we are looking at a specific appointment at this time, he has even greater concerns to the action that's being taken because it does not allow for any other candidates to be brought into the pool and it doesn't allow for process and frankly with the amount of time we have from now until the filling of the position in his mind the Board had already found the candidate that was in place. That has been undone by the Board and he recognizes that. At this point he is very concerned about moving forward on the motion that has been put on the table. It places the Board in a very difficult situation going forward. Commissioner Adler also has concerns in going against the advice of legal counsel that we have relied on as a Board for some time. He does not know what position it puts them in individually as Board members going against legal advice. Chairman Marsh agrees with both Commissioners in that we received some pretty strong legal advice today. Commissioner Barrasso also agrees and feels it is illogical to be violating these rules and rushing this forward and starting whatever happens with a continued blemish with what the Board is doing as well as putting themselves at risk.

Commissioner Major asks if we decide we are not going to name a person to this seat today and what is the time frame? Chairman Marsh stated that it would be at the next meeting unless a special meeting is called. Commissioner Major said that as serious as it is we should wait for the information and if that's the case call a special meeting.

Chairman Marsh asked if we should adjourn the meeting with someone polling all of the Board members to see when a quorum would be available?

Commissioner Adler reiterated that he did not get on this Board to be sued for going against the advice of legal counsel. It is not smart individually for any of them.

Mr. Carter stated that the most logical date would be the upcoming Friday as that is Mr. McCall's last day and we could have this matter wrapped up by Monday.

Chairman Marsh asked those that are concerned about legal ramifications, himself included, he asks Commissioners Cook and Adler would that address their concern or do you think that we are postponing the inevitable? Commissioner Adler stated that he would defer to our lawyer whose advice we are taking now as to whether or not we are complying with what the requirements are. Commissioner Cook stated that he concurs with Commissioner Adler and thinks that we need to find out if this meets the obligations in the open meetings laws if that process is followed.

The Chairman opened the floor to Bill Aaron, Legal Counsel. To be blunt, it looks as though the votes for Mr. Pourciau appears to have the votes so if you want to look at it and end the pain, do a motion unanimously to go with Mr. Curtis' motion and you can get this over with today. That motion would be to amend the agenda to put the appointment of Mr. Pourciau on it. If that vote passes then your vote should do it. The other way of doing it is to have another meeting where the agenda specifically has on it the appointment of Mr. Pourciau. If you're going to do it, do it so that there is not a way for someone to come back attacking the Board as being in violation of the open meetings law.

Commissioner Brown-Russell stated her frustration for being on a call for two hours and that each board member knew what was going to take place at this meeting. Holding this up just because it is not worded a certain way is absurd. She had a stakeholder email her about what this meeting was about last night.

Commissioner Barrasso stated that it was never made clear that a vote would be taken on someone that some of the commissioners may know but some of them may not know him. Being asked to vote without it being on the agenda and violating rule after rule.

Clarification was needed on exactly what the roll call vote is for. Commissioner Curtis stated for the record that the vote was for the appointment of John Pourciau as Interim President & CEO of the Downtown Development District.

The roll call vote was taken and the final votes was as follows: 5 Yeas (Commissioners Curtis, Spears, Burns, Brown-Russell, and Major) 3 Nays (Commissioners Marsh, Barrasso, Cook) with 2 Abstaining (Commissioners Ross and Adler) The motion failed as a majority of 6 votes was needed.

The question was raised if it failed. Bill Aaron says that his gut reaction is the vote is 5 to 3 and the abstentions are no votes and it would take a majority of the members present to carry the motion. He stated that the question is not whether or not the two abstentions count or not but the question whether or not there is a majority of the members present voting and technically there is not. The motion would fail without the necessary votes.

Commissioner Barrasso moved to adjourn the meeting and schedule another meeting so this can be done properly. Chairman Marsh second.

The question was raised to have another meeting on Friday? It is not clear on what a meeting on Friday would be voting for. Commissioner Cook stated that we would have to appoint somebody by Friday or de facto have some procedure in place for the oversight of the DDD.

It was decided to try and schedule a meeting for this coming Friday. With the motion to adjourn and second on the floor. The meeting was adjourned at 6:02 pm.

Executive Session – N/A

Adjournment –The meeting adjourned at 6:02 pm.