



Minnesota Ballpark Authority Meeting Minutes – May 18, 2007

Chair Cramer called the meeting of the Minnesota Ballpark Authority for May 18, 2007, to order at 1:00 p.m. The roll was taken. All Commissioners were present. Kathleen Lamb, Legal Counsel, was also present.

Commissioner Vekich moved approval of the agenda, seconded by Commissioner Campbell and approved unanimously – 5 YEAS, 0 NAYS.

Commissioner Wade moved approval of the April 26, 2007 minutes, seconded by Commissioner Campbell and approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

PUBLIC COMMENT:

No public represented.

CHAIR REPORT:

Chair Cramer thanked Commissioner's Sykora and Vekich for their work on establishing a trust agreement with Wells Fargo. It's exciting to be transitioning to the working stage of the project.

EXECUTIVE DIRECTOR REPORT:

- Dan Kenney reported that all recently executed Grant, Lease, Use and Development Agreements are now posted on the website.
- To support Project Manager Ed Hunter in tracking contracts and project management issues they reorganized the office and moved Carol Dean to report to him directly as part of the Ballpark Authority office. Devonna Pittman will take Carol's current role in the Hennepin County Ballpark project office and support Chuck Ballentine and Rick Johnson. He thanked Susie for working through those issues so we could optimize the talents on the staff as we get into the construction phase. We also will be employing two Step-Up interns this summer that will assist us in the day to day front office of the Authority. Commissioner Wade wondered what wage the interns would be compensated at. At Dan's request Susan Helget reviewed the Step-Up program for the Board. The interns will be working 20 hours a week and will be paid \$10 per hour. They will be on board mid-June through the end of August.
- Commissioner's Vekich and Sykora assisted in selection of Wells Fargo as the Trustee along with Team representatives. This allowed the authority to finalize the Construction Trust Agreement and the Pledge Agreement with the team for their collateral for future payments that will come later in the project. We also finalized the disbursement agreement and right of entry permits for Mortenson.
- On May 7th we deposited \$45 million as first payment on the project.
- Hennepin County sold bonds on behalf of the project and the closing date of those bonds is May 30, 2007 and that's when the Trustee received the funds.

ACTION ITEMS:

07-MBA-08: Resolution to approve the Intergovernmental Cooperation Agreement which defines scope and cost responsibilities between the Northstar and Ballpark Projects, and to authorize the Chair and Executive Director to sign the Agreement on behalf of the Authority

- Ed Hunter spoke to the resolution and stated it addresses the construction and funding responsibilities between these two entities. The discussions of this agreement have taken place over the past six months and are up to date and reflective of the latest design considerations, including track realignment and the 5th street bridge construction as we know it today. Schedule is set forth for milestone dates and deliverables as mutually agreed to between both parties.
- Dan Kenney interjected that they are offering R1 today. The agreement is substantial but another meeting will be held next Tuesday, May 22 to close out a few open issues. Asking for similar motion today to execute final agreement once that last meeting is held.
- Chair Cramer asked if these open issues were substantive or administrative? Ed conveyed that it was just minor checking with language of insurance and one small construction coordination issue.

Commissioner Vekich moved to approve this resolution. Commissioner Campbell seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

07-MBA-09: To authorize staff to negotiate with the team headed by Braun-Intertec for Special Testing and Inspection Services for the ballpark project and authorizing the Chair and Executive Director to sign the agreement on behalf of the Authority

Commissioner Campbell moved to approve this resolution. Commissioner Vekich seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

Discussion Resolution 09:

- Ed Hunter spoke to the resolution and defined the special inspection services required as they relate to construction and any elements of infrastructure. They received four qualifying proposals and after analyzing them with the Twins, ballpark Authority, and the County they determined Braun-Intertec brought the best value to the project.
- Commissioner Wade questioned what the selection process was based on and Ed said there were a number of criteria taken into consideration, not a low cost bid form evaluation. The decision was based on past project experience, workloads, amount of SMWBE participation brought to table, number of resources they have available, and experience of individuals they proposed for the project.
- Commissioner Vekich reiterated that selection was not based on lowest cost but most qualified.
- These represent contracts that are Time and Material contracts not in form of a guaranteed maximum price. The amount we are establishing in the initial contract budget is based on their proposals. If during the course of the project we find we may exceed this budget we will return to the board for additional funds.
- Commissioner Vekich asked if Braun-Intertec was involved in Phase II work? Ed responded that that Braun had done work for Northstar and was not related to this project.
- Commissioner Wade asked if there were wide discrepancies between the proposals? Ed stated that one of the four firms was significantly higher. The other three were close as far as pure pricing comparison. In comparison the proposers were up and down in terms of small business or women owned minority participation. Factors as to whether there was local expertise and local testing facilities available brought more to the table than others located out of the area could compete with.
- Commissioner said resolutions 9, 10 and 11 are not to exceed 6 figures? Ed said they were based on good estimated budgets and final accounting will be based on actual work.

- Commissioner Vekich asked Ed how many more contracts will be coming and if he could give an idea of the types of contracts we may be entering into separate from Mortenson? Ed said Resolutions 9 and 10 are relating to consultant services. Hennepin County previously entered into consultant service agreements with a handful other companies to help us engage in design activities i.e., 5th street bridge and BNSF track relocation. There may be circumstances to come to the Board and ask for engineering support. Now that the Development agreement is done and funding in place with Twins we can contract directly through Twins which offers greater flexibility. Expect to possibly enter into a half dozen reimbursement agreements through City of Minneapolis, Xcel, Centerpoint Energy, or other utility providers. Resolution 11 relates to agreement with Qwest.
- Commissioner Vekich commented if we need additional services it will be through consultants anything other directly related to development will go through the Twins? Ed said that would likely be the case. The nature of our Consultant Services deals with infrastructure and relationships with Northstar or BNSF.
- Commissioner Barb Sykora wanted to know how these agreements fit into the budget to handle these ancillary items? Ed said they are in the process of preparing the overall project budget draft to bring back to this board at the next meeting. He will identify line items within the infrastructure budget.
- This resolution will carry across the infrastructure and ballpark budgets. Resolution 10 is part of infrastructure budget only.
- Commissioner Vekich is assuming someone is in process of preparing budget book? Chair Cramer is comfortable leaving the issuance of RFP's in staff hands but always have the contract award subject to board approval. Commissioner Wade was not sure of impact on whole process. Vekich asked that it be made in the form of a motion to make part of policy. Commissioner Campbell so moved and Commissioner Vekich seconded. 5 AYES, 0 NAYS.
- Commissioner Campbell said it was important to know the difference between an RFP and a Bid Package.
- Commissioner Vekich inquired whether we are required under these rules to go to the lowest bidder?
- Kathleen Lamb, General Council, stated under uniform municipal contracting law awarding the lowest bidder does not apply to professional service agreements. Public bodies develop their own policies with respect to professional service agreements. As Mr. Hunter said the RFP's contained a list of criteria that respondents have to meet.

07-MBA-10: To authorize staff to negotiate with the team headed by American Engineering Testing, Inc. (AET) for Environmental Oversight, Testing and Monitoring Services; for geotechnical testing and special inspection services; and for pre-construction survey and vibration monitoring of adjacent structures; all pertaining to the ballpark project; and authorizing the Chair and Executive Director to sign the agreement on behalf of the Authority.

- Ed Hunter reported 13 responses received for this RFP. AET (located in St. Paul) has benefit of previous association with Hennepin County as they contracted and completed preliminary studies of the ballpark soil borings. They are going to administer the Response Action Plan.
- Commissioner Vekich asked whether the dirt they're handling is coming in or being taken out of the site? Ed said both are applicable. In their previous involvement on the project they primarily conducted soils borings on the project. Peer Engineering created the Response Action Plan.
- There are 7 hot spots with a total accumulation of 1000 cubic yards. Dirt with higher mercury concentration which will be disposed in Wisconsin. The RAP addressed these landfill locations.

Commissioner Vekich moved to approve this resolution. Commissioner Sykora seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

07-MBA-11: To authorize the Chair and Executive Director to negotiate and enter into a cost agreement with Qwest Communications Corporation to design and relocate fiber optic utilities in the BNSF Railroad right-of-way.

- Ed Hunter said there is a need to consolidate fiber optic utilities into one duct bank and relocate along west side of new track re-alignment. Qwest is taking lead on design of that duct bank and will pull the new fibers for all other fiber optic utility companies, i.e. Sprint, McCloud and three or four other companies.
- Commissioner Wade wanted to make sure other companies involved were taken care of contractually. Ed responded that Qwest had taken the lead and coordinated all documents with other companies.

Commissioner Sykora moved to approve this resolution. Commissioner Vekich seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

07-MBA-12: To authorize the Executive Director to enter into an agreement with the City of Minneapolis Civil Rights Department to monitor the women and minority employment goals for the ballpark project.

- Commissioner Campbell wondered whether one person from the City would be assigned to this task and Dan Kenney said, yes, that is the intention.

Commissioner Campbell moved to approve this resolution. Commissioner Vekich seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

07-MBA-13: To ratify the agreement with Aon Risk Services, Inc. of Minnesota for insurance brokerage services and Risk Management Resources, Inc. to provide risk management consulting services to the Minnesota Ballpark Authority.

- Colleen Livermore pre-audited the agreement.
- Commissioner Vekich stated it was authorized but not formerly approved.

Commissioner Wade moved to approve this resolution. Commissioner Campbell seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

07-MBA-14: To authorize the Executive Director to issue an RFP for Public Affairs Consulting Services.

- Commissioner Wade asked if there was a budget and Dan Kenney responded yes, it would not exceed \$50,000.

Commissioner Campbell moved to approve this resolution. Commissioner Wade seconded the motion. The resolution was approved unanimously – 5 YEAS, 0 NAYS.

APPROVED

Commissioner Vekich asked if the fees for the RFP's were coming out of the two budgets or will they be up and above the Authority's budget? Chair Cramer stated these fees will hit either the infrastructure or ballpark budget. Dan Kenney intercepted that they would be project costs. Chair Cramer stated in the future it will be important to align costs within either project

*****New **Resolution 07-MBA-15** walked in by Commissioner Vekich.

“Be it resolved that generally, Request For Proposals should be approved by MBA prior to issuance. However, if the Executive Director determines that time is of the essence in the issuance of the RFP, the Executive Director is authorized to issue an RFP upon notification to the Authority. In all cases, acceptance and award of any response shall be subject to the approval of the Authority.”

Commissioner Vekich moved to approve the motion. Commissioner Sykora seconded the motion. The resolution was approved unanimously. - 5 AYES 0 NAYS. **Approved**

DISCUSSION ITEMS:

Construction and Planning Update:

- Ed Hunter has reached an agreement with BNSF. Expects to receive a signed agreement Tuesday, May 22nd.
- Northstar still has not been given notice to proceed with their bid package. This includes the 5th Street and Hiawatha extension platform. Their bid is good only through mid-June. Notice to proceed all depends on FTA authorizing a letter of “no prejudice” and granting a Full Funding Grant Agreement.
- 5th Street Bridge is closed for sewer relining. Work was hired by Metropolitan Council. Lametti is doing excavation of abutment.
- Pre-construction survey surrounding property is commencing immediately. Damage to Ford building not because of our activity. Vibration monitoring devices will be set up to do studies on other buildings.
- Dan Mehls will commence with excavation of asphalt soon. Their trailer is there and the parking area has been cordoned off. Soil erosion control starting Monday, May 21st. They have achieved three critical path items: 1. Get on-site, 2. Gain Railroad right of way, 3. Drive piles in August (on schedule). He handed out a sheet listing the major milestones to the Board.
- Commissioner Campbell asked if there were studies done on vibrations received from the railroad? Ed Hunter responded that there is no concern with the railroad vibrations. There are 30 trains that travel over the tunnel every day. They will be putting vibration monitors in the tunnel as well. Don't anticipate a problem.

Construction Trust Fund Disbursement Process:

- Colleen Livermore handed out and explained a flowchart entitled “Overview of Disbursal Process”. The Twins have contributed their \$45 million to the Construction Trust Fund. At the end of the month the first bond issue of \$150 million will be deposited and sales tax proceeds are coming in the amounts expected. Payments going out include \$5.9 million reimbursement to the Twins for past invoices covered by them. An insurance payment will be made of \$8 million in the next week.
- On May 25th they will be starting the payment process to Mortenson. Colleen handed out a sheet showing how the signature process will flow. Chair Cramer said there is a meeting in early June between Dan Kenney, Colleen Livermore, Ed Hunter, Mortenson and the Twins to go through this process.
- Commissioner Vekich inquired where the investment sweep of interest income is? Colleen will investigate and report back to the Board. Chair Cramer said interest earnings are under control of the board and is a significant amount.
- **NEXT MEETING ANNOUNCEMENT:** The next regularly scheduled meeting of the Minnesota Ballpark Authority is scheduled for June 15, 2007 at 1:00 P.M. in the Halsey Hall Room (Metrodome Offices).

There being no further business, Commissioner Vekich moved to adjourn, seconded by Commissioner Wade. The motion was approved unanimously – 5 YEAS, 0 NAYS. The meeting of the Minnesota Ballpark Authority for May 18, 2007 was declared adjourned at 2:10 P.M.