

**MINUTES OF A WORKSHOP OF  
THE SPORTS AUTHORITY OF THE COUNTY OF  
KNOX AND THE CITY OF KNOXVILLE, TENNESSEE  
January 12, 2022 – 9:10 AM**

The workshop of the Board of Directors of The Sports Authority of the County of Knox and the City of Knoxville, Tennessee (the "Authority") was held at 9:10 AM on Wednesday, January 12, 2022, in the Regal Commons at the Knoxville Museum of Art located at 1050 World's Fair Park Dr., Knoxville, TN 37916.

Alvin Nance, Chair of the Sports Authority Board of Directors, called the meeting to order. The following Directors were present, constituting a quorum: Richard Bass, Joan Cronan, Jeff Hagood, Tim Hill, Alvin Nance, Nikitia Thompson, and Rosalyn Tillman. None were absent. Also present were: Stephanie Welch, Chief Economic and Community Development Officer and Deputy to the Mayor of the City of Knoxville, Chris Caldwell, Chief Financial Officer and Deputy to the Knox County Mayor, Doug Kirchhofer, Chief Executive Officer of Boyd Sports, LLC, Mark Mamantov, Attorney at Bass, Berry & Sims, PLC, R. Culver Schmid, Attorney at Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, Olamide Oso, Attorney at Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, and Kim Bumpas, President of Visit Knoxville. Members of the media and other visitors were also in attendance.

Opening Prayer

Mr. Hagood opened the workshop with a prayer.

Workshop Overview

Mr. Nance explained that the purpose of the workshop is to review the redlined versions of the Development and Lease agreements associated with the stadium project. Each member of the Board was given a copy of the redlined agreements to review.

Mr. Nance also explained that although no one had yet signed up to speak during the Public Forum portion of the meeting, anyone present who would like the opportunity to speak could do so at the end of the meeting.

Review of the Development Agreement

Ms. Welch explained that Mr. Mamantov will lead an article-by-article review of each of the agreements, highlighting the areas of which the Board needs to be aware. Afterward, the Board will also briefly discuss other future agreements about which the Board will need to know.

Mr. Nance asked if the redlining highlighted changes that were requested by the developer. Ms. Welch answered that the redlining highlighted all changes that were the result of the discussions between all involved parties and that some items have not yet been finalized.

Mr. Mamantov began by explaining that the red and blue lining highlights areas that have been changed since November when these documents were generally publicly disseminated. He stated that he would go through each document, define each article, and allow the Board the opportunity to ask questions or make comments.

Upon review of Article III of the Development Agreement, Mr. Mamantov explained that pricing is based upon the design drawing which is currently in process but close to completion. RR Land will be in position to agree to a guaranteed maximum price once that process is complete. The agreement may be edited to reflect the fact that pricing will be based on design drawings rather than final plans and specifications. He stated that Article III serves as a roadmap of action items that must be completed for the agreement to move forward.

Mrs. Tillman asked if the items outlined in Article III need to be completed before the Board signs the agreement. Mr. Mamantov replied that the conditions listed in Article III must be

completed before any money is spent. Some of the conditions (i.e., Major League Baseball (MLB) approvals) will need to be met before the agreements are signed by the Board.

Mrs. Thompson asked when the MLB is scheduled to sign the agreements. Mr. Mamantov answered that the date has not yet been determined because those discussions are currently in progress.

Mr. Mamantov continued and upon reaching Article V: Certain Deadlines and Deliverables, he explained that due to the start of the baseball season, the latest possible completion deadline for the stadium would be mid-April of 2024.

Mr. Nance asked if splitting locations would require MLB approval. Mr. Kirchhofer replied that it would not require MLB approval but would require cooperation. He added that it would be logistically difficult to move once the season has begun due to the operational requirements of starting a new facility. Mr. Kirchhofer explained that the team could begin the season by playing away games if necessary but that would become problematic if the delay lasted until July 4<sup>th</sup>.

Mr. Hagood asked if the delay would become problematic at that point because 20% of the season would have passed. Mr. Kirchhofer explained that scheduling would become an issue, as schedules impact other teams as well.

Mr. Mamantov stated that Article 5.1.5 builds in a six-month trigger for the developer to notify the Board of whether completion of the stadium will be possible by the April 24, 2024, deadline. He also explained that 5.1.8 currently states that the Knoxville Utilities Board (KUB) must have the necessary infrastructure work completed by the time the stadium opens but that it will be adjusted to show a schedule of infrastructure completion deadlines.

Mr. Nance asked if that schedule would be phased. Mr. Mamantov replied that not all the infrastructure items will need phasing but that the items that need to be completed for the stadium construction to occur will likely be phased.

Mr. Schmid asked Mr. Mamantov to explain Article 5.2: Extension of Substantial Completion Deadline. Mr. Mamantov explained that if a delay is caused by something outside of the control of the developer (i.e., force majeure) then the developer could extend the substantial completion deadline. The collection of sales tax revenues may then be delayed which would present a risk to the community. Payment of the bond debt service is counting on the sales tax revenues to begin in April of 2024. This section has not been finalized and ways to protect the community are being worked out. Mr. Schmid then asked if any limitations to the extensions are in place. Mr. Mamantov stated that those could be found later in the Security section. The cost of extension has not yet been agreed upon.

Mrs. Thompson asked which party would need to accept responsibility and if the cost would be negotiated at the moment an act of God was to occur. Mr. Mamantov replied that a weather-related incident that causes damages and delays would generally be covered by builders' risk insurance. An act such as another pandemic could not be insured against, and the City and County would have to absorb the loss of sales tax revenue.

Mr. Mamantov stated that section 5.3 explains that any financing proceeds that remain after the final completion of the stadium will be equally split between the developer and the Authority less the first \$1 Million which will go to the Capital Improvement Fund. This serves as an incentive for the developer to complete the project under budget.

Mr. Mamantov went on to explain that Article 6.4.2 deals with the underlying construction contract with Denark Construction, Inc. He asked the Board to note that it not only provides for the security but will also have performance and payment bonds. The payment bond is intended to guarantee that the contractor completes the project within the price to which they committed. Article 6.5 is the cost effort provision.

Ms. Cronan asked Mr. Mamantov to explain more about the overruns. Mr. Mamantov stated that any cost above the \$80 Million that has been allotted to the project would be the responsibility of the developer.

Mr. Hagood asked for an example of a change order that would apply under Article 6.5. Mr. Mamantov stated that any change order that is submitted by the Authority that is not a part of the design plan and results in a cost overrun would be the responsibility of the Authority. He gave the example of an installation of public art that was not already in the plan but was requested by the Authority. Those requests would also have to be approved by the City and the County.

Mr. Hagood also asked if the on-time and under-budget incentives to the construction manager would be shared with the Board. Mr. Kirchhofer explained that the contract had been filed and that information could be shared. Mr. Mamantov stated that the construction manager would get 25% of the construction contingency if it is not used. Mr. Kirchhofer explained that the construction contingency exists to allow for increased costs and is at the disposal of the construction manager if it is needed, but they are incentivized not to use it.

Mrs. Thompson asked where the remaining 75% of the construction contingency would go if it were unused. Mr. Kirchhofer stated that it would be applied to the financing proceeds that Mr. Mamantov referred to earlier which would go to the Capital Improvement Fund and then be split equally between the developer and the Authority.

Mr. Bass asked if any event could occur that would cause an acceleration of the debt. Mr. Mamantov replied that because of the City and County effective backstop, there is no risk of debt acceleration to the bondholders other than nonpayment.

Mr. Nance asked what parameters exist concerning the use of the funds from any remaining financing proceeds and/or the construction contingency. Mr. Mamantov stated that the most likely uses for those funds would be additional deposits to the Capital Improvement Fund or seeding some years of the Authority budget. Mr. Nance asked if it could be used to fund the internship program. Mr. Mamantov replied in the affirmative and added that as long as it is in the furtherance of the public interest, the use of the funds would be at the discretion of the Authority.

Mr. Mamantov continued to explain that section 6.8 deals with the monthly reporting on construction which would include the disenfranchised business enterprise (DBE) report that the Authority will receive. Section 6.9 explains which change orders can be made in the moment and which require Authority approval.

Mrs. Thompson inquired if the Authority would be responsible for the cost of any change orders requested by the developer. Mr. Mamantov said that if the change incurs a cost that would first be paid from the contingency. If the contingency cannot cover it, that would qualify as a cost overrun and then be the responsibility of the developer.

Mrs. Tillman asked if the cost of change orders would have any effect on the DBE requirements. Mr. Mamantov replied that the commitment to DBE is a percentage of the construction contract cost and would not be affected. Mrs. Thompson added that it is based upon dollars spent. Mr. Mamantov replied that the developer has agreed to a DBE requirement of 17% of the dollars spent on construction costs but that he would look at the language more carefully to ensure it will not be affected.

Mr. Mamantov continued to review and define each article of the agreement and paused on Article XVI: Community Commitments to explain why it has been heavily edited. He explained that DBE provisions are controversial and have been litigated for many years. The edits made to Article 16 are to ensure that the agreement is constitutional while still ensuring that DBEs receive an opportunity to participate in this project. An outside expert on DBE litigation was hired to review the language and strongly advised that the agreement be edited to clarify that the goals outlined within the agreement are aspirational in nature. He also advised the team that the monthly reporting requirements can be very granular. The reports can be used to hold the developer accountable for the aspirational goals outlined within the agreement. The expert also advised that the definitions of DBEs be brought in line with the state statutes. Mr. Mamantov explained that the redline agreement more concisely defines qualifying veteran-owned businesses as small veteran-owned businesses of less than \$10 million or businesses owned by a disabled veteran.

Mrs. Thompson asked if the reason why the goals have to be aspirational is that a disparity study has not been done. Mr. Mamantov explained that the leading case scenario comes from a case in the city of Richmond which basically states that unless a compelling interest can be proven, any binding goal is unconstitutional. The Supreme Court case did not discuss disparity studies. To show that compelling interest exists, real historic discrimination against specific industries in a community must be shown. The City approved the hire of a disparity studies consultant at the City Council meeting last night. Unfortunately, the findings from that study would not be helpful in this case because the demographics of the County are different from those of the City. Mrs. Thompson stated that the lack of a disparity study does not prove a lack of disparity. She explained that the rate of poverty in the minority community leads her to believe a disparity exists. The Authority will need to take the DBE reporting seriously so that if the reports reveal that the goals have not been met, the existence of the disparity will be showcased. She explained that she appreciates the importance of the 17% and is hopeful that the goal can be accomplished as a community. Mr. Mamantov stated that these discussions have been great for this body, as well as the community as a whole. He also informed the Board that disparity studies are lengthy in process and would likely take about two years to complete. He also pointed out that Memphis was sued as a result of a bad disparity study. Ms. Cronan added that it highlights the importance of the goal that the Board set during its first meeting of intentionally moving in the direction of what is right. Mrs. Thompson agreed and expressed that she feels that the process is moving in the right direction. Mr. Mamantov expressed that he feels that Mr. Boyd and his team are putting great effort into achieving the goals set forth by the Authority. Mr. Nance stated that it is great to see that DBE inclusion is not only important to the Board but the development team as well. He also explained that although there may not be a legal process with which to hold the developers accountable to the DBE goals, a public process exists. The reports can be available to the community to provide explanation and transparency. Mr. Mamantov thanked Mrs. Thompson for the time and effort she has put into ensuring this topic remained a priority.

Ms. Welch also expressed that the Internship Committee has also put a lot of work into operationalizing the program. The internship program will be announced at the MLK luncheon to begin attracting interns. She thanked Mr. Kirchhofer, the team, and the consultants who eagerly agreed to provide placement opportunities for the program. She also thanked Mrs. Tillman who is the Chair of the Internship Committee.

Mrs. Tillman thanked Ms. Welch and asked if an edit could be made to the last sentence of Article 16.6 so that it reads "...exposure to professional career pathways including but not limited to..." rather than "...pathways such as..." She also requested that the section be edited to reflect the fact that the internship opportunities will be paid positions. Ms. Welch stated that she would have a discussion with the team about including a provision about intern compensation.

Mrs. Thompson informed the Board that she has asked Rev. Kessler to prepare a write-up describing the historical significance of the area neighboring the stadium build site. She explained that a draft of that write-up should be complete by Friday at which time she will provide it to Ms. Welch and Mr. Mamantov to be presented to the team to see if they agree to include those details in Article 16.5.

#### Review of the Lease Agreement

Mr. Hagood stated that the site was a brownfield and asked if the necessary work has been completed to ensure that it is now environmentally sound. Mr. Kirchhofer replied that the asbestos and some of the chemicals that were still inside the buildings have been removed according to regulation and law. There may be a remaining underground tank that was filled at the time that the initial brownfield agreement was entered into several years ago by a previous owner. That will be removed as part of the master grading in the early site work. That is the only thing that is left from a hazardous material standpoint and is something that is scheduled to be addressed. Mr. Mamantov added that the brownfield agreement means that the state acknowledges that as the successor entity, the predecessor did everything they could, and that the Sports Authority, upon

assumption of the title to the property, will not be subject to any environmental liabilities. Mr. Hill pointed out that a brownfield agreement limits the types of things for which the land can be used. Mr. Mamantov agreed but added that none of the prohibited uses apply to this project.

Mr. Mamantov began the review of the Lease Agreement by explaining that the blue text signifies a change requested by the MLB. He also explained that a current challenge is that the MLB is requesting a non-disclosure agreement be signed before disclosure of the Professional Development League (PDL) rules which are confidential. Because the Authority is a public entity, anything that the Board receives is open to public records. Mr. Kirchhofer added that Major League Baseball has no reason not to be fully supportive of this project and that the work currently underway stems from a restructuring of the relationship between Major League Baseball and Minor League Baseball, which occurred about a year ago. This is one of the first agreements and transactions they have had to review since the restructuring. He added that substantively, MLB is absolutely thrilled about the prospect of a new stadium.

Mr. Mamantov continued to review and define the Lease Agreement article by article sequentially. Upon reaching Article 4.4, Mr. Mamantov paused to point out that in exchange for a \$1 million fixed rent, the tenant will receive all the revenue from the stadium. He also paused to explain that Article 7 states that, in general, Capital Improvement expenditures will be part of a plan approved by the Board as a whole except in the case of a true emergency, in which case the tenant may address the issue without prior approval and for which they will be entitled to reimbursement from the Capital Improvement Fund. Article 7.8 allows the tenant to terminate the Lease Agreement in the unlikely event that MLB requires a capital improvement without which the tenant would lose the AA franchise rights that the Authority is unable to provide or remedy within six months and gave the example of MLB requiring all AA teams to reside in a stadium of no less than 10,000 seats. Mr. Kirchhofer added that the requirements that MLB might impose in the future should be looked at in the context that they would apply to every team that is similarly situated to the team in Knoxville. Therefore, it is unlikely that there would be a major change like the one Mr. Mamantov described because of the dramatic effect and the large number of teams that would be impacted by it. Mr. Hagood agreed but also pointed out that if the requirement were 6,000 rather than 10,000 and the situation could not be remedied, it would still result in the loss of the team. Mr. Kirchhofer stated that he was hypothetically correct. Ms. Welch added that if that were to happen the facility would continue to serve as a great asset to the community that does not currently exist. Mr. Kirchhofer also added that teams exist that are not affiliated with MLB; therefore, the imposition of requirements by MLB does not necessarily mean the community would not have baseball. If you look at baseball as the core tenant with 65 or 70 events, MLB is replaceable. Mr. Mamantov stated that if the need arose to adapt this as essentially a Civic Stadium, it is a great asset for our community. Mr. Hill pointed out the example of Pringle Stadium in Jackson, TN, and asked Mr. Kirchhofer to explain it to the Board. Mr. Kirchhofer explained that the AA team residing within Pringle Stadium was not extended an invitation to join the new MLB-affiliated PDL system. An independent league has now moved into the stadium and will begin to play this year.

Mr. Mamantov continued to review and define each article of the Lease Agreement sequentially. Upon review of Article 24.11, Mr. Mamantov pointed out that MLB has not yet agreed to the edits. Mr. Schmid pointed out that this agreement serves as a real opportunity to set precedents for the agreements that come to the PDL in the future. Ms. Welch expressed that Knoxville is in a unique position because it is working with a team owner who wants to be in our community and that Knoxville is lucky in that regard.

Concerning assignment of premium seating, broadcast, and naming rights, Mr. Hagood asked if those were given to the tenant in exchange for the \$1 million fixed rent as risk mitigation. Mr. Mamantov answered in the affirmative and added that he is confident that it is fair to both sides. Mr. Kirchhofer agreed and stated that the typical term for naming rights is nowhere near 30 years and is usually renewed at a lesser value. Ms. Cronan added that they are typically five-year terms. Mr. Bass agreed that the naming rights terms are usually 5 years.

## Timeline Review

Mr. Nance requested an overview of the document timeline. Mr. Mamantov replied that the Lease and Development agreements should be in a form that the Board is comfortable approving by January 25<sup>th</sup>. He also stated that MLB will send a letter confirming that they will allow the team to relocate to Knoxville and approving the Lease Agreement. Mr. Kirchhofer explained that a no-objection letter is typical and expected.

Ms. Welch informed the Board that she and Mr. Caldwell will reach out to each member individually to answer any questions or review the documents in greater detail if desired.

Mr. Mamantov stated that the bond documents will be presented to the Board in February.

Mrs. Thompson asked for a status update on the infrastructure document. Mr. Mamantov explained that he has worked up a draft of the infrastructure agreement which is consistent with the City's practice of doing significant redevelopment. The Authority and the City will be parties to that agreement. Ms. Welch commented that this is very consistent with the kind of redevelopment investment that the City makes to improve areas in general and gave several examples. She also stated that the Magnolia Avenue area, having some infrastructure that is 100 years old, has long been identified for needed investment. While heavy equipment will already be in the area is the best time and most efficient way to complete the updates. She stated that the infrastructure agreement will go before the City Council on January 25<sup>th</sup> and that she will be speaking with Council members about it during the next two weeks. The Sports Authority will be a party to the agreement to provide a commitment for the total development to move forward. She added that financial risks and obligations belong to the City for streetscapes and the public plaza, Knoxville Utilities Board (KUB) for utility relocations, and Knoxville Community Development Corporation (KCDC) for redevelopment for the culvert and connecting the project. Mr. Mamantov explained that the Authority will primarily serve in a procurement role and went on to explain that the City is agreeing to complete all the public infrastructure work, and that they will either do it themselves or ask the Authority to retain the developer who will then retain Denark and their construction design team to get it done most efficiently. Harold Cannon in the City Engineering Department will be a resource in determining which projects would most efficiently be assigned to which entity. The agreement will be relatively short and emailed to the Board for review.

Mr. Mamantov informed the Board that the following documents are also in process:

- KUB Agreement – similar to the Infrastructure agreement, addressing utility infrastructure
- KCDC Agreement – asking KCDC to bridge the culvert which will allow access to the stadium.

Mr. Hagood asked when the Board could expect to receive the Infrastructure Agreement. Mr. Mamantov answered that a draft should be available by the end of the week. Ms. Welch stated that she would like a chance to speak with City Council members about it before the agreement is widely distributed; therefore, the Board may expect to see it at the beginning of next week.

Ms. Welch explained that there are other agreements to which the Authority is not a party but that are essential to the project. Because the build site is in the Magnolia Avenue Redevelopment Area, KCDC has posted a public notice to amend the redevelopment plan to allow for a Tax Increment Financing (TIF) provision to ensure that all the commercial properties in the area are included. A smaller TIF within the larger redevelopment area is being created to utilize property tax increment to pay off the infrastructure that is being built to directly support this project. That set of agreements will go to City Council, County Commission, and the KCDC Board. Mr. Mamantov added that it is a TIF plan amendment. The Board will likely need to do a Request For Proposal (RFP) to hire an underwriter that can get the best interest rate quickly as rates continue to rise.

Mr. Caldwell explained that due to turnover and COVID the original form that was sent by the state was incorrect. He has received the correct form from the State and Mr. Nance has signed it. He will be submitting that form and the banking information today and has been assured by the State that the funds will be expedited.

Ms. Welch explained that at the January 25<sup>th</sup> meeting, the Authority will have the following:

- Stadium Development Agreement
- Stadium Lease Agreement
- Infrastructure Agreements:
  - City and Authority
  - KUB and Authority – if possible
  - KCDC and Authority

Ms. Welch continued to explain that additional time will likely be necessary to discuss the Bond and Financing documents. Mr. Mamantov added that the underwriter will determine the timing of those documents. Ms. Welch also stated that before the project goes out for financing in March, the redevelopment plan will need to be amended, and that is in process. The amended plan will be going to the City Council, County Commission, and KCDC. Then there will be the private Development Agreement, which is a key piece of the financing for the stadium and will not come before the Authority but to the City and County. Mr. Mamantov added that an agreement between the Authority and a Boyd-affiliated entity that will commit the entity to build the private development or cause them to be built and outline any ramifications of not doing so, has begun to be drafted. That is necessary to ensure the income stream that will support the stadium. Estimated incremental tax revenues are expected to be in the \$30 million range.

#### New Business

Mr. Nance reminded the Board that the next meeting will be held on January 25<sup>th</sup>. Mrs. Bumpas pointed out that the meeting will begin at 8:30 AM rather than 9:00 AM and that there is a meeting scheduled in the space afterward. She also asked the Board to expect a doodle poll for a workshop for either February 8<sup>th</sup> or February 15<sup>th</sup>.

#### Adjournment

Mr. Nance adjourned the meeting at 10:55 AM.