



## louisville arena authority

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**Board of Directors Meeting  
March 23, 2009  
9:00 a.m. EST  
Kentucky International Convention Center  
Louisville, KY**

**Directors in Attendance:** Mr. Larry Bisig, Mr. Todd Blue, Mr. Junior Bridgeman, Mr. Tim Corrigan, Ms. Reba Doutrick, Mr. Eric Gunderson, Vice Chairman Larry Hayes, Ms. Alice Houston, Ms. Cissy Musselman, Ms. Lindy Street, Mr. William Summers V, Metro Council President David Tandy (Ex Officio), Mr. Dan Ulmer, Mr. Robert Woolery (via phone), Chairman Jim Host

**Directors Absent:** Mr. Lanny Greer (Ex Officio), Mr. James Patterson

**Consultants and Staff of Arena Authority:** Mr. Harold Workman, Executive Director; Ms. Ellen Benzing, Acting General Counsel; Mr. Mike Clay, HOK; Mr. Bill Hedge and Mr. Anthony Mathis, Mortenson Construction; Ms. Paula Yancey, PC Sports

**Welcome: Chairman Host**

Chairman Host declared a quorum and convened the meeting.

**DISCUSSION ITEM: Acceptance of the Minutes of February 16, 2009 Board Meeting – Chairman Host**

Mr. Bridgeman moved to accept the Minutes of the February 16, 2009 Arena Authority meeting. The Motion was seconded by Ms. Musselman, and the Motion passed unanimously with no abstentions.

**DISCUSSION ITEM: ENERGY STAR Presentation – Chairman Host**

Chairman Host introduced Mr. John Fischer, Assistant Director of Economic Development for Louisville Metro, representing Mayor Abramson, who was unable to attend the Authority meeting. Mr. Fischer provided background information on the ENERGY STAR program, advising that most greenhouse gases are created by buildings. Additionally, he advised that the ENERGY STAR brand is recognized by more than 70% of American households. Mr. Fischer stated that Mayor Abramson began Louisville's ENERGY STAR initiative in 2007 and that currently, more than 250 buildings are competing in the "kilowatt crackdown" to reduce energy use. Mr. Fischer commented that more than 2,400 organizations representing the hospitality and entertainment, retail, commercial and corporate



P. O. Box 21179, LOUISVILLE, KENTUCKY 40221-0179  
221 SOUTH FOURTH STREET, LOUISVILLE, KENTUCKY 40202  
(502) 815-6963 PHONE / (502) 815-6962 FAX

real estate, healthcare, industrial and public sectors have joined ENERGY STAR. He then announced that the Louisville Arena Authority has been named an ENERGY STAR partner, the first arena in the construction phase to become a partner. ENERGY STAR is a U.S. Environmental Protection Agency (EPA) program and is the national symbol for saving the environment through energy efficiency. Mr. Fischer stated that the ENERGY STAR brand will be used by the Arena Authority to educate visitors regarding energy efficiency.

Chairman Host remarked that the ENERGY STAR partnership is a significant milestone event for the Arena Authority, and he reiterated the Authority's goal to make the Arena as green and energy efficient as possible. He thanked the Mayor for his leadership on this issue.

**DISCUSSION ITEM: Presentation of Financial Statements – Vice Chairman Hayes**

Vice Chairman Hayes introduced Mr. Jerry Frantz, Director of Administrative Services for the Kentucky State Fair Board. Mr. Frantz reviewed the February 2009 financial statements, reporting that "interest and other income" increased modestly in February 2009. He advised that the 2008 administrative expenses were currently being audited. Mr. Frantz stated that the financial statements reflect growth primarily in construction-in-progress and accounts payable. He advised that construction expenditures were approximately \$13 million to date, and the project remains on budget.

In response to Vice Chairman Hayes' question, Mr. Frantz reported that the construction expenditures include construction retainage. Chairman Host introduced Mr. Randy Davis of Mountjoy & Bressler. He advised that Mr. Davis works with the Kentucky State Fair Board to confirm that the Arena Authority's records are in order prior to presenting them to the auditors, Chilton & Medley. Mr. Frantz reported that the audit is close to completion and should be complete by the April Authority meeting.

**DISCUSSION ITEM: PC Sports, HOK and Mortenson Updates – Dan Ulmer**

Construction Committee Chairman Ulmer introduced Ms. Paula Yancey. Ms. Yancey introduced Mr. Mike Clay, who showed an animation "fly through" video of the Arena. Chairman Host advised that UofL will provide narration for the video.

Ms. Yancey reported that PC Sports continues to monitor the design and construction of the Arena. She stated that members of the construction and design team recently visited the steel plant in St. Louis that will provide the structural steel for the Arena.

Ms. Yancey introduced Mr. Bill Hedge, who provided an update from Mortenson Construction. Mr. Hedge reported that approximately 4,000 cubic yards of concrete had been placed in the last month, doubling the total amount of concrete placed. He advised that the pile caps had been completed in Quads C and D of the project site, the perimeter flood wall is nearly complete, and backfill had been placed up to the event level. The dirt previously dug out of the site had been shipped off site, and is now being brought back in and used as fill. Mr. Hedge reported that columns had been constructed up to the main concourse level. The event level elevated decks are being placed in the practice court area, and the fourth tower crane has been erected. He advised that another 1,500 cubic yards of concrete had been placed in the garage and all pile caps have been completed in the garage area.

Mr. Hedge reported that on February 22, the auger cast pile work was completed, with approximately 95,000 linear feet (18 miles) of piles installed beneath the Arena and garage. Underground plumbing and electrical work is proceeding, and off-site fabrication of the precast seating decks began on March 9, 2009 and will be placed in the Fall 2009.

Mr. Hedge advised that 7.5 months (240,000 work hours) had been worked without any lost time injuries. The project is averaging 250 workers on the site. He advised that the recordable incident rate per 200,000 work hours on the project is 1.68, compared to a national average of 5.7. Mr. Hedge then showed a series of photos of the construction progress.

Ms. Yancey provided a report regarding unforeseen subsurface conditions on the site. She advised that although the design and construction team was aware that buildings had been located on the Arena site since the 1800's, little reliable information was available regarding abandoned foundations and utilities that remained below the surface.

Chairman Host provided an overview of the Arena Authority's contingency funding sources, which included the following:

Owner's Contingency	\$6,000,000
Construction Contingency	\$1,055,012
Additional Credit Spread	\$2,011,040
Goldman Sachs Refund	\$525,000
Interest Pick Up on Bond Issue	\$620,521
Other Interest Income	\$170,236
Centerplate Agreement	\$1,000,000

Total Contingency Funding Sources \$11,381,809

Chairman Host advised that the contingency is within the guaranteed maximum price, and the costs associated with the subsurface conditions will be the first expenditure of contingency funds.

Ms. Yancey explained that because existing buildings (the LG&E and Humana facilities) were located on the site during the design phase of the project, the geotechnical engineer was unable to take borings within the area in which most of the Arena's foundation system would be located. She explained that old foundations, boulders, old tunnels and the remains of a railroad that ran along the site were found during excavation and drilling for the auger cast piles. Ms. Yancey reviewed numerous old photographs that showed the old buildings and railroad on the site. She then reviewed a series of photos showing the obstructions that were found during drilling. Ms. Yancey reported that the pile installation is now complete, and the construction team is assessing the costs associated with obstructions. Ms. Yancey advised that the current estimated exposure is approximately \$4.8 million, which leaves a \$6,581,809 balance in the contingency fund.

Chairman Host recognized Mr. Randy Davis, who confirmed that he reviewed the contingency numbers, and they are accurate. Construction Committee Chairman Ulmer explained that the contingency funds were established because the committee anticipated challenges on the site. Chairman Host remarked that pursuant to the Authority's agreement with Mortenson, their fee is set

according to the guaranteed maximum price, and Mortenson will not receive any additional fee because of the unforeseen subsurface conditions. Chairman Host introduced Mr. John Wood, Senior Vice President of Mortenson, who confirmed that the design and construction team had been aware that subsurface conditions might exist on the site. He explained that the matter could have been handled by attempting to transfer the risk of subsurface conditions to the subcontractors bidding the work, such as the demolition contractor, excavation contractor or piling contractor. Mr. Wood stated that in Mortenson's experience, because the contractors would have had to speculate regarding the subsurface conditions, their pricing would have been very conservative. He advised that all bidding contractors were given as much information as possible regarding the site conditions, and the matter was handled on a cost basis as the work was performed, which was the most economical way in which to handle the issue.

Chairman Host advised that LG&E has removed the electrical towers previously located adjacent to the Arena site, and a parking garage will be constructed in their place. He thanked LG&E for its partnership on the project. Chairman Host encouraged board members and the public to view the construction on the Arena webcam, which can be accessed through the Arena Authority website, [www.arenaauthority.com](http://www.arenaauthority.com). Finally, he thanked Mortenson for their outstanding efforts.

**DISCUSSION ITEM:           Affirmative Action and Labor Committee – Chairman Host**

Affirmative Action and Labor Committee Chairman Summers asked Ms. Yancey to provide an update of the Arena project's MWBE efforts. Ms. Yancey reviewed the project's MWBE business participation goals (20% MBE and 5% WBE); workforce diversity goals (20% Minority and 5% Female); and local participation goals (60% Louisville SMSA residents and 75% Kentucky/Indiana residents).

Ms. Yancey advised that through February 2009, approximately \$225 million in goods and services had been procured by HOK Sport, Mortenson, O'Rourke Wrecking, and Patriot Engineering. Of \$225 million, \$47.5 million (21.1%) has been committed to MBE firms and \$13.7 million (6.1%) has been committed to WBE firms.

Ms. Yancey stated that workforce participation is expressed as a percentage of the total work hours. She advised that more than 158,000 work hours have been spent on the Arena project, with 29,150 hours (18%) attributed to minority workers and 7,600 hours (5%) attributed to female workers. She commented that the numbers will increase as more workers are activated on the project.

Ms. Yancey reported that more than 520 workers have been on the project – 254 (48%) Louisville SMSA (standard metropolitan statistical area) residents and 469 (90%) Kentucky/Indiana residents. Ms. Yancey recognized that the SMSA numbers decreased from last month, but plans are being put in place to address the situation.

Ms. Yancey introduced Mr. Anthony Mathis, who provided an update on Mortenson's MWBE efforts. Mr. Mathis reported that Mortenson and its subcontractors' work hours on the project exceed 130,000, with 24,700 work hours (19%) attributed to minority workers and 4,400 work hours (3%) attributed to female workers. Mr. Mathis advised that he expects the percentages to increase as more workers are activated on the site. Mr. Mathis reported that Mortenson's local participation results are 47%

Louisville SMSA residents and 90% Kentucky/Indiana residents. Mr. Mathis stated that the workforce utilization numbers are being monitored on a daily basis, and he is confident that the numbers will increase. Chairman Host stated that the workforce participation numbers are not merely a goal, but a commitment, and he asked what is being done to resolve the issue. Mr. Mathis responded that Mortenson/Mathis is working closely with subcontractors to ensure that they understand the workforce utilization goals. Mr. Bill Hedge stated that subcontractors' payments can be withheld if the hiring goals are not met. He advised that they have met with representatives from the building trades and the Associated Builders and Contractors to ensure that they are hiring from within the SMSA zip codes. Committee Chairman Summers advised that the Affirmative Action and Labor Committee has spent a great deal of time on the issue.

Vice Chairman Hayes stressed the importance of local purchasing, recognizing that Mortenson must get the best value at the best price. Mr. Hedge responded that local purchasing is being tracked and bid packages are being built to enable as many local firms as possible to participate in the project. Ms. Musselman congratulated Mortenson on its safety record. Mr. Blue advised that he recently visited the project site. He stressed how impressive the project is, and he encouraged all board members to visit the site.

**DISCUSSION ITEM:           Review of Board Policies – Chairman Host**

Chairman Host commented that he felt strongly that the Arena Authority should have a Whistleblower policy that would allow any person (a board member or Authority representative) to report matters that they perceive as wrong without fear of reprisal. He stressed that the Board must have complete integrity. Chairman Host also requested that the Board adopt a Record Retention and Document Destruction policy. Copies of the draft policies were previously provided to Authority members. Mr. Ulmer made a motion to approve the policies. The motion was seconded by Mr. Bisig and passed unanimously.

**DISSUSSION ITEM:           Selection of General Counsel – Cissy Musselman**

General Counsel Selection Committee Chair Musselman advised that an RFP for general counsel services was posted on the Arena Authority website on February 16. She advised that she, William Summers V, Chairman Host, Harold Workman, and Ellen Benzing served on the selection committee. She stated Bob Woolery intended to serve on the committee, but recused himself after he became aware of a potential conflict with one of the firms. Ms. Musselman advised that eight compliant responses were received, and three firms were interviewed. Chairman Host advised the Authority that he did not participate in the process to narrow the selection to three firms. Ms. Musselman stated that presentations included questions regarding practice procedures, experience, potential conflicts and financial terms. The committee members independently scored the presentations, and Frost Brown Todd received the highest score. Ms. Musselman made a motion to approve Frost Brown Todd as general counsel to the Arena Authority. The motion was seconded by Mr. Summers and passed unanimously. Chairman Host introduced Mr. Ed Glasscock, who thanked the Authority for its selection. He introduced Ms. Bonita Black, Mr. Bill Skees and Mr. Mike Shull, who will join Mr. Glasscock in working on the Arena project.

**DISCUSSION ITEM: Arena news articles/press – Chairman Host**

Mr. Bisig advised the Authority members that recent news articles were included in the Arena board book, including an article announcing that Norton Healthcare is the first Arena sponsor.

**DISCUSSION ITEM: Old Business**

None

**DISCUSSION ITEM: New Business**

None

No other business to come before the Authority, the meeting was adjourned at approximately 10:15 a.m.

Respectfully submitted,  
Laura Chandler