



louisville arena authority

WWW.ARENAAUTHORITY.COM

**Board of Directors Meeting
May 18, 2009
9:00 a.m. EST
Kentucky International Convention Center
Louisville, KY**

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

Directors Absent: Mr. Todd Blue, Mr. Tim Corrigan, Mr. Lanny Greer (Ex Officio), Mr. James Patterson, Ms. Lindy Street

Consultants and Staff of Arena Authority: Mr. Harold Workman, Executive Director; Mr. Ed Glasscock, General Counsel; Mr. Mike Clay, Populous; Mr. John Wood, Mr. Allen Troshinsky, Mr. Bill Hedge and Ms. Lynn Littlejohn, 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 April 20, 2009 Board Meeting – Chairman Host

Ms. Musselman moved to accept the Minutes of the April 20, 2009 Arena Authority meeting. The Motion was seconded by Mr. Bridgeman, and the Motion passed unanimously with no abstentions.

DISCUSSION ITEM: Presentation of Financial Statements – Vice Chairman Hayes

Finance Committee Chairman Hayes introduced Mr. Jerry Frantz, Director of Administrative Services for the Kentucky State Fair Board. Mr. Frantz reviewed the April 2009 financial statements, advising that the sources of funds remain unchanged from the previous month. He reported that pending the Authority's approval of the 2008 Financial Statements, the 2008 administrative expenses will be considered audited. He advised that the 2009 administrative expenses continue to grow, although there was a minor decrease due to an audit adjustment regarding the handling of interest expense on the bonds. Mr. Frantz advised that the financial report included a budget breakdown of expenditures to



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

date tracking the following categories: arena design and construction, construction administration, and construction and land acquisition costs.

Chairman Hayes introduced Ms. Becky Phillips, CPA with Chilton & Medley, who presented the Arena Authority's 2008 audit. Ms. Phillips stated that representatives from Chilton & Medley met with the Authority's Finance Committee twice and reviewed the financial statements in great detail. She advised that Chilton & Medley's report is an unqualified opinion that the financial statements present fairly and in accordance with generally-accepted accounting principles. She advised that this is often referred to as a "clean audit."

Ms. Phillips explained that in the statement of financial position, the majority of changes reflect activity in construction and the bond issuance. The construction-related assets contain a new item listed as a receivable from PARC for construction related to the parking garage. Additionally, there was a significant increase in property and equipment. The bond related activity includes a new line item identified as "assets limited as to use," which are amounts restricted from the bond indenture. That amount was \$298 million as of December 31, 2008. Another bond related activity is the bond issuance cost of \$11.5 million.

Ms. Phillips reported that in the liability area, the statements primarily reflect activity related to the bonds. She advised that two line items are fairly significant: accrued interest payable on the bonds and the bonds payable in 2008 versus 2007. In the statement of changes in net assets, because the organization is primarily in construction a mode, there is not a lot of activity. The primary revenue item is in-kind contributions related to construction, primarily in the form of property deeded from Metro to the Arena Authority to accommodate construction. In the expenses area, the majority of costs incurred are capitalized costs. The change in net assets is \$1.6 million. The cash flow from operations is quite minimal at \$793,000 because the Arena Authority is not in an operations mode; and the cash flow from investing activities was primarily cash used from an investment standpoint as it was put into property and equipment throughout the course of the year. The issuance of bonds and the bond issuance costs were the primary components related to the financing activities, resulting in a decrease in cash of approximately \$33 million. Ms. Phillips advised that the notes to the financial statements were reviewed in detail with the Finance Committee.

Chairman Host asked Ms. Phillips to review the management letter. Ms. Phillips advised that three comments were made in the management letter. The first comment pertained to controls regarding the recording of liabilities. Ms. Phillips explained that during the course of the audit, an adjustment was made related to the amount established as a liability on the LG&E property. As a result of the adjustment, Chilton & Medley has recommended a month-end review of all accruals to ensure that items set up as liabilities are representative of the activity that occurred during the month. Ms. Phillips advised that the second comment pertained to the recording of donated items, resulting in a recommendation that there be a review of all contracts to ensure that all non-cash transactions have been recognized and recorded in the financial statements. The last item of comment pertained to the approval of various invoices. After the bond issuance, although an overall blanket approval is made on requisition requests, the approval was not reflected on individual invoices. Chilton & Medley recommended that an approval signature is made on each invoice that accompanies the requisition request. Chairman Host advised that the management letter included the Kentucky State Fair Board's response to the auditor's comments, and the Finance Committee was satisfied with the response.

Chairman Hayes moved to approve the 2008 audit. The motion was seconded by Mr. Ulmer. Before the vote, Chairman Host asked Ms. Phillips if there were any items not previously disclosed that should be addressed, and Ms. Phillips responded that all items had been discussed with the Finance Committee. Chairman Host asked for a vote on the motion, and it passed unanimously.

DISCUSSION ITEM: Mortenson Construction – Dan Ulmer

Construction Committee Chairman Ulmer introduced Mr. John Wood, Senior Vice President of Mortenson Construction, who provided an update of the concrete pouring accident that occurred on April 27. Mr. Wood advised that Mortenson regarded the incident as a very serious accident. He stated that the accident was unacceptable, and Mortenson will do everything they can to ensure that it does not happen again. The shoring (vertical supports) that supported a section of the formwork used in the construction of the main mezzanine concrete floor slab failed, resulting in the collapse of the formwork. Three employees of Wilhelm Construction were injured during the accident. Two returned to work the next day, and the third employee has not yet returned to work. Mr. Wood reported that Mortenson responded promptly by dispatching several members of its senior management to the site the same day. Mortenson engaged Geiger Engineers, a structural engineering firm to investigate the accident. Additionally, Mortenson immediately contacted OSHA to advise them of the accident, and OSHA officials were on the site the same day. Mortenson has completed a thorough investigation of the accident. OSHA's investigation is not yet complete, but OSHA has indicated to Mortenson that it may be complete in the near future.

Mr. Wood introduced Mr. Allen Troshinsky to review the technicalities of the accident. Mr. Troshinsky advised that the accident occurred at the north elevation of the structure along River Road, at the truck staging area below the food court. In order to construct the permanent concrete structure, Wilhelm, Mortenson's concrete subcontractor, must form and pour the concrete. Mr. Troshinsky explained that the forming process begins with sills placed on the ground, followed by 4 x 4 foot aluminum towers, then a series of beams. The structure created a driving tunnel to allow trucks in and out of the site throughout construction activity. Above the tunnel, another series of beams and then lumber and plywood are placed, upon which the next level of shoring posts are constructed. The shoring posts directly support the wood shoring and metal pans that create the mold of the concrete that is poured into the formwork. Geiger Engineers first focused its investigation on the engineering that was laid out by Titan Formwork. Geiger concluded that the calculations and drawings showed that the design was adequate for the intended wet load of the concrete and the construction activities occurring on top of the formwork. Geiger then examined the drawings of the shoring and formwork. Notably, the drawings reflected revisions along the way, which are not uncommon in the industry. There were additional HV shores (a proprietary name used by Titan to describe the posts directly under the formwork). After concluding that there were no flaws in the design or drawings, Geiger considered the installation. Attention to the additional HV shores could not be located in the field. Geiger concluded that the supplemental shores were not installed, and this was confirmed by a survey after the accident. Geiger also found that one particular post was not installed directly over the underlying beam to transfer the weight of the concrete and formwork, nor was the underlying plywood and lumber correctly aligned under the post. Mr. Troshinsky showed images of a proper installation versus the actual installation. The failure of one HV shore caused the other shores in the area to collapse as the load transferred to them. Mortenson concluded that the cause of the accident was human error by

Wilhelm. A total of 23 shores required by the plan were not installed and some of the shores were installed incorrectly. Additionally, Wilhelm employees failed to detect the errors. However, Mortenson concluded that there is no reason to believe anyone acted willfully. Going forward, Mortenson will require Wilhelm to hire an independent engineer to review and sign off on every drawing and to conduct a field investigation prior to every concrete pour. Additionally, Mortenson has required Wilhelm to identify several employees dedicated to quality control. Finally, Wilhelm will address its internal and external communication, ensuring that drawings are properly communicated to those providing the work.

Mr. Wood explained that Mortenson customarily provides its own concrete work with its own workforce; however, Kentucky procurement law did not permit them to do this on the Arena project. Mr. Wood advised that Mr. Tom Schwab, one of Mortenson's senior concrete superintendents, will remain on the project for the duration of Wilhelm's concrete work. Mr. Schwab has particular expertise in complex forming systems. Additionally, Mortenson's senior cement finisher foreman has been assigned to the Arena project on temporary basis.

Mr. Troshinsky advised that during the early phases of the concrete work, Mortenson made pre-pour inspections on every pour. Once they became satisfied with Wilhelm's work, Mortenson scaled back its inspections. However, they will now resume inspections on every pour. To ensure the Arena Authority, the public and the workers on the project that the accident will not be repeated, Mortenson will require more accountability by Wilhelm, will require additional layers of oversight within Wilhelm's process, and will provide a re-orientation of Mortenson's safety requirements.

Chairman Host then read a statement regarding the accident, advising that following the incident, a worker from Wilhelm told a local television station that the collapse was not an isolated incident and implied that prior safety complaints had been ignored. The Arena Authority immediately instructed its attorneys at Frost Brown Todd to review safety issues at the site. This study was conducted separate from investigations being done by Mortenson or OSHA. An attorney with Frost Brown Todd, who is also an engineer and focuses his practice on construction law, toured the area near the collapse with Mortenson representatives. He also interviewed key individuals with knowledge of the day-to-day operations of the site. Information was obtained from people who possessed the most knowledgeable, objective, and independent points of view as to whether workers were making complaints. Those discussions did not uncover any report of unheeded complaint, unsafe conditions at the job site or any complaints related to safety issues. If the state OSHA report indicates any problems at the arena site, the Arena Authority and Mortenson will take immediate action to address the matter. Chairman Host concluded by advising that the Authority is pleased that its separate investigation indicated no evidence of unsafe conditions at the arena site.

Chairman Host asked Mr. Bart Miller, a structural engineer with Walter P. Moore, to comment on his observations. Walter P. Moore is the structural engineer of record on the Arena project. Mr. Miller assured the Authority that the shoring collapse will not compromise the strength or integrity of the permanent Arena structure. He was on site immediately after the accident and will direct its repair. Any concrete that appears to be damaged or weakened because of the collapse has been removed and all concrete that remains will be strengthened based upon their direction. Mr. Miller stated that Walter P. Moore is confident that the concrete that remains in place and the permanent structure will perform as intended.

Mr. Bisig asked who is ultimately responsible for quality control. Mr. Wood responded that the primary responsibility for building the project according to plans and specifications rests with the subcontractors performing the work. However, Mortenson has a supervisory role and maintains a written detailed quality management plan that is provided to all subcontractors. Mr. Wood advised that from the Arena Authority's perspective, the ultimate responsibility rests with Mortenson, who passes much of the responsibility down to the subcontractors who are performing the work.

Mr. Bisig asked if the Authority's budget will be impacted by the accident. Mr. Wood responded that no costs resulting from the incident will be borne by the Authority. Mortenson expects the majority of costs will be covered by Wilhelm; although Wilhelm and Mortenson may share some of the costs.

In response to Chairman Ulmer's question, Mr. Wood responded that the accident will not delay the completion of the project.

Vice Chairman Hayes asked about the procedure workers should follow to report any unsafe working conditions. Mr. Wood explained that before anyone begins work on the project, they receive a mandatory orientation on Mortenson's safety requirements. During the orientation, it is explained to workers that they have the right and obligation to report any unsafe condition or hazard to their supervisor or Mortenson, with no threat of reprisal. This is reiterated every morning during Mortenson's "stretch and bend" program before work begins on the project.

Mr. Gunderson asked if any other issues were detected during Mortenson's investigation. Mr. Wood responded that no other issues were detected.

Mr. Wood concluded by advising that the accident resulted in a "lost time injury," as defined by OSHA as an injury in which someone loses at least one day of work. Prior to the accident, Mortenson's sports business had not had a lost time injury in its work force since 2003. Mortenson regards it as a rare and unacceptable injury.

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

Construction Committee Chairman Ulmer introduced Ms. Paula Yancey, who provided an update from PC Sports. Ms. Yancey advised that in addition to providing general oversight of the project, Mr. Art Waterman of PC Sports recently performed site inspections of the architectural pre-cast in Cincinnati. Additionally, samples of the architectural pre-cast have been shipped to the site.

Ms. Yancey introduced Mr. Mike Clay, who reported that Populous has been working with Walter P. Moore on corrective work in the area of the concrete accident. Additionally, Populous has received a number of shop drawings, particularly those related to structural steel. They have processed all architectural pre-cast, ceramic tile and drywall submittals and are currently finishing the curtain wall (the glass envelope of the building). Populous also has a full-time field representative on the Arena site. Mr. Rick Border is an employee of Louis & Henry and maintains an office near Mortenson's and PC Sports.

Ms. Yancey introduced Mr. Bill Hedge, who provided an update from Mortenson Construction. Mr. Hedge reported that approximately 3,500 yards of concrete were placed in the Arena in the last month.

He advised that the event level elevated decks (area under the UofL locker rooms) have been completed and approximately 25% of the main concourse has been poured. The west side mezzanine pour has taken place (the first level of suites). The foundations in Quad A (the last quad on the Arena) are nearing completion.

Mr. Hedge reported that approximately 2,000 yards of concrete had been placed in the garage in the last month. The upper level parking deck was completed on May 13, and one half of the roof structure has been completed. Mortenson expects the garage roof level to be complete by the first week in June. Additionally, the perimeter walls are being erected.

Mr. Hedge advised that in addition to the April 27 accident, there have been 23 first aid cases to date and 203 hazard recognitions, which are addressed immediately. The project is averaging 250 workers on the site. He advised that the recordable incident rate on the project is now 4.8, which is still below the national average of 5.7, but unacceptable to Mortenson. Mr. Hedge then showed a series of photos of the construction progress.

DISCUSSION ITEM: Affirmative Action and Labor Committee – William Summers V

Affirmative Action and Labor Committee Chairman Summers asked Ms. Yancey to provide an update of the Arena project's MWBE efforts. Ms. Yancey reported that through April 2009, approximately \$226 million in goods and services had been procured by Populous, Mortenson, O'Rourke Wrecking, and Patriot Engineering. Of \$226 million, \$48.5 million (21.4%) has been committed to MBE firms and \$13.7 million (6.0%) has been committed to WBE firms.

Ms. Yancey advised that more than 263,700 work hours have been spent on the Arena project, with 50,000 hours (19%) attributed to minority workers and 13,400 hours (5%) attributed to female workers. She commented that the numbers will continue to increase as more workers are activated on the project.

Ms. Yancey reported that more than 480 workers have been on the project – 246 (51%) Louisville SMSA (standard metropolitan statistical area) residents and 424 (88%) Kentucky/Indiana residents.

Ms. Yancey introduced Ms. Lynn Littlejohn, who provided an update on Mortenson's MWBE efforts. Ms. Littlejohn reported that Mortenson has procured \$209 million on the project, of which \$45.7 million (22%) has been committed to MBE firms and \$12.9 million (6%) has been committed to WBE firms. Additionally, \$86 million (41%) has been committed to local firms. Mortenson and its subcontractors' work hours on the project exceed 232,000, with 45,600 work hours (20%) attributed to minority workers and 9,800 work hours (4%) attributed to female workers. Ms. Littlejohn reported that Mortenson's local participation results are 50% Louisville SMSA residents and 90% Kentucky/Indiana residents. She stated that Mortenson continues to work diligently to ensure that local contractors understand the hiring goals. Finally, Ms. Littlejohn reported that eight graduates from the Construction Pipeline Project have been placed on the Arena project.

DISSUSSION ITEM: Parking & Transportation Committee Update – Eric Gunderson

Parking and Transportation Committee Chairman Gunderson reported that the Committee recently met with representatives from Metro government, the Downtown Development Corporation (“DDC”), QK4 and PC Sports to discuss the early progress of the DDC’s streetscape and traffic analysis for the area directly surrounding the Arena site. The DDC has contracted with ENTRAN, an engineering infrastructure specialist, to study downtown traffic patterns and make recommendations pertaining to vehicle flow through the Arena area during event and non-event days. The study will be complete by mid-June and submitted to the Arena Authority’s transportation consulting group, QK4. Mr. Gunderson advised that the committee will meet again immediately following the conclusion of the DDC’s submission to discuss ENTRAN’s recommendations with representatives from Metro government, police, parking officials and others. The goal is to complete the final plan by October 1, 2009.

DISSUSSION ITEM: Insurance Committee Update – Bob Woolery

Mr. Woolery reported that the Insurance Committee met on April 24 and conducted a thorough review of the policies currently in place. Through consultation with representatives from Marsh and Van Zandt, Emrich and Carey, the committee concluded that the Authority has the insurance coverage it needs. The insurance consultants will maintain oversight of the market and will advise if coverage changes are necessary.

DISSUSSION ITEM: General Counsel Update – Ed Glasscock

Mr. Glasscock reported that Frost Brown Todd has been working on the RAM, Schnell and Grayhawk matters. He advised that the Attorney General declined to take action in the Grayhawk matter.

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.

DISCUSSION ITEM: Old Business

None

DISCUSSION ITEM: New Business

None

No other business to come before the Authority, the meeting was adjourned at approximately 10:30 a.m.

Respectfully submitted,
Laura Chandler