

**THE SPORTS AUTHORITY OF THE  
METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY**

**FINANCE COMMITTEE MEETING MINUTES  
Thursday, October 19, 2023 | 9:30 am | Geodis Park – Press Conference Room**

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**Attendees**

**Committee Members:** Frank Harrison (Chair), Winston Justice, Anna Page

**Board Members:** Kim Adkins, Cathy Bender, Don Deering, Jad Duncan, Melvin Gill, Aaron McGee, Emmett Wynn

**Staff:** Monica Fawknorton (ED), Valda Barksdale, Brandon Little, Melissa Wells, Joshua Thomas (Metro Legal), Lexie Ward (Metro Legal)

**Visitors:** Adolpho Birch (Titans), Michell Bosch (Metro), Kyle Clayton (Predators), Tom Cross (Metro Law), Haley Davidson (Titans), Wally Dietz (Metro Legal), Ron Gobbell (GHP), Kate Guerra (Titans), Keith Hegger (Predators), Michelle Lane (Metro Purchasing), Katy Sheesley (GHP), Cassandra Stephenson (The Tennessean)

***Call to Order***

Chair Harrison called the meeting of the Sports Authority Finance Committee to order and welcomed all to Geodis Park and thanked Nashville SC staff for hosting.

***Public Comment Period Pursuant to Tennessee Open Meetings Act, Tenn. Code Ann. § 8-44-101***

There were no sign ups for Public Comment.

***Consider Approval of Meeting Minutes from July 20, 2023***

Chair Harrison asked if there were additions or corrections to the July 20, 2023 meeting minutes. There being none, **upon a motion made by Director Page and seconded by Director Justice, the Finance Committee unanimously approved the minutes from the July 20, 2023 meeting.**

***Consider Approval of a Resolution Authorizing and Approving an Employment Contract with the Executive Director of the Sports Authority***

Director Don Deering reported that the Personnel Committee (PC) met on October 17 to consider the Agreement. The group voted unanimously to approve the Agreement and bring it forth to the PC and full Board for final approval. Joshua Thomas, Metro Senior Counsel presented an overview of the Agreement including:

- **Section 1.3** The PC voted on a five-year term for the Agreement commencing on November 1, 2023 and concluding on October 31, 2028.
- **Section 2.1** Specifies that Metro will provide funding for the position and the Board shall have sole and paramount authority for selecting the Executive Director and setting the salary.
- **Section 2.2** Indicates that Metro will pay Ms. Fawknorton's salary consistent with its payroll practices and she will be eligible for open range or other merit-based increased. Additionally, the Authority shall not reduce the fixed amount of the salary to be less than the amount referenced in Section 2.2(a). However, the Authority shall not be precluded from electing to increase the compensation.
- **Section 2.3** Specifies that Ms. Fawknorton shall be eligible to receive the same fringe benefits as provided to general Metro employees and Metro has the right to make changes to those benefits.
- **Section 2.4** Provides for reimbursement or payment for business expenses including professional membership fees, dues and attendance at conferences or other gatherings within the scope of official duties as the Executive Director.
- **Section 3.1** Specifies that Ms. Fawknorton shall be evaluated annually by the Board or an applicable committee of the Board.

- **Section 4.1** A 30-day notice prior to the expiration of the Term is required should the Board or Ms. Fawknorton choose not to renew the Agreement. The Agreement shall renew automatically for an additional year should either party fail to notice.
- **Section 4.3** Ms. Fawknorton shall provide a 30-day notice advance written notice should she desire to terminate the Agreement. The Authority shall provide a 60 day advance written notice should it desire to terminate the Agreement without cause and shall pay a sum equal to six-months of Ms. Fawknorton's gross monthly pay as severance pay. The severance pay shall be paid from revenues available to and controlled by the Authority (such as the Arena Fund), not by Metro. Chair Harrison questioned in the event of a termination or resignation, will the new Executive Director be hired at the same salary? HR typically sets a pay range based on experience and the Board will be responsible for approving the salary, stated Counsel Thompson. Director Deering questioned whether HR or the Board would oversee the process of hiring a new Executive Director. Counsel Thompson noted that the Board will be responsible for selecting the new candidate and Ms. Fawknorton noted that the Sports Authority works in conjunction with HR for new hires including the announcement, publicizing and scheduling of interviews.
- **Section 4.4** Should the Board determine that there is cause to terminate employment, the Authority shall give Ms. Fawknorton at least ten business days advance written notice.

**Upon a motion made by Director Page and seconded by Director Justice, the Finance Committee unanimously voted to recommend approval of a Resolution Authorizing and Approving an Employment Contract with the Executive Director of the Sports Authority.**

***Consider a Resolution Approving the Agreement Between Stadco and Tennessee Builders Alliance to Serve as the Construction Manager at Risk for the Construction of a New, Enclosed NFL Stadium***

Tom Cross, Metro Deputy Law Director noted that the Sports Authority is not a party to the contract, however the agreement is written in good fashion for protecting the interest of both the Titans and the Sports Authority. He gave a general overview of the construction process including:

- Once the contract is signed a fixed price is set; should overages occur, it will be the responsibility of the Construction Manager (CM).
- In best practices, the designer and construction manager are hired around the same time.
- One of the roles of the CM is to determine whether the project can be completed as designed; thus it is essential that the CM is extremely familiar with the design.
- The design phase is anticipated to reach 50% of the construction design in May 2024; at this point the CM will provide a proposal for a Guaranteed Maximum Price (GMP).
- The construction price will include an additional fee equal to 2.6% of the cost of the construction work. In addition to CM expenses, this fee will also cover potential changes during the scope of the construction project.
- The GMP is \$1.55B and the preconstruction cost is set at a fixed amount of \$2M.
- Once in the construction phase the CM will submit monthly pay applications, based on scheduled values, and work completed in the preceding month.
- The Titans and Sports Authority will receive warranties for all work completed as well as operating manuals. Final payment will be made once the project is completed to everyone's satisfaction.

Director Deering asked who determines the payout percentages and final payment. Mr. Cross noted that the CM is required to submit a schedule of anticipated cost and a schedule of values assigned to various components of the work to be completed. The values should add up to the total cost of the work to be completed.

Adolpho Birch, Chief External & League Affairs Officer, Tennessee Titans noted that the next step under the Development Agreement is for the Sports Authority to approve the Agreement which allows Tennessee Builders Alliance (TBA) to serve as the Construction Manager. TBA is a joint venture comprised of Turner, AECOM Huts, ICF and Polk & Associates. The Timeline of the project includes the May 15, 2023 posting of the RFP, July 7 was the deadline for responses, final interviews were conducted July 19-20 and on August 17 the Sports Authority approved the selection of TBA. The services to be provided by TBA include full construction and preconstruction services as well as selection of subcontractors to deliver the new stadium. The total budget for the project is estimated at \$2.1B. The preliminary construction completion duration is 774 days with an anticipated start date of March 1, 2024 and completion March 4, 2027.

To protect the key personnel/project team from a bait and switch scenario, the composition of the team was negotiated with a true personnel provision. Penalties will be assessed should any of the Project Team members not be involved in the project. Additional project protection includes: 1) TBA is limited to 3% of the cost of the work; 2) Financial penalties will be assessed for missed construction completion dates; and 3) The Titans have established an Owner-Controlled Insurance Program to control costs and mitigate risks.

Director Gill noted his ongoing concerns regarding whether Metro Procurement Code processes have been followed by StadCo and the Titans. He cited that persons who responded to the RFP and had the desire to file a grievance did not have an avenue to be heard. Additionally, the RFP Evaluation Criteria for the AOR and the Construction Manager at Risk did not embrace fairness and transparency which are the hallmarks of RFPs. Further, he stated that the language where the RFP states that the criteria would *not be limited to* creates ambiguity in that proposers do not know what they will be judged on and it leaves measure for the individual judges to decide on the criteria. Continuing, Director Gill noted that he does not believe that StadCo followed processes of Metro Procurement Codes for competitive sealed proposals. He asked for an explanation of how proposers would be able to respond with a grievance for both the AOR (Architect Of Record) and CMAR (Construction Manager At Risk) processes.

Mr. Birch noted that the procurement processes were robust and involved multiple discussions and allowed for interested entities to provide as much information as they felt relevant. Respectfully, we will agree to disagree that our process was not consistent with Metro Procurement Codes. The RFP responses were reviewed rigorously by an evaluation committee that was comprised of representatives from the Sports Authority and Metro and final decisions were based on their input. Hopefully Director Gill will approve the provisions of the CMAR agreement and come to understand the value that we tried to derive from our selection processes.

Director Gill noted further that a section of the Metro Procurement Code states that the RFP must state the relative importance of price, evaluation factors and that no other factors of criteria shall be used in the evaluation. From his standpoint, the Titans' processes were not consistent with Metro Procurement Codes and the selection process was not fair. Metro Procurement staff should have been involved to ensure fairness. Additionally, the board was advised that TBA would be responsible for selecting their subconsultants without any involvement from the Titans. He further noted that he was advised by a firm who stated they expressed an interest and submitted their qualifications to TBA. TBA response was that they favored them as their selection, however, they were advised by the Titans to select another firm. The inconsistencies are unfair and nontransparent.

Chair Bender lauded Director Gill for his highly respected knowledge, experience and background in the area of construction and the great information he has contributed to the Board. As a reminder of the Board's charge, the selection of TBA as the CM has already been approved by the Board and the agenda consideration before the Board today focuses on the agreement.

**Upon a motion made by Director Justice and seconded by Director Page, the Finance Committee unanimously Approved a Resolution Approving the Agreement Between StadCo and Tennessee Builders Alliance to serve as the Construction Manager at Risk for the Construction of a New, Enclosed NFL Stadium**

### ***Adjourn***

In closing, Chair Harrison announced that the committee recommendations for approval of the resolutions will go before the full board during its meeting today at 10:30a.m. Director Deering suggested as the Finance Committee reviews the Sports Authority budget, that they consider travel reimbursement for staff. The Sports Authority is a leader in the state for sports facilities and it is time we invest in our staff and their operations.

There being no further questions or business, the Finance Committee meeting adjourned.

Respectfully submitted, Valda Barksdale, Metro Nashville Sports Authority

### **Audio File Path:**

**P-Drive-Sports Authority\SA BOARD\All Meeting Recordings\2023.10.19 Finance Committee**