

ISSUES RAISED BY SOCCER STADIUM PROPOSAL

by: Bob Mendes
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UPDATE (November 3, 2017): I am updating this memo to comment on the Substitute Resolution that the administration will offer for the Council's November 7 meeting. I have inserted comments into my previous memo and color-coded those comments. **Green** means that my question was answered, or that my suggested change was included in the Substitute Resolution. **Gray** means that a significant problem remains. **Yellow** means a mixed result. After considering the changes, I do not believe that I can support the proposed Substitute Resolution.

This memo groups issues and comments about the proposed soccer stadium into categories. I have separately prepared a detailed summary of the proposed Resolution to approve \$225 million in revenue bonds for a soccer stadium. That detailed summary is included at the end of this memo.

1. The 10 acres for development (Resolution, A)¹
 - a. More background information is needed
 - i. There is no information about the current value of the 10 acres, or about what the value could be expected to be after zoning and other entitlements are improved. The Council should have reliable independent information about the value of this land in order to assess the proposed development.

An appraisal was provided showing a value to Metro of approximately \$1 million per acre. The appraisal understates the value of the land to the team in two ways. First, the appraisal looks only at the value of the land as vacant, with no consideration of the value once a soccer stadium is built. In the appraisal itself, valuing the land as vacant is called an "extraordinary assumption." Second, the appraisal disregards the commonly used "Income Approach" to determine value. For mixed use income generating property like this, every buyer would rely heavily on the income approach in determining land value.

More broadly, the reasons for including the 10 acres have not been explained well enough. There are not enough details about the proposed affordable housing onsite. If we don't know what the land is worth to the team, and we don't know what we are getting from the 10 acres, I don't think I can support this part of the proposal.

¹ Any reference in parentheses refers to the Summary of Soccer Resolution and Intergovernmental Project Agreement that is included at the end of this memo. In most instances, there are more details about the issues in the Summary. The references in parentheses (e.g., "Resolution") correspond to sub-sections of the Summary.

- ii. There is a reference at section 7(c) of the Resolution to "development sites." This is plural – "sites." The Council should ask whether it is anticipated that the 10 acres will be contiguous, or in multiple parcels. Will the 10 acres include some or all of the corners of the "Supporters March" intersection at Walsh Road and Street "A" on the schematic we have been provided?

This information has been provided. The 10 acres is centered around the "Supporters March" intersection.

- b. Must know whether the Team and the administration intend for the 10 acre development to be a mandatory part of the deal.

The administration and team have said that the 10 acres are mandatory. So this question has been answered.

- i. If it is not mandatory, then any language in the Resolution which suggests that the no-cost 10 acres is an "inducement" to the Team must be removed. In fact, if it is not mandatory, all references to it should be removed and future proposals can be brought to the Council in the future.
- ii. If it is a mandatory part of the deal and the Council agrees to that, then the list of conditions in section 7 of the Resolution to be met prior to the Sports Authority issuing bonds must be expanded so that the Council has to fully approve any zoning or other entitlement improvements before the Sports Authority may issue the bonds.

This condition is not included in the proposed Substitute Resolution. Instead, the Substitute Resolution would allow bonds to be issued before zoning and entitlements were approved for the 10 acres.

2. The guaranties (Resolution, D (discussing condition (d)(5)), and IGA, C)

- a. Recommend that, in addition to providing a guaranty for Lease Payments, the guaranty also cover the required \$25 million cash contribution and any Stadium and related infrastructure construction costs greater than \$225 million.

This has been partial satisfied. Language was added to require a guaranty of the initial \$25 million cash contribution and for any stadium costs over \$225 million. No language was added to require a guaranty for related infrastructure costs over \$25 million. Remember, for the Sounds stadium, it was the related infrastructure where the really large overruns happened.

- b. Recommend that the Resolution and the IGA specifically name the guarantors, and that Metro confirm the credit worthiness of the guarantors and/or seek some commercially reasonable protection such as a letter of credit.

This has not been satisfied. It was originally suggested that "Team owners" would provide guaranties. This isn't happening. No individual owner is providing a guaranty. There are not multiple guaranties. The original Resolution said that the team (the

company owning the team) would provide a guaranty. That is not changing now. The Substitute Resolution says that it will be just the team that is giving a guaranty so long as Mr. Ingram owns a controlling interest. If he no longer has a controlling interest, the team is supposed to tell Metro (after the controlling interest already has been transferred) and the new lead owner then is supposed to provide a guaranty.

My first issue with this is that, while I believe Mr. Ingram to be an incredibly generous and community-minded gentleman, it will be hard for his legal or financial advisors to let him pay a nine-figure debt obligation that he isn't actually legally bound to pay. With no individual guaranties, there is no legal protection for Metro if the team or league were to fail.

Second, there is no mechanism to force a subsequent lead owner to actually provide the guaranty. I have posed the question, "What if the subsequent lead owner just doesn't give an adequate guaranty?" I have not received an answer about what would happen, and the Substitute Resolution does not address the question.

I don't consider the proposed guaranties to be reasonable or adequate.

3. Conditions to bond issuance listed in Section 7 of the Resolution (Resolution, D)

- a. No comments to condition (a).
- b. For condition (b),
 - i. This section should make a specific reference that the development agreement must require the Team to contribute at least \$25 million in cash toward construction costs; and

This has been added.

- ii. This section should require that Metro will only issue up to \$200 million in revenue bonds and up to \$25 million in general obligation bonds for infrastructure related to the Stadium, and that the Team will pay all Stadium and related infrastructure construction costs over \$225 million.

A cap for Metro's revenue bond spending has been added. But the cap is \$225 million, not \$200 million. Language has been added to obligate the team to all stadium costs over \$225 million. No language has been added to obligate the team for infrastructure costs over \$25 million.

- c. Prior to agreeing to condition (c), the Council should insist on knowing the terms of the proposed long-term ground lease by the Fairgrounds Board to the Sports Authority for the Stadium and any development sites. The Council should also ask whether the 10 acres for development is intended to be contiguous or multiple parcels.

We do not know the terms of the ground lease between the Fairgrounds Board and the Sports Authority other than that the terms will mirror the team's lease with the Sports Authority (which we have not seen).

- d. For condition (d),

- i. At (d)(1), the term "debt service requirements on the Bonds" should be expanded to "debt service requirements *and any other costs related to the Bonds.*"

This has been added.

- ii. At (d)(1), the last sentence of this sub-section appears to be inaccurate. The phrase "in an Team Lease year" should be changed to "in any of the first ten Term Lease years."

This has been added.

- iii. At (d)(2), there should be more details provided about the types of capital expenses to be paid by Metro. Or, if the intent is for Metro to pay all capital expenses, then more information should be provided about the expected costs.

Language to clarify this has been added. I think the language is over-generous to the team, but at least there is clarity.

- iv. At (d)(4) regarding public use days, the Council should ask whether Metro will have any reserved days. The Council should insist on a reasonable conflict resolution mechanism if there is a conflict in scheduling at the Fairgrounds.

Language was added to require that a mechanism be created prior to the bonds being issued. However, I asked the parties to make it clear that the mechanism would not favor any one use of the Fairgrounds over any other use. Apparently, that was not acceptable to the parties because it is not in the Substitute Resolution. The suggests that Fairgrounds scheduling issues will be resolved in favor of the stadium in most instances.

- v. At (d)(5), the Team guaranty is addressed. This is discussed earlier in this memo.

The proposed guaranty language does not protect Metro properly.

- e. No comments to condition (e).
- f. No comments to condition (f).
- g. Recommend adding a condition (g) that the Council pass the required ordinance to demolish buildings at the Fairgrounds before the Sports Authority issues bonds.

This has been added.

- h. Recommend adding a condition (h) that the Fairgrounds Board approve demolishing buildings at the Fairgrounds before the Sports Authority issues bonds.

This has been added.

- i. Recommend adding a condition (i) that the Council pass an ordinance to approve any zoning or other entitlements improvements for the private development of the 10 acres before the Sports Authority issues the bonds.

Not added. As drafted, the Substitute Resolution would allow bonds to be issued before the zoning was approved for the 10 acres.

- j. Recommend adding a condition (j) that the Fairgrounds Board approve all required changes in roads, the development of park and green space, and the infrastructure improvements needed for the Stadium before the Sports Authority issues the bonds.

This has been added.

4. Technical changes to Resolution or IGA

- a. There are multiple uses of defined, capitalized terms that need to be cleaned up. All capitalized terms should have a definition provided in the Resolution or the IGA. (General Comments, A & B)

This has been resolved.

- b. Amend to limit Mayor's ability to approve changes to the IGA. The final version must be substantially the same as what the Council approves. (Resolution, C)

This has been resolved.

- c. On the 1st page of the IGA, the description of "Fairgrounds Improvements" is not the same as in the Resolution. Add "...and public infrastructure related to the Stadium..." to the definition of Fairgrounds Improvements. (IGA, B)

This has been resolved.

5. Need more information

- a. Provide copies of Site Lease, Development Agreement, Team Lease, and Team Guaranty. (General Comments, A & B and IGA, A)

Not resolved.

- b. There is not enough information available to evaluate the pros and cons of dedicating countywide team product sales tax to debt service, but excluding concert and other non-game sales tax from debt service. (Structure, 3 and IGA, D)

Not resolved, but I am not sure it would influence my vote one way or another.

- c. More information would be necessary to understand how competition from the Stadium might impact Metro's obligations to fund operating shortfalls for the Bridgestone Arena. (Other Issues, A)

I became satisfied that there would not be a negative financial impact to Metro.

- d. No information about parking has been provided. (Other Issues, B)

Information was provided. The parking seems to be at the low end of feasible and relies on parking 1,200 cars on the racetrack infield, but there is a plan.

- e. No information has been provided about any traffic studies. (Other Issues, C)

Not resolved.

- f. No information about a sound mitigation policy for the surrounding neighborhood has been provided. (Other Issues, D)

Not resolved.

- g. The Council should want to hear from the Fairgrounds Board and Executive Director that they believe they can maintain all of the Fairgrounds' historical activities as required by the Charter during and after construction of the Stadium. (Other Issues, E)

The Fairgrounds Executive Director says that all historical uses required by the Metro Charter can be accommodated. But, my sense is that, once the stadium breaks ground, the State Fair will never be at the Fairgrounds again. In talking to a lot of constituents, it seems that many people are okay with this.

6. Other things to be aware of...

- a. This proposal would authorize the Sports Authority to develop and operate the Stadium. It looks like the Fairgrounds Board would not have any authority whatsoever over the Stadium. (General Comments, C and IGA, E)
- b. The Resolution approves the bonds being sold by a negotiated sale. Be aware that this means the Council would be approving Metro negotiating the terms of the bond issuance rather than having multiple groups engage in competitive bidding. (Resolution, B)