



Minnesota Sports Facilities Authority

Meeting Agenda

Tentative Agenda
Friday, October 26, 2012
9:00 a.m.

Hubert H. Humphrey Metrodome
Halsey Hall Room
900 South Fifth Street, Minneapolis, MN 55415

1. CALL TO ORDER
2. ROLL CALL
3. ADOPTION OF AGENDA
4. APPROVAL OF AUTHORITY MEETING MINUTES:
 - Regular Meeting, September 14, 2012
 - Special Meeting, September 28, 2012
5. CHAIR'S REPORT
6. BUSINESS
 - a. Action Items – New Stadium
 - i. Authorize Assumption of Contract with Laborer's Union Local No. 563
 - ii. Approve Administrative Manual
 - Bylaws
 - Policies
 - Affirmative Action Plan 2012-2014
 - iii. Approve Personal Services Items
 - iv. Approve Loaned Executive Agreement with the Metropolitan Council
 - v. Other
 - b. Report Items
 - i. Budget Report
 - ii. Vikings Ticket Raffle
7. PUBLIC COMMENTS
8. DISCUSSION
9. ANNOUNCE FUTURE MEETINGS - Friday, November 16, 2012 at 9:00 a.m. – Board Meeting
10. ADJOURNMENT

MINNESOTA SPORTS FACILITIES AUTHORITY

Regular Meeting
Friday, September 14, 2012
9:00 a.m.

Hubert H. Humphrey Metrodome
Halsey Hall Room
900 South 5th Street
Minneapolis, MN 55415

1. CALL TO ORDER

Chair Michele Kelm-Helgen called the meeting of the Minnesota Sports Facilities Authority to order at 9:05 am

2. ROLL CALL

Commissioners Present: Michele Kelm-Helgen, Barbara Butts Williams, Duane Benson, Bill McCarthy, John Griffith

Commissioners Absent: None

3. ADOPTION OF AGENDA

Chair Kelm-Helgen presented the agenda. *A motion was made by Commissioner Benson and seconded by Commissioner Butts Williams to adopt the agenda. Motion carried.*

4. APPROVAL OF AUTHORITY MEETING MINUTES

Approval of Authority Minutes for Regular Meeting of August 24, 2012. *A motion made by Commissioner Butts Williams and seconded by Commissioner McCarthy to approve the minutes. Motion carried.*

5. CHAIR'S REPORT

The new stadium work is ramping up. The MSFA recently put out an RFP for the Architectural Engineer. Five firms responded, which all showcased their work on the MOA field at a public forum on September 5. An interview team has been put together which includes members of the MSFA board and staff, the Vikings, Hammes and outside consultants. This team is currently working on due diligence and will bring back the firms for a second round of interviewing. As the RFP's were due only last week, the board will not make a decision today.

The MSFA board is also working on a process to assure the new stadium will meet requirements for women, minority and disadvantage business workforce.

6. BUSINESS

a Action Items – New Stadium

i. Authorize Chair & Staff to Negotiate & Award Contract – Legal Services

On August 16, 2012 sixteen proposals were received for MSFA Legal Services. The proposals were reviewed by a committee composed of Commissioners Griffith and McCarthy, CEO/Executive Director Ted Mondale, staff member Steve Maki, Scott Stenman from Hammes Company, and Mike Green from Michael Best Law Firm, Madison, WI. Five firms were selected to be interviewed: Dorsey & Whitney; Fabyanske, Westra, Hart & Thomson; Gray Plant Mooty; Leonard, Street & Deinard; and McGrann Shea. Interviews were conducted on August 30, 2012.

The interview committee looked at five key criteria to select the new legal council: expertise and experience; key staff proposed to be assigned to perform work for the Authority; past performance; interview; and hourly billable rate (cost). Based upon the materials submitted by the interviewees and the interviews of the five firms, the committee unanimously recommends that the contract pairing for the above work be awarded to Dorsey & Whitney and Fabyanske, Westra, Hart & Thomas. Dorsey & Whitney has extensive experience in complex development issues and helped build Minnesota's infrastructure, including Metropolitan stadium (circa 1965), Target Field, TCF Stadium, Target Center and the Metrodome. Fabyanske's major areas of practice are real estate and construction.

Recommendation: *The Authority accepts the proposals for Legal Services from Dorsey & Whitney and Fabyanske, Westra, Hart & Thomson, subject to final negotiation by the Chair and CEO/Executive Director. Furthermore, the Authority authorizes the Chair and CEO/Executive Director to enter into a contract for those services upon completion of contract negotiations. Motion made by Commissioner McCarthy and seconded by Commissioner Griffith. Motion carried.*

b. Reports Items

i. Affirmative Action Plan 2012- 2014

It is the policy of the Minnesota Sports Facilities Authority to provide equal opportunity in all areas of employment and to take affirmative action to prevent employment discrimination. MN Statute 473.143 requires the Authority to develop and submit an affirmative action plan to Minnesota Management & Budget (MMB). The plan must include goal-oriented management policies and procedures to eliminate barriers to employment opportunities for minorities, women and qualified disabled persons that are not based on specific job requirements. Since the Authority has a temporary personnel policy and has not yet implemented a permanent policy, MMB recommended that the Authority adopt a temporary "Affirmative Action Plan" and then when the personnel policy is finalized adopt a more comprehensive plan.

The attached Affirmative Action Plan is based on MMB's template and includes a statement of commitment, harassment/discrimination policy, internal harassment/discrimination complaint procedure, reasonable

accommodation policy, and two attachments: Complaint of harassment/discrimination form and Employee request for reasonable accommodation form.

The Authority plans to demonstrate good faith effort to comply with the state's affirmative action requirements and to provide an employment setting that is equally accessible and supportive to all employees. Its employment practices will reflect value and respect for diversity among its employees.

A separate employment plan will be developed to recruit, hire, and retain minorities during the design, development, and construction management of the new stadium facility.

RECOMMENDATION: *The Authority approves the attached "temporary" Affirmative Action Plan 2012 – 2014. A motion was made by Commissioner Griffith and seconded by Commissioner McCarthy. Motion carried. A copy of the Affirmative Action Plan is available in the Authority office.*

ii. Project Labor Agreement Update

The Minnesota Sports Facilities Authority (the "Authority") is authorized to enter into a Project Labor Agreement ("PLA") related to construction of the new stadium. PLAs are specifically authorized under the National Labor Relations Act ("NLRA" or "Act"), 29 U.S.C. §§ 151-169. The NLRA provides specific exceptions from other requirements of the Act in order to permit employers and unions in the construction industry to enter into PLAs. See 29 U.S.C. §§ 158(e) and (f). In its landmark 1993 *Boston Harbor* decision, the United States Supreme Court recognized the value of PLAs in serving the public interest. Accordingly, as a matter of law and public policy PLAs are an appropriate construction management tool in the public and private sectors.

The Authority is authorized to set prevailing wage rates for this project; these labor rates must be agreed to by a contractor before the Authority and the contractor execute a contract. Specifically, the authorizing legislation for construction of the stadium (2012 Laws, Ch. 299) (the "Stadium Act"), Section 15 [473J.11], Subd. 1(c), provides that the Authority may contract for materials, supplies, and equipment in accordance with Minnesota Statute 471.345, the Uniform Municipal Contracting Law ("UMCL"). Subdivision 7 of the UMCL, Minimum labor standards, provides:

Minimum labor standards. Nothing in this section shall be construed to prohibit any municipality from adopting rules, regulations, or ordinances which establish the prevailing wage rate as defined in section 177.42, as a minimum standard for wages and which establish the hours and working conditions prevailing for the largest number of workers engaged in the same class of labor within the area as a minimum standard for a contractor's employees which must be agreed to by any contractor before the contractor may be awarded any contract for the furnishing of any labor, material, supplies, or service.

By its terms, Minn. Stat. § 471.345 authorizes the Authority to adopt rules establishing prevailing wage rates. This authority includes the power to enter into a PLA, which would set prevailing wage rates for the duration of the stadium project.

In exercising the powers granted to it by the Minnesota Legislature, the Authority should consider that the stadium project is one of the largest public works projects ever authorized in this State and is currently one of the largest construction projects authorized to be built in this Country. The Federal Government, the largest purchaser of construction services in the world, is subject to a February 2009 Executive Order that specifically allows Federal Agencies to require project labor agreements on large-scale Federal construction projects. The reason this authority exists—and is encouraged to be exercised on large construction projects—is that PLAs give project owners, building contractors and labor forces a unique opportunity to anticipate and avoid potential labor problems that might otherwise arise and interrupt or delay project progress.

PLAs maximize job stability, efficiency and productivity, and, most importantly, minimize the risks and inconveniences to the public that often accompany large, expensive public works projects. Specifically, a project-specific PLA is designed to provide a steady supply of skilled labor on complex projects, coordinate the work of multiple crafts, establish a peaceful means of dispute resolution without strikes or lockouts, and help to ensure that the project is completed on time and without costly labor overruns. These are the primary reasons why PLAs are commonly used on large, complex stadium projects, including stadium projects built in Minnesota. The Metrodome, Target Field and TCF Bank Stadium were all built under PLAs. Outside of Minnesota, the following stadiums were built using PLAs: Miller Park, Milwaukee, Wisconsin; Gund Arena, Cleveland, Ohio; Cleveland Browns Stadium, Cleveland, Ohio; Comerica Park, Detroit, Michigan; Nationals Park, Washington, D.C.; Lucas Oil Stadium, Indianapolis, Indiana; Citi Field, New York, New York; and Safeco Field in Seattle, Washington.

Although the use of PLAs is increasingly common on large publicly financed construction projects, PLAs are not without controversy. Opponents charge that by using PLAs and their requirements, PLAs actually raise project costs because open-shop (non-union) contractors are discouraged from bidding on projects that have PLAs. As a result, open-shop contractors contend that there is frequently an absence of open-shop bidders on PLA projects, which, in turn, results in fewer bidders for the project. Therefore, open-shop contractors argue the overall cost of the project with a PLA will be higher.

Recognizing there are many reasons why contractors—union and non-union—may choose not to bid on certain projects, we were unable to find any published study that empirically demonstrates that a PLA requirement was itself the cause of a decrease in the number of bidders on a large construction project. Further, we are unaware of any credible analysis showing that fewer bidders translate into higher actual project costs. This is not surprising given the current depressed construction market in this State. Competition among union and open-shop contractors for publicly bid projects at the local, State and Federal levels remains at a high level.

In conclusion, weighing the arguments for and against PLAs, a PLA requirement makes sense for a large publicly funded stadium project because a PLA promotes a planned approach to labor relations, allows contractors to more accurately estimate labor costs and schedules, and reduces the risks of costly disruptions. Specifically PLAs offer protection against potential labor strikes, lockouts, or other work stoppages for the duration of the project. History tells us that work stoppages on large public projects

can increase project costs by millions of dollars due to extra costs caused by construction delays or disruptions. Notably, during the projected construction period of the new stadium numerous collective bargaining agreements of local construction craft unions are scheduled to expire. The only way the Authority can protect itself and the taxpayers against work stoppages during this period and for the term of the project is to enter into a PLA, a comprehensive labor relations agreement that supersedes all craft agreements, setting uniform terms and conditions, for this project.

RECOMMENDATION: *That the MSFA Board Support a Project Labor Agreement. Motion made by Commissioner McCarthy and seconded by Commissioner Benson. Motion carried.*

7. PUBLIC COMMENT

Seven individuals came forward to address the MSFA Board.

Avi Viswanathan; Topic: Reduce racial disparity

George Garnett; Topic: Reduce minority disparity

Louis King; Topic: Reduce racial disparity

Al Flowers; Topic: Jobs for minorities

R.A. Edwards; Topic: Minorities in the workplace

Barb Lau; Topic: waived after hearing previous public comments

Jachai Lockhart; Topic: Contracting method and how it will affect hiring process.

8. DISCUSSION

None

9. ANNOUNCE FUTURE MEETINGS

a. Friday, September 14, 2012 at 10:30am – Tour Xcel Center; St. Paul, MN

b. Wednesday, September 26, 2012 at 10:00am – Tour Lucas Oil Field; Indianapolis, IN

c. Friday, October 5, 2012 at 9:00am – Regular MSFA Board meeting

10. ADJOURNMENT

There being no further business to come before the Authority, a motion was made by Commissioner Butts Williams and seconded by Commissioner Benson to adjourn the meeting. Motion carried. Chair Kelm-Helgen adjourned the meeting at 9:56 am

MINNESOTA SPORTS FACILITIES AUTHORITY

Special Meeting
Friday, September 28, 2012
8:00 a.m.

Hubert H. Humphrey Metrodome
Halsey Hall Room
900 South 5th Street
Minneapolis, MN 55415

1. CALL TO ORDER

Chair Michele Kelm-Helgen called the meeting of the Minnesota Sports Facilities Authority to order at 8:00 am

2. ROLL CALL

Commissioners Present: Michele Kelm-Helgen, Duane Benson, Bill McCarthy, John Griffith

Commissioners Absent: Barbara Butts Williams

3. ADOPTION OF AGENDA

Chair Kelm-Helgen presented the agenda. *A motion was made by Commissioner Griffith and seconded by Commissioner Benson to adopt the agenda. Motion carried.*

4. APPROVAL OF DESIGN SERVICES AGREEMENT

On August 30, 2012, five proposals were received for Architectural Design Services for the new stadium. Proposals were provided by nationally known sports architecture firms AECOM, Ewing Cole, HKS, HNTB and POPULOUS. These proposals were reviewed and firms were interviewed by a committee comprised of members of the Minnesota Vikings, MSFA board and staff, Authority consultants, and Dean of the University of Minnesota Architecture School Tom Fisher.

Interviews of the five firms took place over two days, September 6 and 7, and a public open house featuring works by each of the potential architects was held on September 6, 2012.

Three firms, HNTB, POPULOUS, and HKS were invited back for a second interview on September 24, 2012.

Based on the materials submitted by the interviewees and the interviews of the three firms, the Minnesota Vikings and MSFA staff recommends that the contract for Design Services for the new People's Stadium be awarded to HKS Sports & Entertainment Group of Dallas, Texas. John Hutchings

will be the principal –in-charge, Bryan Trubey will serve as the design principal, and Kevin Taylor will be the project manager for HKS. HKS’s Interiors Vice President, Emily Gossett will work with the Team and Authority on furnishings and fixtures for the stadium.

HKS has performed significant work in designing world class stadiums, most recently Lucas Oil Stadium in Indianapolis, Indiana and the Cowboys Stadium in Dallas Texas. They have extensive experience with roof design and exceptional experience designing visionary NFL venues that are also unprecedented multipurpose venues. HKS is the number one green sports and entertainment design firm with 337 accredited professionals; they are a leader in the advancement of sustainable design.

HKS has committed to including 19% targeted businesses into their contract – 8 % woman and 11% minority owned businesses. The MSFA and Minnesota Vikings will collaborate with HKS on the selection of design subconsultants to meet or exceed these goals. HKS will begin immediately to develop a process for selection of local consultants. This process of selection of local subconsultants, Targeted Group Businesses, and disadvantaged businesses should be concluded by Mid November of this year. Once all subconsultants have been contracted, staff will post the names of those firms on the MSFA website, MSFA.com.

HKS’s fee including subconsultant fees and all related design reimbursables for the project will not exceed \$34 million.

Recommendation: *The Authority authorizes the Chair and CEO/Executive Director to enter into a contract for design services with HKS Sports & Entertainment.*

4. **ANNOUNCE FUTURE MEETINGS**

The Chair noticed to the public the following upcoming meetings:

- a. Wednesday, October 3, 2012 at 10:30am – Tour Reliant Stadium, Houston
- b. Friday, October 5, 2012 at 10:00am – Regular MSFA Board meeting

10. **ADJOURNMENT**

There being no further business to come before the Authority, Chair Kelm-Helgen adjourned the meeting at 8:18 am



MINNESOTA SPORTS FACILITIES AUTHORITY
900 South 5th Street
Minneapolis, Minnesota 55415

October 26, 2012

MEMORANDUM

TO: MSFA Board Members

FROM: Ted Mondale/Steve Maki

SUBJECT: Authorize Assumption of Contract with Laborers' Union Local No. 563

In August, the Authority authorized the assumption of a number of contracts that had previously been held by the Metropolitan Sports Facilities Commission. The contract between the Commission and Local No. 563 was inadvertently left off that listing. Local No. 563 represents approximately 10 maintenance personnel whose primary job responsibilities involve small building repairs, playing field preparation and monitoring of roof operating systems (24/7 basis). The contract was negotiated earlier this year and is for the term beginning March 1, 2012 and extends to February 28, 2014.

Recommendation: The MSFA authorize the assumption of the contract as detailed above with Laborers' Union Local No. 563.



MINNESOTA SPORTS FACILITIES AUTHORITY
900 South 5th Street
Minneapolis, Minnesota 55415

October 26, 2012

MEMORANDUM

TO: MSFA Commissioners

FROM: Ted Mondale/Mary Fox-Stroman

SUBJECT: Administrative Manual

This administrative manual sets forth the basic principles to be followed in the administration and operation of the activities of the Minnesota Sports Facilities Authority. It provides a uniform approach and tool to be used by management and staff to guide and inform decision-making and to assist them in their responsibilities. Authority By-laws, policies, and the Affirmative Action Plan for 2012 – 2014 are included in this manual.

A thorough review of the Metropolitan Sports Facilities Commission's policies was completed and it was determined that several updates and revisions were needed. Staff worked with Springsted, Inc. and Dorsey & Whitney, LLP to create policies for the Authority. The Commission's policies served as the building block for creating the Authority's policies. Dorsey & Whitney, LLP prepared the by-laws for the Authority and the Affirmative Action Plan 2012 – 2014.

Authority By-laws – include the Authority's Name, Composition of the Authority, Officers of the Authority, Meetings of the Authority, Compensation and Expense Reimbursement, Official Documents, Amendments, and Electronic Mail.

Following are the policies that are included in this manual along with a brief description of each.

Capital Asset Management Policy - establishes the systems for the acquisition, management, periodic evaluation, maintenance, and financial reporting of the Authority's assets. Capital assets are defined as having an initial cost in excess of \$5,000 and a useful life in excess of three years. Annually an inventory of capital assets will be conducted.

Investment Policy – directs the investment of Authority funds in a manner that ensures compliance with federal and state regulations. Investment objectives are listed in order of priority including compliance, safety, liquidity, diversification, and yield. Purchase of investment instruments must comply with Minnesota statutes 118A and the list of authorized and suitable investments are listed and

described as well as a list of prohibited investments is included. Other areas described include safekeeping and custody, investment advisor, broker relationships, diversification, concentration of credit risk, asset allocation, and reporting. Benchmarks will need to be developed that are based on current indexes and yields.

Liquidity/Reserve Policy – provides a guide for maintaining adequate liquidity to meet the Authority’s operations expenditure requirements. Maintenance of a cash position in the operating fund to meet six months of operating expenditures requires a minimum balance of \$6 million.

Personnel Policy – serves as an employee handbook and is to be used to govern Authority employees. Employees covered by a collective bargaining agreement are exempt from provisions of this policy which conflict with the labor contract provisions and such employees are limited to the benefits provided in the agreement. The administrative manual includes equal employment opportunity policy, separation policy, policy against discrimination, harassment and offensive behavior, problem resolution policy, open door policy, social media policy, conduct policy, and several other standards of conduct. The manual also includes wage and salary administration, hours of work and payroll practices, and employee benefits.

Procurement Policy – establishes the guidelines for the procurement of goods and services and specifies the manner for competitive purchases. Micro purchases are defined as procurements valued at less than \$25,000 and can be made either upon quotation or in the open market. Small purchases are valued between \$25,000 and \$100,000 and can be made after obtaining two or more quotations, bids, or proposals. Major purchases are valued at greater than \$100,000 and will be made by publicly soliciting bids or proposals. The policy also requires a competitive process when contracting for professional services for more than \$100,000. A detailed explanation of best value contracting is also included.

Travel and Meeting Policy – sets the guidelines for reimbursement of expenses for authorized and approved travel for Commissioners and employees. Expenses include use of a private vehicle, miles, parking, lodging, meals, vehicle rental and a variety of other expenses. Documentation is required for all expenses other than meals while on “out-of-state” travel and mileage. Mileage will be paid based on the standard mileage allowance as determined by the Internal Revenue Service and expenses for meals will be reimbursed on a per-diem basis based on the federal per-diem rates as defined per individual city.

Affirmative Action Plan 2012 – 2014 – this two year plan includes the Authority’s Equal Employment Opportunity Policy, Assignment of Responsibility for the Affirmative Action Program, Dissemination of the Affirmative Action Policy and Plan, Workforce, Internal Audit and Reporting Systems, Measures to Facilitate Implementation of the Plan, Affirmative Action Plan for Individuals with Disabilities, and Support Data. This plan will replace the temporary Affirmative Action Plan and will be submitted to Minnesota Management & Budget.

RECOMMENDATION: *The Authority approves and adopts the Administrative Manual effective August 1, 2012*



MINNESOTA SPORTS FACILITIES AUTHORITY
900 South 5th Street
Minneapolis, Minnesota 55415

October 26, 2012

MEMORANDUM

TO: MSFA Board Members

FROM: Ted Mondale

SUBJECT: Personal Services Items

ADDITION OF A FULL-TIME PROJECT COORDINATOR FOR MSFA

The planning phase for the People's stadium requires additional staffing resources and the need for a full-time Project Coordinator for the Minnesota Sports Facilities Authority. This position will be responsible for planning, scheduling and staffing public meetings and events with an emphasis on logistics and planning. The position will also be involved in a variety of special projects. In addition this position will organize and staff community meetings conducted by the MSFA and the Team, provide support for all City of Minneapolis Implementation committee and subcommittee meetings, and prepare and develop presentations for public meetings and events.

The recruiting process included advertisement of the position, review of applications, and interviews.

REQUEST FOR 2012 SALARY AND WAGE RATES FOR NEW MSFA POSITIONS

Staff reviewed salary and wage rate information from other public sector employers to assist in recommending 2012 salary and wage rates for the Director of Communications, Project Coordinator for the MSFA, and the Senior Executive Assistant. Staff recommends the following salaries and wage rate for the new MSFA positions:

Full-time Positions:	2012
Exempt:	<u>Salaries/Wage Rate</u>
Director of Communications	\$91,000
Project Coordinator for MSFA	\$57,600
Part-time Position:	
Nonexempt:	
Senior Executive Assistant	\$30/hour

Recommendation: The Authority approves the addition of a full-time position Project Coordinator for the MSFA and the 2012 salaries and wage rate for the positions listed above.



MINNESOTA SPORTS FACILITIES AUTHORITY
900 South 5th Street
Minneapolis, Minnesota 55415

October 26, 2012

MEMORANDUM

TO: MSFA Board Members

FROM: Ted Mondale

SUBJECT: Authorize Staff to Negotiate a Contract for Loaned Executives with the Metropolitan Council

On September 28, Authority Chair Kelm-Helgen announced that the Authority had asked the Metropolitan Council to help design a plan to reach the Women Business Enterprise (WBE)/Minority Business Enterprise (MBE) goals on the People's Stadium project.

Given their expertise in contracting issues and their successes on the Hiawatha and Central Corridor Light Rail projects, we have reached an agreement with the Metropolitan Council's Office of Diversity and Equal Opportunity to have two executives on loan to develop this plan.

Staff recommends contracting with the Metropolitan Council to borrow Wanda Kirkpatrick and Aaron Koski of the Council's Office of Diversity and Equal Opportunity through December 31, 2013. The Minnesota Vikings support this recommendation.

Their services will be billed on a monthly basis based on established hourly rates and will be a stadium project cost.

Recommendation: *The Authority authorizes the Chair and CEO/Executive Director to enter into a contract regarding loaned executives with the Metropolitan Council.*



MINNESOTA SPORTS FACILITIES AUTHORITY
900 South 5th Street
Minneapolis, Minnesota 55415

October 26, 2012

MEMORANDUM

TO: MSFA Commissioners

FROM: Ted Mondale/Mary Fox-Stroman

SUBJECT: Budget Report – August 31, 2012

Attached is the budget report for the Minnesota Sports Facilities Authority for the period from January 1, 2012 through August 31, 2012.

The report is divided into two sections: the financial activities of the Metropolitan Sports Facilities Commission and the financial activities of the Minnesota Sports Facilities Authority. The first section includes the Commission's 2012 adopted budget, actual revenues, expenses, changes in account balance, and the ending account balances as of July 31, 2012. The second section includes the Authority's continuing budget resolution, actual revenues, expenses, changes in account balance, and the ending account balances as of August 31, 2012.

For the first seven months of the year the Commission's revenues were \$1,869,925 and expenses totaled \$5,837,071 which resulted in a decrease in the account balance of \$3,967,146. The account balance at July 31, 2012 was \$9,375,605. This account balance was transferred to the Authority as of August 1, 2012. At the end of the Authority's first month of operations the account balance increased by \$238,467 and the ending account balance at August 31, 2012 was \$9,614,072. The August 2012 revenues include the two preseason Minnesota Vikings games.

The Sit investment account balance was \$8,309,129 and included the following investment types: FHLMC, GNMA, and FNMA's. Following is a summary of investment results as of August 31 2012:

	<u>August '12</u>	<u>YTD'12</u>
MSFC Sit Short Duration	+0.4%	+3.3%
Merrill Lynch 1-3 Yr	0.0%	0.4%
Treasury Index (benchmark)		

RECOMMENDATION: *No action is required at this time. This is for informational purposes only.*

**MINNESOTA SPORTS FACILITIES AUTHORITY
 BUDGETARY COMPARISON SUMMARY
 STATEMENT OF REVENUES, EXPENSES AND CHANGES IN ACCOUNT BALANCES
 For the Period from January 1, 2012 through August 31, 2012**

	METROPOLITAN SPORTS FACILITIES COMMISSION		MINNESOTA SPORTS FACILITIES AUTHORITY	
	2012 Budget Annual	Actual 01/01/2012- 7/31/2012	Continuing Resolution 08/01/2012- 12/31/2012	Actual 08/01/2012- 8/31/2012
Revenues				
MN Vikings 2011 Regular Season Net Revenues (Vikings game 1/1/2012)	\$ -	\$ 418,458	\$ -	\$ -
MN Vikings 2012 Regular Season Net Revenues	6,727,500	-	6,727,500	233,051
Other Events Net Revenues	1,400,000	629,457	770,543	(503)
Miscellaneous Revenues	833,000	426,189	406,811	375,123
Investment Income	400,000	395,821	4,179	50,411
Total revenues	<u>9,360,500</u>	<u>1,869,925</u>	<u>7,909,033</u>	<u>658,082</u>
Expenses				
Operating expenses:				
Personal services	2,243,000	1,337,336	905,664	135,515
Professional services	390,000	560,814	(170,814)	-
Contractual building services	2,550,000	976,136	1,573,864	57,853
Audio-visual maintenance costs	302,000	66,041	235,959	1,323
Travel and meetings	30,000	22,250	7,750	1,529
Supplies, repairs and maintenance	829,000	261,698	567,302	39,434
Utilities	2,955,000	1,427,631	1,527,369	-
Insurance	996,000	513,728	482,272	383,911
Communication	90,000	30,193	59,807	3,848
Miscellaneous	1,153,000	594,616	558,384	28,383
Less: reimbursed expenses	(1,500,000)	(463,926)	(1,036,074)	(247,576)
Subtotal operating expenses	<u>10,038,000</u>	<u>5,326,517</u>	<u>4,711,483</u>	<u>404,220</u>
Repairs, Replacements and Improvements				
Other expenses	1,000,000	460,981	539,019	8,050
Concessions-Repair and maintenance	150,000	39,925	110,075	-
Concessions-Replacements and new equipment	100,000	9,513	90,487	7,345
Concessions-Promotions	25,000	135	24,865	-
Total expenses	<u>11,313,000</u>	<u>5,837,071</u>	<u>5,475,929</u>	<u>419,615</u>
Change in Account Balances	(1,952,500)	(3,967,146)	2,433,104	238,467
Beginning Account Balances	<u>13,342,751</u>	<u>13,342,751</u>	<u>9,375,605</u>	<u>9,375,605</u>
Ending Account Balances (Unaudited)	<u>\$ 11,390,251</u>	<u>\$ 9,375,605</u>	<u>\$ 11,808,709</u>	<u>\$ 9,614,072</u>

MEMORANDUM

TO: Ted Mondale

FROM: Jay R. Lindgren
Shannon L. Bjorklund

DATE: October 22, 2012

RE: Feasibility of Conducting Raffle of Minnesota Vikings Season Tickets

This memorandum analyzes the feasibility of conducting a raffle to award season tickets for the term of the stadium use agreement (30 years). Although the idea has intuitive appeal, it would be very difficult to execute under existing Minnesota law, and would most likely require new legislation to allow the raffle to go forward. Based on historical data, the raffle would probably yield less than \$75,000.

I. Background.

The Minnesota legislature has required the Minnesota Sports Facilities Authority (the "Authority") to study the feasibility of conducting a raffle to assist with payment of bonds on the new stadium. Section 13, subdivision 14 of the stadium bill states:

The authority shall study the feasibility of conducting a raffle for chances to win a pair or other limited numbers of prime seats (such as lower deck, 50 yard line seats) in the stadium for professional football games for the duration of the lease or use agreement.

Minn. Stat. § 473J.09, subd. 14. This memorandum addresses the feasibility of such a raffle by analyzing the legal gambling restrictions and the 2011 statistics for revenue generated by raffles in Minnesota.

II. Relevant Legal Restrictions.

This section addresses the existing statutory restrictions on raffles and how these restrictions would apply to a raffle of Vikings football tickets as described in Minn. Stat. § 473J.09, subd. 14. There are three main legal challenges: (1) the value of the raffle prize, (2) the entity that would conduct the raffle, and (3) the time and place restrictions on the raffle.

A. Amount of Prize.

The prize envisioned by Minn. Stat. § 473J.09, subd. 14 exceeds the statutory maximum for the value of a raffle prize. Under Minnesota law, the value of an individual raffle prize cannot exceed \$50,000. Minn. Stat. § 349.211, subd. 2d. The estimated prize value is based on the

fair market value of the item, even if the item is donated. Minn. Stat. § 349.211, subd. 4(a); Minn. Admin. R. 7861.0210, subp. 18.

The estimated fair market value of a pair of prime tickets for the duration of the 30-year term is at least \$76,800. This estimate is based on two tickets at the current season ticket price of \$1,280 for 30 years. This estimate is almost certainly lower than the actual fair market value, because it assumes that ticket prices will remain the same over time and assumes that ticket prices in the new stadium will be the same as in the existing stadium. Although the Vikings have not raised season ticket prices in the past three years,¹ it is unlikely that this trend will continue for the next three decades.

Under existing Minnesota law, it is not legal (hence infeasible) to conduct a raffle for a pair of prime seats at the new stadium for the duration of the lease. The Authority could comply with Minn. Stat. § 349.211, subd. 2d by lowering the value of the raffle prize, for example, by limiting the tickets to 10 years instead of 30 years. The Authority could split the prize into three pairs of 10-year tickets, as there is no limit on the cumulative value of multiple raffle prizes. Minn. Stat. § 349.211, subd. 2d.² If the Authority wishes to keep the raffle prize the same as the description in Minn. Stat. § 473J.09, subd. 14, it will be necessary to pass new legislation to specifically allow a raffle with this high-value prize.

B. Entity Conducting Raffle.

The second, and probably most challenging, legal issue is identifying an entity that could conduct the raffle. A raffle can only be conducted by an “organization,” which is defined as “any fraternal, religious, veterans, or other nonprofit organization.” Minn. Stat. §§ 349.12, subd. 28; 349.16, subd. 1. The Authority does not qualify as a “nonprofit organization” and therefore cannot conduct the raffle itself. If the Authority wishes to conduct the raffle itself, it will be necessary to pass new legislation.

If a nonprofit organization conducted the raffle, the nonprofit organization could donate the net proceeds to the Authority. The gross profits of a raffle can only be spent on “lawful purposes” and “allowable expenses.” Minn. Stat. § 349.15, subd. 1(a). “Allowable expenses” are typically the cost of operating the raffle. Minn. Stat. § 349.12, subd. 3a. The remaining funds must be spent on “lawful purposes” such as donations to charity. See, e.g., Minn. Stat. § 349.12, subds. 25(a)(1), (12) & (14). An organization may also make “a contribution to . . . any of [Minnesota’s] political subdivisions . . . other than a direct contribution to a law enforcement or prosecutorial agency” as a lawful disposition of raffle proceeds. Minn. Stat. § 349.12, subd. 25(a)(10). Under this section, a nonprofit could operate the raffle and donate the proceeds to the Authority, which is a political subdivision.

¹ Judd Zulgad, *Vikings keep season-ticket prices the same for third year in a row*, ESPN SportsWire, Feb. 16, 2012, available at http://www.1500espn.com/sportswire/Vikings_keep_seasonticket_prices_the_same_for_third_year_in_a_row021612.

² Although it is lawful to offer prizes totaling more than \$50,000 per year, the raffle would not be eligible for tax-exempt status. Minn. Stat. §§ 297E.02, subd. 2; 349.166, subd. 2. See Part II.C for further explanation.

The Authority cannot establish a nonprofit for the purpose of conducting the raffle, for two reasons. First, an organization must be in existence for three years prior to submitting an application for a gambling license. Minn. Stat. § 349.16, subd 2(b). Second, an organization “must not be in existence solely for the purpose of conducting gambling.” Minn. Stat. § 349.16, subd. 2(d).

In summary, the Authority cannot conduct a raffle itself and cannot establish a nonprofit for the purpose of conducting a raffle. An existing nonprofit could conduct the raffle and donate the proceeds to the Authority, if that organization complied with the other requirements in Chapter 349.

C. Other Legal Restrictions.

Finally, the Authority must decide whether the raffle would be a standard licensed raffle or a tax-exempt raffle. An organization that conducts a tax-exempt raffle can only engage in gambling activity for a maximum of five days per year, with a total annual prize limit of \$50,000. Minn. Stat. § 349.166, subd. 2(a)(1) & (2). An organization does not need a license to conduct an exempt raffle, but must submit an application for exemption. *Id.*, subd. 2(a)(3). The organization is also required to give notice to municipal authorities prior to the raffle, and to submit a modest amount of paperwork after the raffle was completed. *Id.*, subd. 2(a)(4). An exempt raffle is not subject to Minnesota taxes. Minn. Stat. § 297E.02, subd. 2.

An organization that conducts a licensed raffle has no cumulative annual prize limit (although each individual prize is limited to \$50,000) and no limit on the number of days on which the raffle is conducted. The organization has other obligations, such as paying taxes on the proceeds, complying with requirements for employees who operate the raffle, and holding the raffle in an authorized location. In addition, the organization must obtain a license prior to the raffle, separate the raffle funds, and provide detailed financial reporting to the Minnesota Gambling Control Board. See **Exhibit A** (letter from Minnesota Gambling Control Board) for more details on statutory and regulatory restrictions.

III. Other considerations.

There are other considerations affecting the feasibility and advisability of conducting a raffle, including the potential revenue and the costs associated with conducting a raffle. Although each raffle is different, the average raffle collects gross proceeds of approximately twice the value of the prizes awarded. See Minnesota Gambling Control Board 2011 Annual Report p. 5 (available at http://www.gcb.state.mn.us/PDF_Files/FY11.pdf and attached as **Exhibit B** to this memorandum). After deducting the cost of the prize, the net receipts are often roughly equivalent to the cost of the prize. These net receipts are distributed between allowable expenses, state taxes and charitable contributions (the profit from the raffle). Over the past ten years, over 50% of the net proceeds have been used for allowable expenses, with charitable contributions being slightly higher than taxes paid. *Id.* at p. 9. Shown below are a few rough calculations based on the averages in the 2011 Annual Report:

Prize: \$50,000

Gross receipts: \$100,000 (approx. twice the value of the \$50,000 maximum prize)

Net receipts (gross – prize): \$50,000

Allowable expenses: \$27,500 (55% of net proceeds, based on 2011 average)

State taxes: \$10,000 (20% of net proceeds, based on 2011 average)

Yield: \$12,500 (25% of net proceeds, based on 2011 average)

Even assuming the best scenario – the prize is donated by the Team at no cost to the Authority, the raffle is operated in such a way that no tax is due, and the allowable expenses are average – the yield would be approximately \$73,500. This yield is relatively modest considering the number and complexity of legal restrictions applicable to the raffle.

As described above, these numbers are based on aggregate annual statistics, not projections specific to this particular raffle. If the Authority believes that the legal challenges can be resolved, it could be beneficial to engage an appropriate financial or economic expert to develop projections for this particular raffle.

IV. Conclusion and Recommendation.

There are significant legal barriers that prevent the Authority from lawfully conducting a raffle of season tickets for the duration of the lease. There are two issues that are insurmountable, unless additional legislation is passed: (1) the value of the raffle prize is higher than the statutory maximum; and (2) the Authority cannot conduct the raffle and cannot create a nonprofit to conduct the raffle. The Authority can work within the confines of existing law by lowering the value of the raffle prize or by allowing an existing nonprofit to conduct the raffle, but both of these alternatives present challenges. If the 30-year season tickets prize is split into multiple prizes, the total value of prizes would still exceed the tax-exempt limit. If the Authority allows a nonprofit to conduct the raffle, the Authority will necessarily lose significant control over the operation of the raffle. Finally, based on statistics from 2011 raffles in Minnesota, the projected economic gain from the raffle would be less than \$75,000, even assuming that the prize was donated and the raffle was tax-exempt. It would be reasonable for the Authority to conclude that the significant effort it will take to appropriately address the statutory and regulatory hurdles is not justified by the relatively modest potential gain of conducting a raffle.

Exhibit A: Letter from Tom Barrett at Minnesota Gambling Control Board to Michele Kelm-Helgen and Ted Mondale at the Minnesota Sports Facilities Authority (Aug. 28, 2012)

Exhibit B: Annual Report of the Minnesota Gambling Control Board (Fiscal Year 2011)



Minnesota Gambling Control Board

Suite 300 South
1711 West County Rd B
Roseville, MN 55113
651-639-4000

August 28, 2012

Michele Kelm-Helegen, Chair
Minnesota Sports Facilities Authority
900 South 5th Street
Minneapolis, MN 55414

Re: Raffle with proceeds directed to stadium financing

Dear Michele;

Given the provision in the stadium bill regarding a feasibility study for conducting a raffle with the proceeds directed to the cost of the appropriation bonds and as Director of the Gambling Control Board with the regulatory oversight for this type of activity, I thought I would highlight some key issues relative to limitations of such a raffle based on current law.

Basically I see three significant areas of concern: Who conducts the raffle? What is the value of the raffle prize(s)? How often is there a raffle?

1. Who conducts the raffle?
 - a. Only registered nonprofit organizations as defined in MS 349.16, subd. 2, are allowed to conduct (charitable) gambling activities.
 - b. The Minnesota Sports Facilities Authority does not qualify as a nonprofit organization and therefore could not conduct a raffle.
 - c. Under the Minnesota Constitution, there is no allowance for government agencies/commissions with the exception of the state lottery to conduct any form of gambling.
 - d. If consideration was given to allow the Minnesota Lottery to conduct the prize drawing, the net proceeds must follow existing laws for allocation of funds and only a fraction of the funds designated to the general funds could be used.
 - e. The nonprofit organization associated with the Minnesota Vikings is the Viking's Children's Fund but the mission of this charitable organization is probably best to remain focused on the programs benefiting the children... Additionally, major sports teams shy away from any connection with "gambling" activity...
 - f. If consideration was given to create a nonprofit organization for the purpose of conducting such a raffle, according to current law, a charitable organization must be in existence for a minimum of three (3) years before any Minnesota gambling permit can be issued.
2. What is the value of the raffle prize(s)?
 - a. The maximum prize allowance for an individual raffle prize is \$50,000 (MS 349.211, Subd. 2d.).

An equal opportunity employer

- b. The estimated prize value for a pair of "prime" seats for Viking games during the term of the lease (based on 25 years and an estimated value of \$64,000) exceeds the maximum prize allowance. (Note: Estimated prize value based on current annual season ticket price of \$1,280 per seat. Estimated prize value is based on actual value of item regardless if items (seats) are donated by the Vikings.)
 - c. If consideration was given to amend the law and increase the prize limit, the actual net profit (after expenses) usually average about half the value of the prize. So a raffle prize with a value of \$100,000 would have net profit of approximately \$50,000.
3. How often is there a raffle? (Some major sports teams allow weekly (home game) raffles known as "50/50" raffles where 50% of the proceeds is the prize and the balance is directed towards a charitable purpose and expenses.)
- a. If the permit for this activity was issued under the tax exempt status, it would be limited to five or fewer days/raffles of activity in a calendar year but the net proceeds would be tax exempt (MS 349.166, subd 2).
 - b. If the permit for this activity was issued under a "full license" with no limit in the number of raffles, the net proceeds would be taxable. (The state would still be the beneficiary but a smaller portion of the proceeds would be directed to the bond expense.)

These are some of the key concerns I see in regards to the consideration of conducting a raffle under the provisions in the stadium bill and given the limitations in law. I would be happy to explain in more detail regarding the issues above and hope you will consider these concerns in your study.

One final note: Participation in a raffle is driven by the jackpot prize but also limited to persons over the age of 18. If a weekly raffle at Viking home games were to be considered, I'm not sure the projected revenue would meet the expectations... Example: If 25% of the estimated attendance of 62,000 at a Vikings game purchased an average of \$5 worth of raffle tickets, the total estimated proceeds would be \$77,500 with \$38,750 awarded as the prize and the remaining \$38,750 split between expenses of approximately \$9,700 (25%); taxes \$7,750 (20% of net); and a balance of \$21,300 (55%) for bonding expenses. This would equate to an annual rate of \$213,000.

Let me know if you have any questions!

Sincerely,



Tom Barrett
Executive Director

✓ cc: Ted Mondale, Executive Director, MN Sports Facilities Authority