Minneapolis-St. Paul

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I. Introduction

RECENTLY, MAJOR LEAGUE BASEBALL postponed its plan to contract two teams—one of which was expected to be the Minnesota Twins—before the start of the 2002 season. A combination of successful litigation in Minnesota[1] and the introduction of federal legislation that would revoke baseball's antitrust exemption contributed to this decision. Every other decision that will determine the future of baseball in the Twin Cities has yet to be made. Of these unmade decisions, the most important one is whether a new, baseball-only stadium will be built in the Twin Cities.

II. Metropolitan Stadium

In 1960, the Twin Cities—Minneapolis and St. Paul—became, by some measures, big league when the National Football League granted the

1. In November 2001, Judge Harry S. Crump temporarily enjoined the Twins from breaching their promise to play their 2002 home games at the Hubert H. Humphrey Metrodome. Metropolitan Sports Facilities Comm'n v. Minnesota Twins Partnership, 2001 WL 1511601 (Minn. Dist. Ct. Nov. 16, 2001). In January 2002, the Minnesota Court of Appeals affirmed:

> A use agreement between a governmental sports facilities commission and a professional baseball team may not be a typical commercial lease for which money damages can fully compensate the nonbreaching party for damages, when the agreement provides that the benefit of the bargain to the commission is the team's promise to play its home games at the publicly funded and operated stadium.

Metropolitan Sports Facilities Comm'n v. Minnesota Twins Partnership, 638 N.W.2d 214, 217–18 (Minn. Ct. App. 2002). In February 2002, the Minnesota Supreme Court issued a one-page unpublished order denying the Twins' petition for review.

state an expansion franchise (the Minnesota Vikings) and the Washington Senators became the Minnesota Twins. Both teams used the relatively new Metropolitan Stadium, which had been built in the area's largest suburb and financed by public funds.[2]

The Twin Cities stadium story begins in 1952.[3] A small group of Minnesota businessmen decided it was time for Minneapolis to become a city with corporate headquarters, high-quality arts organizations, and, most importantly, professional sports teams. At the time, baseball consisted of sixteen clubs located in ten cities, with five of the fifteen largest urban areas—Baltimore, Buffalo, Los Angeles, Minneapolis, and San Francisco—having no team.

Because the Twin Cities was interested in attracting a baseball team, it had to address the question of building a baseball stadium. Both Minneapolis and St. Paul had AAA baseball teams in the early 1950s. The St. Paul Saints, a Brooklyn Dodgers farm team, had a new but small stadium. The Minneapolis Millers, a New York Giants farm team, had an aging facility. Neither ballpark was adequate in size or amenities to attract a major league team.

Twin Cities baseball advocates had watched Baltimore and Milwaukee build new stadiums before they had commitments from major league teams. Kansas City refurbished and upgraded an existing facility in order to attract the Philadelphia Athletics. The need for a new stadium was reinforced in early 1954 when Horace Stoneham, the owner of the New York Giants, said he would move the team to Minneapolis if it had a new ballpark. Like the efforts in Baltimore, Kansas City, and Milwaukee, it was generally agreed that some public funding would be needed to finance the ballpark's construction.

Historically, Minneapolis and St. Paul are aggressive, and at times antagonistically competitive, when it comes to bragging rights, image building, and new businesses. Thus, when the effort to acquire a major league baseball team began to gather steam, neither city could stand the thought that the other might be its home. This potential roadblock was sidestepped with the creation of the Metropolitan Sports Area Commission and its proposal to build a stadium in Bloomington.

Funding for the new Metropolitan Stadium involved the sale of revenue bonds, which were issued by the City of Minneapolis and were

2. For pictures and a further description of Metropolitan Stadium, *see Metropolitan Stadium, at* http://www.ballparks.com/baseball/american/metrop.htm (last visited Mar. 26, 2002).

3. Portions of the discussion that follows are based on JAY WEINER, STADIUM GAMES: FIFTY YEARS OF BIG LEAGUE GREED AND BUSH LEAGUE BOONDOGGLES (2000).

to be paid for by parking fees and concession income. Team rent for use of the stadium would also offset the bond obligations. In time, however, the plan proved inadequate and Minneapolis was forced to refinance the entire construction.

One important aspect of the financing scheme was that the stadium, when built, would accomplish a public purpose. Because it would include a recreation center with picnic areas, shuffle board and badminton courts, a golf driving range, and tennis courts, the stadium would, in effect, be a community gathering place. It was argued that this "public place" would boost civic pride and also provide national recognition.

III. Hubert H. Humphrey Metrodome

By 1970, Metropolitan Stadium had become outdated and was no longer meeting the needs of either its baseball or football tenant. Originally built as a baseball park, it had been modified to deal with the Sunday football games that drew large numbers on a regular basis. "The Met" was one of the last old-style facilities, and within a short time many changes were needed because of the transformation taking place in professional sports.

By the mid-1970s, circumstances had also changed in the Minneapolis-St. Paul metropolitan area. Minneapolis was the dominant urban center and the unquestioned economic engine for the seven-county metropolitan area. Nevertheless, urban sprawl had hit the Twin Cities in a dramatic way. New jobs, new homes, and new shopping centers were moving farther and farther from Minneapolis's urban core. Downtown retail sales declined, large corporate headquarters left the city, and the metropolitan government seriously considered moving the airport to the south of the Minneapolis business center.

The city leaders who had backed the original Met Stadium financing scheme now decided it was time to bring professional sports back to the city. Like older eastern cities, they hoped a new stadium would revive the decaying metropolitan core and prevent the area from becoming a conglomeration of separate suburban communities.

Debate continued through the 1970s, but in 1977 the Minnesota Legislature passed a bill providing up to $55 million of public funding for a new, fixed-dome, multi-purpose stadium. This commitment, along with the support of Minneapolis's business leaders and the city itself (which provided the necessary land and special hotel-motel and restaurant-bar taxes) helped finance the new facility, which opened in 1982.

The owners of the Twins and the Vikings contributed very little in the way of money. The Twins arranged a special escape clause in their new lease while the Vikings focused on the revenue arrangements. As a result, the facility ended up favoring football over baseball.

The Hubert H. Humphrey Metrodome, as it became known, was not an entertainment destination by any current definition, but it was seen as a community asset and a center for public gatherings.[4] In this respect, it, like the old Metropolitan Stadium, was a facility with a public purpose that fully justified the sale of publicly funded revenue bonds.

In the mid-1980s, Carl R. Pohlad, a local businessman who was not an integral part of the Twin Cities business community, became the new owner of the Twins. The Vikings changed hands in the late 1990s, when Red McCombs, a San Antonio businessman, purchased the team. Shortly after buying their respective clubs, Pohlad and McCombs both began agitating for new facilities.

IV. Questions Facing a New Ballpark

If baseball retains its existing business practices, then the Twin Cities will not be an economically viable location for a baseball franchise in the future unless a new, baseball-only stadium is constructed. Minnesotans would most likely own the structure and finance a portion of its construction costs.[5]

A new Twin Cities baseball stadium raises two important questions: are citizens willing to use public funds to pay for it?, and, if they are, where should it be located?

A. *Funding*

Minnesota currently has a "tri-partisan" state government. The Independent Republican Party holds a majority of the seats in the Minnesota House of Representatives. The Democratic Farmer Labor Party holds a majority of the seats in the Minnesota Senate. Minnesota's governor, Jesse Ventura, is a member of the Independence Party. To no one's great surprise, this fractured arrangement produced three different plans for using public funds to pay for the stadium.

4. For pictures and a further description of the Hubert H. Humphrey Metrodome, *see Hubert H. Humphrey Metrodome, at* http://www.ballparks.com/baseball/american/metrod.htm (last visited Mar. 26, 2002).

5. For pictures and a description of what a new venue could look like, *see Proposed Twins Ballpark, at* http://www.ballparks.com/baseball/american/minbpk.htm (last visited Mar. 26, 2002). As is explained, if a new stadium is built it will in all likelihood be intimate (seating approximately 42,000 fans), feature a convertible-roof and natural grass, and be part of a larger entertainment, retail, and dining complex.

In March 2002, the Minnesota Senate passed a funding bill by a vote of 37–30. It authorizes the construction of an open-air, "roof-ready" baseball stadium at a cost not to exceed $370 million. The Metropolitan Sports Facilities Commission would own the stadium and the Twins would pay $165 million, assume responsibility for cost overruns, and execute a thirty-year use agreement with the Commission. The Commission, in turn, would pay the remaining $205 million by issuing limited-obligation bonds.

The Commission would pledge the revenues derived from the following sources to pay the debt service on the bonds: a tax levied on all "sports memorabilia" sold in the Twin Cities metropolitan area; a Metrodome admission tax; a gross revenue tax on retail sales made in the Metrodome and the new stadium (presumably, purchasers would pay this tax in addition to the existing 6.5 percent state sales tax); rent charged for the use of any sports facilities constructed with state assistance by anyone broadcasting or reporting on professional or collegiate sports or entertainment events; and naming rights fees.

The Senate bill also authorizes the city selected as the site for the new baseball stadium (the "host city") or, in the alternative, the county in which the host city is located, to impose the following local taxes and surcharges, if the host city's or county's voters approve the proposed taxes in a referendum: a liquor, food, or entertainment tax in an amount not to exceed 3 percent; a baseball stadium ticket surcharge in an amount not to exceed $2.00 per ticket; a baseball stadium parking surcharge in an amount not to exceed $2.00 per vehicle; and an automobile rental surcharge in an amount not to exceed $1.50 per day. The proceeds from all local taxes imposed under this authorization must be transferred to the Commission and used to pay the debt service on the bonds.

Governor Ventura consistently opposed the use of public monies to pay baseball stadium construction costs during the first three years of his term. However, in what may be the largest and most pleasant surprise in the entire Twin Cities baseball stadium saga, in March 2002 he came forward with a financing plan that has the best chance of garnering the support of a majority of the legislature and the Twins.

Governor Ventura's plan has an "oh-my-God-why-didn't-we-think-of-this earlier" simplicity. Peter Sausen, an assistant commissioner in the Cash and Debt Management Division of the Minnesota Department of Finance, has devised what amounts to a baseball stadium endowment fund. The State of Minnesota would issue $330 million in taxable revenue bonds and use the proceeds to construct the stadium. The bonds would mature in thirty years and would not be a general obligation of the state. Because of the state's ability to issue bonds at highly favorable interest rates, they would be sold at an average annual interest rate of 6.5 percent. At this rate, the annual debt service obligation would be approximately $21.5 million.

To pay the annual debt service obligation, the state would create an interest-bearing bond fund, into which the Twins would deposit an initial, nonrefundable "gift" to the state in the amount of $165 million. The Twins' gift would be invested pursuant to an investment policy designed to generate an average annual interest rate of 8.5 percent. At this interest rate, the state would be able to pay $11.5 million, or more than half of the annual debt service obligation, solely from interest earned on the gift. Because of the spread between the rate the state would pay bondholders (6.5 percent) and the rate it would earn on the gift (8.5 percent), the amount deposited in the bond fund would grow to $330 million over thirty years, even after the annual $11.5 million draw.

The Twins would assume the obligation to pay the remaining annual debt service not funded by interest earnings from the bond fund, which would be approximately $10 million per year. The governor's plan allows the new stadium's host city to impose local taxes like the ones authorized under the Senate bill to generate revenue that would help the Twins make the $10 million annual payment.

The plan's only financial risk centers upon repayment of the $330 million principal at the end of thirty years. The state could address this risk by requiring an independent review of the bond fund every four years by an actuary, who would certify that the fund is on track to produce the revenue necessary to repay the principal. The state could require the Twins to covenant that they will be responsible for making additional payments into the bond fund if it falls below the required level at any four-year review.

The governor's plan would allow for the selection of a host city. The public, through the Metropolitan Sports Facilities Commission, would own the stadium. The Twins would be required to execute a thirty-year lease as the stadium's primary tenant.

The governor's plan was an immediate hit with legislative leaders, public funding opponents, and, to a lesser degree, the Twins. Democrats liked it because it shifted all of the responsibility for repayment onto the Twins and limited the public's role to bond issuance and stadium ownership. Republicans liked it because it did not rely on the levy of any new statewide taxes. The Twins liked it because it liberated revenue derived from naming rights, broadcast fees, and seat licenses that had been captured in the Senate bill to pay for construction. Even Progressive Minnesota, the leading advocacy group opposed to the use of public monies to build a new stadium, stated that the plan was a "step in the right direction." The only cloud on the horizon is the fact that the governor's plan would make it more difficult for a new owner to acquire the Twins.

Like the Senate, in March 2002 the House Ways and Means Committee prepared its own stadium bill. Rejecting the finance plan previously approved by the House Committee on Taxes, which relied on a statewide tax on magazine and newspaper sales (among other controversial provisions), the Ways and Means Committee opted for the Governor's financing plan. Before the month was out, the full House had approved the Ways and Means Committee's bill by a vote of 80–52.

B. *Location*

The good old Minneapolis-St. Paul rivalry has not died. Both cities' mayors have moved aggressively to assure that if there is a new baseball stadium, it will be built in their city.

St. Paul acted first, proposing city taxes and surcharges designed to raise money for a new stadium. Minneapolis then joined forces with the Hennepin County Board of Commissioners to keep the Twins in Minneapolis by building a new ballpark on the edge of the Warehouse District, near existing freeways, parking ramps, and the Target Center.

Both the Senate and House bills, and Governor Ventura's plan, call for the establishment of a Selection Commission to choose the best location for a new stadium.

V. Conclusion

Although there is currently no resolution to the Twin Cities stadium debate, the determination that the Twins are obligated to spend 2002 in Minnesota gives the community time to act. Many issues, however, are on the table.

Thus, for example, has enough time passed since the funding of the Metrodome that the public is willing to once again pay for a new baseball stadium? Legislative involvement or endorsement alone will not necessarily be sufficient to convince taxpayers that the answer is yes. Likewise, how much public money should be spent on the stadium? And just what form of taxes will citizens accept if they agree to fund a stadium? In addition, what involvement will the public demand of the team's owners in terms of investment and commitment to the community? Lastly, will the public be given guarantees that the team will stay in the community if a new facility is built?

The public purpose issue will also need to be addressed. Minnesotans understand that sports facilities contribute to a community's well-being. However, recent cases have reopened the debate over the appropriate parameters and standards for public takings. Will case law hinder future development of a Twin Cities baseball facility? Can past practices be relied upon to support the taking of private land and the public funding of the facility as "necessary"? City attorneys, bond counsel, and other lawyers involved in planning, developing, and financing a new baseball stadium will have to thoroughly address these concerns, and do so quickly.