



CITY OF DURHAM | NORTH CAROLINA

Date: January 9, 2009

To: Thomas J. Bonfield, City Manager

From: Chris D. Boyer, Interim Director, General Services
Alan H. DeLisle, Assistant City Manager for Economic and Workforce Development

Subject: Status Report on the Progress of the Durham Athletic Park Renovation and Related Concerns Expressed by Minor League Baseball

Executive Summary

On December 23, 2008 the City of Durham received a letter from Mr. Pat O’Conner, President and CEO of Minor League Baseball. In the letter, Mr. O’Conner raises issues and concerns about how the Durham Athletic Park Renovation project is proceeding and expresses disappointment with the work that has been done to this point. Some of the issues he communicates are, that due to delays, Minor League Baseball believes it has lost at least \$200,000 in revenues, that the delays have affected the enthusiasm and support for the project, that Minor League Baseball may be associated as a cause for the delays, and that problems with the field construction are not being addressed. Minor League Baseball offers three proposals: that Minor League Baseball takes over the field maintenance after the completion of the field, that in addition to the City’s final inspection, Minor League Baseball reserves the right to have an independent party verify the field quality and construction as being in compliance with the specifications before Minor League Baseball assumes operation of the field, and that Minor League Baseball wants the City to acknowledge that neither Minor League Baseball nor the Brickman Group assumes any responsibility for the construction of the field.

The City is in the process of drafting a response to Minor League Baseball. Verification tests for the field construction have been completed and show, according to the field designer’s review, that the field has been built in compliance with plans and specifications. As the construction moves forward the CMAR is developing a QA/QC process to assist with potential compliance issues. The City plans to meet with Minor League Baseball to further discuss all issues and bring them to a resolution.

Recommendation

The Department of General Services and the Office of Economic and Employment Development recommend:

that Minor League Baseball share more specific information regarding the events that had been planned and were affected by the delays. The City would like the opportunity to work with Minor League Baseball to determine if there are any ways the City could help them recoup some of the lost revenues by offering other venues to hold their events or meeting their needs through other alternatives.

that the CMAR extend the construction warranty from one to two years at no additional cost to the City so that if latent defects in the field construction are not discovered in the first 12 months, an additional 12 months of warranty period should allow for their discovery.

that the City considers Minor League Baseball's offer to perform maintenance of the field once it is installed.

that Minor League Baseball accepts the City's invitation to review the provided reports and information from surveys of field elevations and certifications of the elevations and compaction tests to further discussion and final resolution.

that the CMAR have the field installation contractor replace the forms utilized to define the root zone with ones that exactly match the specifications.

that the CMAR verify that the materials to be utilized for the pitching mound and warning track have the approval of the field designer and are fully tested in accordance with the specifications.

that the CMAR makes certain that Minor League Baseball fully understands that the final field elevation has been affected due to the subgrade typical section between the sub drainage lines and will be a minimum ½ "higher than the plan elevation.

that the City reiterates that it acknowledges and understands that neither Minor League Baseball nor the Brickman group assumes any responsibility for the construction of the field.

Background

The City of Durham owns and operates the Durham Athletic Park (DAP) as a part of the public park system. A renovation project for the DAP was approved by Durham voters as part of the 2005 Bond Referendum. The DAP is currently under construction with the work being managed by a CMAR. The "Notice to Proceed" was issued July 22, 2008 and the substantial completion date was originally November 26, 2008. Due mostly to adverse weather conditions and change orders for unforeseen conditions, the current substantial completion date is May 15, 2008. During the construction, Minor League Baseball (who signed an operating agreement with the City on November 1, 2007 that was executed on December 31, 2007) has provided

oversight of the construction through their consultant, the Brickman Group.

Issues/Analysis

GOALS AND EXPECTATIONS

Minor League Baseball expressed their concern that the project is falling short of everyone's goals and expectations.

The City does not think that the renovation is "falling short of everyone's goals and expectations "for the project". The delays have mostly been attributed to weather and change orders for unforeseen conditions. The City agrees with Minor League Baseball that the project must be of the highest quality and appreciates them for raising these issues and concerns to assure proper accountability.

SCHEDULE DELAYS

Based on the concept, or "schematic" design developed during the pre-design phase of the renovation project (December 2006-August 2007) the development team, led by Streuver Brothers Eccles and Rouse, presented a design and construction schedule that estimated the project completion in the fall of 2008. Upon commencing the actual design in the fall of 2008, it was realized that the project would be subject to more rigorous Planning reviews than originally anticipated. Once these required reviews were taken into consideration in the overall project schedule, it was determined that the project could not be completed prior to the fall of 2008, but was at that time estimated to be complete in December 2008. The City understands the delays have been inconvenient for Minor league Baseball's events planning and scheduling. The City of Durham and the Durham community have also been disrupted by these delays.

Project completion had been delayed more than six weeks due to higher than average frequency and quantity of rainfall during August, September and October. Those delays forced the sod installation date into the winter when sod harvesting is not practical. Delays due to weather are an unfortunate reality of construction and are outside everyone's control. Throughout September and October everyone on the project team brainstormed and evaluated possible solutions to recover the project schedule. In the end, the persistent wet conditions and subsequent delays were too extensive to reasonably recover and it was agreed by everyone that it was best to delay the sod installation until the end of February. The City agrees that delays on the project have not been caused by Minor League Baseball but rather are due in largest part to the weather. The City appreciates Minor League Baseball's input and has made every effort to include Minor League Baseball in developing potential solutions to recover lost time.

SELECTION PROCESS

In September 2007, the City contracted with Streuver Bros. Eccles & Rouse to perform Construction Manager at Risk services for the DAP renovation work. North Carolina Statute governs capital project delivery for municipalities and permits this form of project delivery for municipal governments. Design-build delivery, though permitted in specific circumstances, is not a delivery method commonly used by North Carolina municipalities, and though consideration was given to this delivery method for the field renovation, it was determined that the

risks and potential delays associated with delivering the field through design-build outweighed the benefits as there were many examples of traditional design-*bid*-build delivery of professional-level sand-based baseball fields in North Carolina. In light of this determination, because they were already under contract for the design of the remainder of the project, and because it is customary for the Architect to subcontract with design consultants of varied required expertise, the City asked DAIQ to include the design of the baseball field in their design contract. DAIQ considered input from Minor League Baseball and other field owners and operators, reviewed the qualifications of potential firms and ultimately selected Millennium Sports Group for the design of the playing field. To the City's knowledge, the Brickman Group did not apply to Skanska to prequalify to bid on the construction of the playing field, did not supply a bid to Skanska, and so, under North Carolina statute, could not be selected for the construction of the field. Valley Crest Land Development was the lowest responsive bidder for the field renovation and in keeping with North Carolina statute, Skanska contracted with Valley Crest to construct the field renovations. The City hopes this summary clarifies the selection of Millennium and Valley Crest for the design and construction of the playing field renovations and puts to rest any perceived discount of Minor League Baseball's input with regard to the qualifications of the Brickman Group to provide these services. It has truly been our pleasure and to the renovation project's benefit to have the Brickman Group involved as an expert in the review of the design and in observation of the ongoing construction.

The City is grateful for the additional observation and input of Minor League Baseball throughout the construction; it has brought to light issues that may have otherwise been overlooked. Having identified these issues early on in the construction of the field has caused Skanska and its subcontractor to take extra measures to ensure that ongoing construction is in compliance with the contract documents. Starting in November, the City has also added personnel to the project for additional oversight. Based on a preliminary review of the surveys, test results and additional oversight on behalf of Skanska, Valley Crest and the City, the City is satisfied that appropriate measures have been put in place to ensure compliance with the contract documents. These test results are attached for your review and comments. The architect is currently reviewing the documents to ensure compliance with field design specifications. Additionally, Skanska has offered to extend the construction warranty from one to two years at no additional cost to the City so that if latent defects in the field construction are not discovered in the first 12 months, an additional 12 months of warranty period should allow for their discovery.

SUBDRAINAGE SYSTEM INTEGRITY

Minor League Baseball voiced concerns that due to entrance traffic on either side of the field, the sub drainage system may have been compromised.

The installation contractor verified the integrity and non-contamination of the system by running clean water through the system from each access point surrounding the field and observing the flow and the cleanliness of the flow at the outlet to the system. The results of the test showed that the water ran clear and clean at the outlet to the system.

FIELD SUBGRADE ELEVATIONS

Minor League Baseball questioned whether the field subgrade elevations were according to plan.

The CMAR hired a third party surveyor to survey the field on a twenty foot grid to verify the final elevations. The field designer reviewed the certified survey and determined that the field does meet plan specifications.

FIELD SUBGRADE COMPACTION

Minor League Baseball voiced concerns that the field subgrade did not meet compaction requirements between the subdrain lines due to some of the excavation spoils being used to raise the elevation between the lines for drainage purposes as required by the specifications.

The CMAR employed a third party testing firm to verify the field subgrade compaction. The focus of the tests was the areas between the drainage lines. The tests were randomly taken throughout the field. Upon review of the finished report by the field designer, he stated that the subgrade compaction for the field was acceptable and meets the specifications.

STONE DRAINAGE LAYER CONTAMINATION

Minor League Baseball voiced concern that the field stone drainage layer had been contaminated with material from the subgrade during the placement and grading operations.

The CMAR made visual inspections of the drainage layer throughout the field in the presence of Minor League Baseball's representative from the Brickman Group and no significant contamination of the stone drainage layer was observed. Also during the surveying of the field subgrade elevations observations were made to additionally verify that contamination had not occurred.

STONE DRAINAGE LAYER THICKNESS

Minor League Baseball also expressed concern that the stone drainage layer thickness did not meet specifications mainly due to the excavated material from the subdrain lines used to build the typical section between the subdrain lines. Minor League Baseball during a visual inspection did find areas where the stone depth did not meet the required four inches.

The CMAR made corrections to the deficient areas noted by Minor League Baseball and others found deficient during additional inspection of the field by the CMAR. The installation contractor added an inch of stone to the field to help remedy the situation. The CMAR then obtained the services of a third party surveyor to record elevations of the subgrade, mentioned above, and the top of the stone drainage layer to determine the thickness of the stone layer. Upon the CMAR's review of the survey, it was determined some additional areas needed reworking. Upon completion of the rework those areas were resurveyed and added to the report. Upon review of the completed report, the field designer verified that the stone drainage layer thickness does meet specifications.

WARNING TRACK CONTAMINATION AND COMPACTION

Minor League Baseball expressed concern about compaction of the warning track and contamination of the warning track material from construction traffic and slope runoff adjacent to the warning track.

The warning track is currently under construction and until it is nearer completion, compaction will not be tested. The CMAR has installed silt fence on the slopes adjacent to the warning track to prevent contamination of the track material. Compaction tests will be done to verify compaction according to specifications and elevations taken to verify the track and stone drainage layer elevations are according to plan.

INFIELD MIX ANALYSIS

Minor League Baseball has voiced a concern that the field mix delivered to the project does not have a high enough percentage of clay in the mix.

Minor League Baseball recommended the field mix supplier to the field designer because they had successfully used this supplier on previous projects. The field mix is a mined material that is unprocessed so it will vary based on the existing conditions at the source. The material that has been delivered to the DAP was sampled for testing at the source, met design specifications and was tested again at the DAP. Two of the six samples taken at the DAP do not have a high enough percentage of clay according to Minor League Baseball but do meet the design specifications and have been approved for use by the field designer. The CMAR has offered to do additional sampling and testing of the site material as a remedy.

Please find attached a series of reports provided by the CMAR – Skanska USA Building, Inc, that provides additional supportive information regarding the quality of the field, and let us know if there is any further information we can provide.

Attachments:

Skanska "Field Resolution Letter"

Credle Engineering "Field Verification Letter"

S&ME "Subgrade Compaction Certification"

Skanska "QA/QC Log"

Skanska "Original Subgrade Survey and Compaction"