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How "Music City"
Became a "Sports Town"

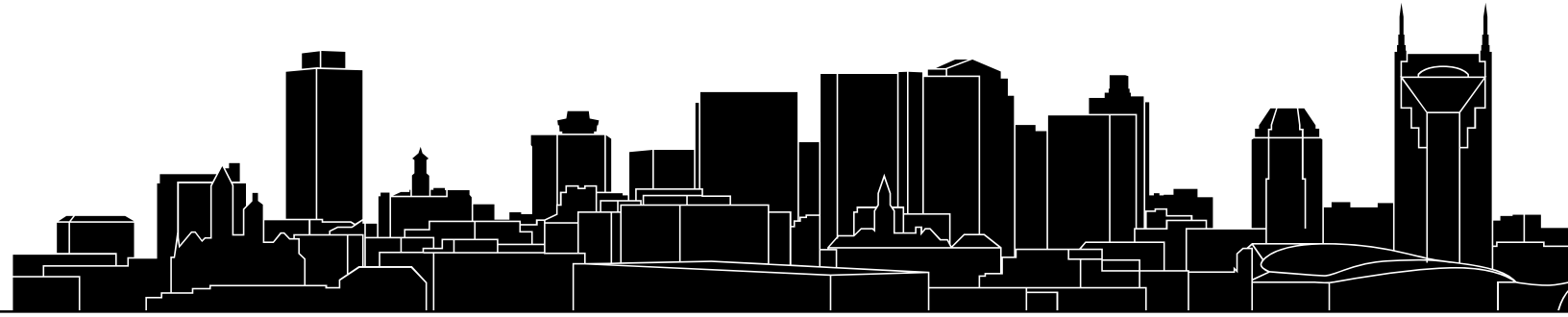
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If You Build It.... How “Music City” Became a “Sports Town”

by: Tracy D. Kane

Nashville is booming. Nashville was ranked #5 “Regions to Watch in 2014” by Forbes.com (December 2013), the “Tenth Most Popular City for Millennials” according to MSN Real Estate (January 2014), 5th on a Forbes list of cities creating the most high-paying working-class jobs (January 2014), and one of the best cities for female entrepreneurs (NerdWallet.com, February 2014) among other accolades. More than that, Nashville is booming beyond its traditional industries of healthcare, education, and music. Nashville is attracting corporate headquarters, technology start-ups, and an increasing number of national and international real estate developers and hospitality industry players.

So, it is also no surprise that this “It” city is also a booming sports town with three professional sports teams, six universities including four NCAA Division I universities, six major sports venues¹ with a combined seating capacity over 162,000, and host to an average of five major sports events each year, including the Country Music Half Marathon and Marathon, the Franklin American Mortgage Music City Bowl, SEC Men’s and Women’s Basketball Tournaments,² and for the first time in the city’s history in April 2014, the NCAA Women’s Final Four.³ Additionally, Nashville recently committed approximately \$65 million of city funds and broke ground on its next major sporting venue – a new stadium for the Nashville Sounds Minor League Baseball team.

Beyond the high profile events and venues, Nashville has approximately 12 mid-sized venues, each with a seating capacity of between 2,500 – 10,000.⁴ Nashville also boasts a wide range of sporting events and activities for the recreational or amateur athlete. According to a 2010 survey of local sports facilities, Nashville has over 75 baseball diamonds, 75 indoor basketball courts, 8 bowling alleys, 35 football fields, 40 golf courses, 4 ice rinks for hockey and skating, 111 soccer fields, 59 softball diamonds, and 77 tennis courts.⁵

But, it wasn’t always this way. Twenty years ago, there were no Titans or LP Field, no Predators, and no Bridgestone Arena. Greer Stadium, where Nashville’s Minor League Baseball team had played since 1978, was in disrepair. You might ask: “How did this change come about in such a relatively short period of time?” “Why do cities even seek out sports teams and events?” “What does it cost for cities to build, operate and maintain these major sports facilities?” And, “Who is involved in making all of this happen?”

Cities seek out sports teams because sports are fun – both fun to watch and, if you’re so inclined, fun to play. There is also a psychological factor – a sort of “keeping up with the Joneses” mentality that to stay current or relevant your city has to have one or more professional sports teams. There is also a quality of life component to having a variety of types and sizes of venues to provide diverse sports and other events for the community. But the main reason that modern cities build stadiums, offer tax incentives, and otherwise roll out the red carpet to bid to host sporting events is “economic development.” They hope that spending hundreds of millions of taxpayer dollars to build, operate, maintain and, renovate will reap billions in direct and indirect economic development for the community.

Whether these investments actually pay for themselves or otherwise bring millions or possibly billions into the local economy is still hotly debated around the country. Nashville has generally provided a case study in favor of the economic development argument, particularly demonstrating the positive economic impact that facilities



built in deteriorating or blighted areas can have on local surrounds. Other cities that have seen similar positive economic impact on the areas immediately surrounding the facility include Baltimore, Cleveland, and Denver.⁶

Direct economic development comes from construction jobs for the actual stadium and related structures as well as unrelated development in the geographic area around the facility, which often includes new stores and restaurants that then open in the area. Additionally, there is the indirect economic development that comes from new industries supporting the team and events at the facility, hospitality and service industry development (i.e., tourism, general economic spending, etc.), and professional team relocation (i.e., the corporate HQ effect – houses, schools, general economic spending by team and staff).

There are also very real costs for the city. Initially, of course, there is the cost to build the facility, which not only includes the cost of the construction, but can also include the cost of acquiring and rezoning the property, public referendums, bond issuance, and legal challenges. Whether the cost to build, much less to shoulder ongoing operation, maintenance and future renovations, is worth it for a city is often hotly debated.

In Nashville, LP Field, which was built in 1999, and is the 17th largest NFL stadium in the country, was only built after a public referendum.⁷ The vote, approved by 59% of voters, authorized an increase in the Metro water tax to raise the \$144 million of city funds that were contributed to the nearly \$300 million project (which is approximately \$406 million in 2014 dollars).⁸ The vote also authorized a nearly 300% increase in Davidson County

individual homeowner property taxes to help fund the ongoing financing needs of the stadium.⁹ Much of the remaining construction costs were funded through the sale of personal seat licenses (i.e., season ticket holders).¹⁰

Another example of how difficult it can be for cities to get the right mix of public and private financing to build major sports facilities is the Nashville Sounds' new stadium, which has been over 10 years in the planning. A deal was almost inked back in 2006, but faced a substantial road block when then Mayor Bill Purcell initially refused to support the project so long as Metro funds were at risk because of how costly the construction of LP Field and Bridgestone Arena had been for taxpayers in the 1990s. Mayor Purcell ultimately supported the project after a consortium of 12 banks agreed to fund \$23 million of the \$43 million with the remaining funds to come from tax-increment financing and a private developer.¹¹ The project then stalled during the design and permitting phase and was ultimately cancelled after the team and the developer were unable to finalize financing and design plans by the April 2007 deadline set by the Metro Council.¹² A new stadium for the Sounds finally made headway last fall when Mayor Karl Dean committed \$65 million of city funds to acquire the land from the State and build the stadium.¹³ The Sounds are committed to spending \$50 million for a new mixed-use and retail development to anchor the facility and a private developer is committed to spend \$37 million to build a 250-unit multi-family apartment complex near the site.¹⁴ The city will service \$4.3 million in debt annually plus pay \$345,000 annually to maintain the property.¹⁵

Adding to the cost of construction for

many cities around the country, such as Memphis, is the cost of legal challenges, particularly to public financing of sport facilities. The legal challenges generally fall into four broad categories: (1) the project lacked public purpose justifying the use of government financing; (2) the project involved the illegal application of a government's credit support to a private entity; (3) the government subdivision exceeded its statutory borrowing limits with the proposed bond issue; and (4) the project violated zoning limitations.

The most recent major challenge to public financing of a sport facility in Tennessee was the deal between the city of Memphis and the Memphis Grizzlies NBA team for the construction of the Memphis Arena in 2001. Two taxpayers sued the county, city, and the professional basketball franchise seeking a declaratory judgment that the actions of the city and county to procure and provide financing for the new arena and the agreements made in connection to it to bring the franchise to town violated Article II, Section 29 of the Tennessee Constitution because it constituted a giving or lending of credit of the city and county to a private entity and that the proposed expenditures were not for a public purpose.¹⁶ The Court of Appeals overturned the trial court's decision that the building of the arena did not have a public purpose and upheld the constitutionality of the deal.¹⁷ The court found the proposed transactions were constitutional because the aid given by the city

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went to the Memphis Sports Authority, a public, not private, corporation and the agreements otherwise complied with the requirements of the Sports Authority Act, Tenn. Code Ann. §§ 7-67-101, *et seq.*¹⁸ The Court also found that the Memphis Arena project had a public purpose and explained its decision by quoting the Pennsylvania Supreme Court in *Conrad v. Pittsburgh*, 218 A.2d 906 (Pa. 1966), "If a well governed city were to confine its governmental functions merely to the task of assuring survival, . . . it would be a city without parks, swimming pools, zoo, baseball diamonds, football gridirons and playgrounds for children. Such a city would be a dreary city indeed. As man cannot live by bread alone, a city cannot endure on cement, asphalt and pipes alone...."¹⁹ The Court also noted that so long as a public purpose could be established, then the fact that a private entity, such as an NBA franchise, received some benefit from the legislation did not invalidate the established public purpose.²⁰

In deciding to fund a project, a city must consider not only the initial cost of construction, but also the ongoing operation and maintenance as well as renovations that must be undertaken to keep the facility useful and competitive with other facilities in the city, region and nation. For example, Bridgestone Arena is a multi-purpose venue completed in 1996,

at a cost of approximately \$144 million (\$214 million in 2014 dollars) and has the distinction of being one of the busiest venues in North America.²¹ It is the primary home of the Nashville Predators National Hockey League franchise (its primary tenant since 1998), but also hosts concerts, basketball tournaments, and special events, such as the CMA Awards, CMT Music Awards and WWE Wrestling.²² The facility is owned by the Metropolitan Sports Authority and operated by Powers Management Company, a subsidiary of the Nashville Predators National Hockey League franchise.²³ Since its completion, the facility has undergone several multi-million dollar city-funded renovations, including changes to concession stands and public areas, as well as major changes to infrastructure, replacement of the scoreboard with the "megatron" and TV-media control room renovations in 2007, and the current renovation to add a "second" entrance to the building on Demonbreun facing the new Music City Center.²⁴

The Titans stadium provides another example. The Titans are tasked with overseeing the daily operations of the stadium, but Metro is responsible for any capital improvements and pays an annual \$1 million subsidy for such capital improvements.²⁵ Additionally, in 2011, the Metro Council approved a bond issuance of approximately \$28 million to fund stadium enhancements.²⁶ The bonds were to be paid by an increase in user fees already applied to Titans tickets.²⁷

So, how does the city go about making the decision to build a new facility, or attract, bid, and host major sporting events? In Nashville, as with many other cities, there are myriad players, including local legislative and executive branch government; quasi-governmental entities, such as the Metropolitan

Sports Authority of Nashville and Davidson County; public and private schools, colleges and universities; and various private entities, including corporations who purchase naming rights and other sponsorships, private foundations, nonprofit entities, interest groups in the case of public referendums, and professional and amateur sports leagues. There may also be judicial branch involvement to the extent that legal challenges to eminent domain, constitutionality of public financing of facility projects, tax credits and subsidies, or zoning issues, among others arise. All of these entities play different roles in decision-making, marketing, and promoting the city to sports teams and associations for events, and ongoing operations of Nashville's various sports and multi-purpose facilities.

Most of us understand how local leaders get elected and the respective roles they play in proposing, planning and approving public funds for sports facilities and events, but fewer of us may understand or even know about the Sports Authority and other sports decision-makers. The Metropolitan Sports Authority of Nashville and Davidson County is a quasi-governmental entity formed in 1996, under the Tennessee Sports Authorities Act of 1993, Tenn. Code Ann. §§ 7-67-101, *et seq.* (the "Act") by application of three qualified voters in the county to Metro Council for approval. Once approved by local ordinance, a charter is filed with the Tennessee Secretary of State and approved as a public benefit/non-profit corporation. The Metropolitan Sports Authority is governed by a staff overseen by a 13-member board of directors appointed by the Mayor for six year terms.²⁸ The Sports Authority is authorized to operate, maintain, manage, and enter into contracts for the operation, maintenance and management of any project undertaken, to lease or rent space in a sports/recreational facility, to lease, rent, and contract for the operation of



any sports/recreational facility, to borrow money and issue bonds, and to buy or sell any of its properties.

Another key player in Nashville's sports scene is the Nashville Sports Council (NSC), organized in 1992, as a nonprofit, 501(c)(6) corporation, which is a type of tax-exempt entity for business leagues and trade associations. NSC is a membership based organization with a volunteer board of directors whose mission is to "positively impact the economy and quality of life of Greater Nashville Area by attracting and promoting professional and amateur sporting events."²⁹ They accomplish this by strategically bidding on, attracting, and hosting major sporting events that meet objectives such as: economic development, tourism impact, quality of life enhancement and international exposure for "Music City". The NSC estimates its average annual economic impact since its founding to be over \$37 million, with total economic impact between 1992 – 2012 at almost half a billion dollars.³⁰

For major annual events, the NSC sometimes serves as the organizing entity, while at other times separate local, regional or national associations or non-profits serve as the "host." For example, the Nashville Local Organizing Committee (NLOC) is the non-profit corporation established in 2010, by a local, volunteer board of directors to host the NCAA Women's Final Four in Nashville in April 2014. The NLOC has a contract with the NCAA

to host, organize, and implement the Women's Final Four Championship and related events and programs, including the "Tourney Town" fan experience and community legacy programs, such as the Champions4Women leadership program or the Girl Scouts "Girls Got Game" Patch program, that promote female student athletes.³¹ The NLOC then enters into contracts with local entities, such as the Ohio Valley Conference (OVC), Nashville Sports Council, Bridgestone Arena, and other local private and public entities for particular goods and services. The NLOC also raises local funds from public and private entities to support the championship and related events.

Other community players and stakeholders include professional sports teams, amateur sports teams and clubs, and private corporate sponsors. A study of Nashville's sports facilities and events from the Vanderbilt University Center for Nashville Studies concluded that some of Nashville's strengths that

enabled it to achieve such a robust sports community in a relatively short amount of time included an easily accessible geographic location, a recognizable "brand" in the form of "Music City", a vibrant and pedestrian-friendly downtown "campus", a diverse set of facilities, and robust community and fan support, including the nationally recognized Nashville Sports Council. But, the same study also found that compared to other "peer" cities, Nashville's public/private funding mechanisms were lacking, that a relatively few number of corporations were relied upon to substantially support sports in the city, and that private foundations to support sports did not exist in Nashville.³²

Nashville has certainly come a long way in the last twenty years to add "Sports Town" to its city pseudonyms. The key question over the next twenty years the city will need to answer and plan for now is how to pay its current debts from facility construction, while continuing to fund

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required maintenance and renovations on the facilities to keep them competitive and able to bring the types of activities and events to Nashville that positively impact our local economy and quality of life. ■



Tracy Kane is a shareholder with Dodson, Parker, Behm & Capparella, PC, specializing in estate planning and business law. She is a graduate of Vanderbilt University Law School and former law clerk to the Honorable Richard Dinkins on the Tennessee Court of Appeals.

(Endnotes)

¹ A "Major" sports venue for purposes of this article is a sports venue with seating capacity of over 10,000.

² The Nashville Sports Council recently signed an historic deal with the Southeastern Conference (SEC) to make Nashville and the Bridgestone Arena the site for the next 12 consecutive Men's and Women's basketball tournaments.

³ See Nashville Sports Council, 2012-2013 Annual Report; see also Joshua L. Burgener, *The State of Sports in Nashville*, Vanderbilt University (Fall 2010) (research and data compiled by research assistants from Professor Davis Williams's Sports Law Class) (on file with author).

⁴ Burgener, *supra* note 3.

⁵ *Id.* at 15.

⁶ Pamela Edwards, *How much does that Yankee ticket cost? An analysis of local governments' expenditure of public funds to maintain, improve or acquire an athletic stadium for the use of professional sports teams*, 18 FORDHAM URB. L.J. 695 (Summer 1991).

⁷ Raymond J. Keating, *The NFL Oilers: A Case Study in Corporate Welfare*, 48 THE FOUND. ECON. EDUC.: THE FREEDOM, IDEAS ON LIBERTY (Spring 1998).

⁸ Bill Lewis, *Why is our water so expensive? First, it's really not. Second, remember that deal to get the Titans?*, NASHVILLE LEDGER (July 29, 2011).

⁹ Keating, *supra* note 7.

¹⁰ *Id.*

¹¹ Andrew Tarica, *Sounds get new park on the river: First Tennessee Field to open for the 2007 season* (Feb. 8, 2006), The Official Site for Major League Baseball, www.MILB.com.

¹² Cindy Carter, *Deadline for Sounds Stadium Proposal Passes* (Apr. 16, 2007), www.WSMV.com.

¹³ The site of the new Nashville Sounds baseball stadium will incorporate part of its historic home at Sulphur Dell, on Jackson between Fourth and Fifth Avenues. To get the land from the State for the site, Mayor Dean agreed to pay \$18 million to the State for the construction of a 1,000-car parking garage on the site, as well as \$5 million for an underground parking garage below the proposed new state library and archives. The city will also acquire the property on which the Nashville School of the Arts is located. See, generally Metropolitan Sports Authority, www.nashville.gov/Sports-Authority (last visited Feb. 26, 2014) [hereinafter "Metro Sports Authority website"]; Joey Garrison, *Mayor Wants City to Pay \$65M for New Nashville Sounds Stadium*, THE TENNESSEAN (Nov. 11, 2013).

¹⁴ Garrison, *supra* note 13.

¹⁵ *Id.*

¹⁶ *Ragsdale v. City of Memphis*, 70 SW3d 56 (Tenn. Ct. App. 2001), perm. app. denied (Tenn. 2001).

¹⁷ *Id.*

¹⁸ *Id.* at 70. The plaintiffs did not attack the constitutionality of the Sports Authority Act.

¹⁹ *Id.* at 73-74.

²⁰ *Id.* at 72.

²¹ See Bridgestone Area website, www.bridgestonearena.com [hereinafter "Bridgestone website"]; see also Wiki, *Bridgestone Arena*, http://en.wikipedia.org/wiki/Bridgestone_Arena.

²² See Bridgestone website, *supra* note 21.

²³ See *id.*

²⁴ *Sports Authority Pleads for GEC Funds*, The City Paper (Nashville) (June 22, 2006), available at <http://nashvillecitypaper.com/content/city-news/sports-authority-pleads-gec-funds>; Joey Garrison, *Work on Bridgestone Area's new "front door" continues. New entrance will complement hotel, City Center*, THE TENNESSEAN (Sept. 10, 2013).

²⁵ Joey Garrison, *Metro Council approves bond issuance for LP Field upgrades with little resistance*, THE CITY PAPER (Nashville) (Dec. 6, 2011).

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Metro Sports Authority website, *supra* note 13.

²⁹ Nashville Sports Council, 2012-2013 Annual Report, available at <http://www.nashvillesports.com/site/about-us>; see also, generally, Nashville Sports Council website, www.nashvillesports.com.

³⁰ *Id.*

³¹ See generally Nashville Organizing Committee website, www.musiccityplays.com.

³² Burgener, *supra* note 3, at 46-48.