

PENINSULA AIRPORT COMMISSION

MINUTES

January 31, 2017

PRESIDED: George Wallace

The special meeting of the Peninsula Airport Commission was held on Tuesday, January 31, 2017 at 3:00 p.m. in the Airport Commission Room at the Newport News/Williamsburg International Airport.

Commissioners present were:

James Bourey, Rob Coleman, Aubrey Fitzgerald, Steve Mallon, Sharon Scott and George Wallace.

Executive Director

Mr. Ken Spirito

Assistant Executive Director

Ms. Melissa Cheaney (through conference call)

Director of Air Service, Marketing and P.R.

Ms. Jessica Wharton

Director, Finance and Administration

Ms. Renee Ford

Legal Counsel

Mr. Herbert V. Kelly, Jr.

Ms. Robyn Hansen

Executive Assistant

Ms. Rhonda Wissinger

Public in Attendance

Dave Ress-The Daily Press

Reema Amin-The Daily Press

Johnathon Gruenke-The Daily Press

Brenda Ponton-WTKR

Joe Capistran-WTKR

Niko Clemmons-WVEC

Joe Fisher-WAVY

Mike Marraro-WAVY

Kim Pierzeall-The Pilot

Nick Patterson-RS&H

Alan McDonald-RS&H

Public in Attendance (con't)

Katharine Westfall-Jones, Blechman, Woltz & Kelly
Brittany Stellute-New Dominion Clubs
Chief Todd Rittenhouse-PAC Chief of Police
Betsy Aynes-Kerr
Lynn James Stivers

COMMENTS FROM THE PUBLIC

There were no comments from the public at this time.

EXECUTIVE DIRECTOR'S REPORT

Mr. Ken Spirito, Executive Director, gave the following report:

Mr. Spirito thanked the media for coming out to the special meeting of the Peninsula Airport Commission. Mr. Spirito reported that he received news that Elite Airways has temporarily delayed service at the Newport News/Williamsburg Int'l Airport. This delay is due to the constant recurring stories about the airport and Elite Airways did not want their brand introduction to be affected by these stories when being introduced into our community. Elite Airways made a commitment to re-introduce service at a later date in order to have a better reception from the Community and a good headline to promote their brand. Elite Airways has contacted all of their ticket holders and are issuing full refunds to all customers. Elite Airways is committed to this market and wants to serve the Newport News Williamsburg Int'l Airport and this community.

Chairman Wallace stated that he was happy the media attended this special meeting and that he wants everyone to understand that we want to do everything that is right. We do everything according to all rules and regulations and we have complete transparency. We operate this organization effectively, efficiently and are good stewards of the community.

CLOSED MEETING

BE IT RESOLVED, that the Commission enter into a Closed Meeting pursuant to the Virginia Freedom of Information Act; Section 2.2-3711.A. pertaining to:

Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Specifically, to discuss pending litigation including the Commission and issues that have arisen regarding the use of state entitlement funds.

Commissioner Aubrey Fitzgerald made the motion, seconded by Commissioner Sharon Scott to hold a closed meeting.

Voting yes were:

James Bourey, Rob Coleman, Aubrey Fitzgerald, Steve Mallon, Sharon Scott and George Wallace.

The Commission entered into a Closed Meeting at 3:09 p.m. and reconvened in Open meeting at 4:05 p.m. Upon reconvening, it was

RESOLVED, that to the best of the Commission's knowledge, only public business matters lawfully exempt from open meeting requirements, and only such public business matters as were identified in the motion by which the Closed Meeting was convened, were heard, discussed or considered in Closed Meeting.

Voting yes were:

James Bourey, Rob Coleman, Aubrey Fitzgerald, Steve Mallon, Sharon Scott and George Wallace.

Commissioner Rob Coleman asked about the Department of Aviation Manual and the use of entitlement funds and explanations. He asked if Mr. Spirito could explain projects outside of normal expenditures. Mr. Spirito stated that on page 3-3 of the program manual, which we will provide media with a copy of, Section 3.1.1.3.2 identifies projects outside normal expenditures. Mr. Spirito read from the manual that certain projects not listed or generally described in this manual have been determined to be outside of normal expenditures. If the sponsor (the airport) uses state entitlement funds for such a project, the state's share of the project cost will be counted against the new request for state discretionary funding. The DOAV (Department of Aviation for Virginia) will maintain accounting of the project activity outside of its normal expenditures. When a sponsor for an air carrier/airport requests State Discretionary spending, the balance for accounting will be deducted from the state's share of the requested project. Projects will be retained in accounting until they are deducted from the State Discretionary Project **or** they have been on record for six fiscal years at which time it will be removed from accounting. They also give examples of projects that are outside normal expenditures. Examples include:

1. Aviation Promotion
2. Air Service Development Projects
3. Landside passenger shuttles
4. Recurring operational cost
5. Airport Personnel Salaries and Benefits

Even though it is not listed here, there are many other things you can use Entitlements for. It does not violate the policy. It is not unauthorized or prohibited. The only thing the airport cannot do is apply for discretionary money at the level that they have used for

projects outside normal expenditures. In this case, if we were to use the \$3.5 million of state entitlements and request a discretionary project, it would have to be greater than \$3.5 million. The state can deduct the \$3.5 million out of the discretionary award, otherwise the expense would sit for six fiscal years and no discretionary money would be awarded to the airport. This airport historically has never had a need for discretionary money, just for one year. The airport has solely used entitlements, not discretionary funds.

Commissioner Sharon Scott asked what other airports have done and whether they have used this money for the same purpose and if it was disallowed as well. Commissioner Scott asked Mr. Spirito how we could get that information for comparative purposes. Mr. Spirito said he could request that information from the State, that it is public information. Commissioner Scott asked Mr. Spirito to please request this information from the state so that we can see what other airports have done. Mr. Spirito said there are nine other airports and he will request the information for all nine airports. Mr. Spirito will make a request to Randall Burdette, Executive Director of the DOAV, on Commissioner Sharon Scott's behalf so that we could fully understand DOAV and VAB actions and airport compliance with VAB policies. Mr. Spirito will ask for the following public records:

1. VAB meeting minutes for FY09, FY10, FY11, FY12, FY16 and FY17.
2. From FY09-FY16, the dates and correspondence each Virginia commercial service airport submitted their EURs to DOAV for VAB approval.
3. A copy of all Virginia commercial service airport EURs from FY09-FY16.
4. From FY09-FY16, a list of all projects at Virginia commercial service airports, submitted in EURs, that were determined by DOAV staff to be ineligible, and staff recommendations/reports and formal action taken by the VAB in regards to those projects.
5. VAB policy and the section or sections that prohibit, violate or make air service development projects unauthorized.
6. VAB policy that makes air service development projects prohibited or in violation of section 3.1.1.3.2 "Projects Outside Normal Expenditures".

Mr. Spirito stated that we look forward to working with the state and coming to an agreement with them. Commissioner Fitzgerald said that we have done nothing to violate the policy.

Commissioner James Bourey stated that he hopes this will be resolved as soon as possible so that we can move on with Elite Airways and bring them into our community. It is a shame that we have had to postpone their start.

Mr. Spirito reported that in Section 3.1.1.1, it's clear that the DOAV reviews, reports and makes recommendations to the VAB. Following VAB action on reports, the DOAV will notify sponsors of the VAB's decisions regarding utilization reports. If a sponsor **does not** submit its Entitlement Utilization report and subsequently requests state discretionary funds, all prior unreported expenditures will be assumed to be of normal

project expenditures and treated as described in 3.1.1.3.2, which is projects outside normal expenditures that allows airports to use the entitlement funds. The fact that we did not submit our EUR was only because we were not requesting discretionary funds, which is a normal practice amongst airports in the Commonwealth. If it is a requirement to submit our Utilization report every year, Mr. Spirito states the policy needs to be changed to reflect the needs and wants of the Administration.

Commissioner Sharon Scott asked when the policy was last updated. Mr. Spirito stated that he downloaded the manual from the State Aviation website and it shows it was last updated in August 2016.

Commissioner James Bourey said he was concerned that there's been representation that we, as a body, have not been fully disclosing everything that happened with the loan and the loan guarantee. In the 2013 audit there is a very clear statement and explanation that the Commission did guarantee the loan and in the 2014-2015 Audit there is a full page explaining exactly what happened to pay the loan. It was presented in an open meeting session and voted on in an open meeting. Chairman George Wallace said that we would make this information available to anyone that needed it. Mr. Spirito stated that for two fiscal years it was clearly written in our audit and presented in our financial statements and publicly voted on and reported.

Commissioner Sharon Scott said she is not speaking on behalf of the Commission, but is disappointed that the Honorable Aubrey Layne did not meet with the Commission before making statements to the media. Moving forward, Commissioner Scott hopes that Honorable Aubrey Layne will understand the importance of meeting with this body about this situation so that everyone can understand. Commissioner Scott also stated that this could be detrimental to our airport and airlines and a lot of people were excited and ready for Elite Airways to start in this community.

ADJOURNED

There being no further business, the meeting was adjourned at 4:19 p.m.

NEXT MEETING

The next meeting of the Peninsula Airport Commission will be held on Thursday, February 23, 2017 at 8:00 a.m. in the Commission Room.