

**MINUTES
AIRPORT ADVISORY COMMISSION**

**January 16, 2013
Regular Meeting**

The Airport Advisory Commission of the City of Farmington met on Wednesday, January 16, 2013, at 4:00 PM, in the Executive Conference Room in the Municipal Building, 800 Municipal Drive, Farmington, New Mexico.

Members Present: Steve White
John Arrington
Richard Neely
Tony Bennett, Chairman Pro-Tem

Members Absent: Chairman Terry Simcoe
Wayne Mangum

Staff Present: Todd Gressick, Airport Manager
Jennifer Breakell, Assistant City Attorney
Janelle North, Secretary

Others Present: Donal Key, Chairman, Farmington Airport Citizens Association

APPROVAL OF JANUARY 16, 2013 AGENDA

Comm. Neely, seconded by Comm. Arrington, moved to approve the January 16, 2013 Airport Advisory Commission Agenda.

CALL TO ORDER

The meeting was called to order at 4:00 PM by Chairman Pro-Tem Tony Bennett, there being a quorum present; the following proceedings were duly had and taken.

APPROVAL OF MINUTES FROM THE DECEMBER 19, 2012 REGULAR MEETING OF THE AAC

Comm. Arrington, seconded by Comm. Neely, moved to approve the minutes of the December 19, 2012, regular meeting of the AAC. Motion was passed by unanimous voice vote.

CONTINUED DISCUSSION OF PROPOSED MINIMUM STANDARDS

For this meeting the current Minimum Standards along with the draft Minimum Standards with proposed changes have been included so a side by side comparison can be done. In addition, the current and proposed minimum insurance requirements have been included.

It was discussed at the December 19, 2012 AAC meeting that the Farmington Airport Citizens Association would hold a meeting/meetings to review the draft Minimum Standards and bring their suggested changes to the January AAC meeting. It was requested by the Chairman to have a representative from the AAC as well as the City attends these meetings. As of January 9th no invitation from the Association was extended to City Staff.

No additional written comments have received by Airport Administration in regards to the draft Minimum Standards.

Staff Recommendation

At this time, Staff recommends discussing the Draft Minimum Standards to ensure that the document is in the best interest of the current Airport Tenants and supports future business growth at the Airport. After discussion and once the document has been determined to meet the needs of the airport, a recommendation to forward to City Council for approval is recommended.

Discussion

Chairman Pro-Tem Bennett invited comments from the floor in regards to the draft minimum standards.

Mr. Jeff Morris, Regional Manager for Atlantic Aviation, stated that their interpretation of the standards and their current lease, they are fulfilling their obligations; however they would ask for some relief going into the future. Atlantic Aviation as an organization does not do flight instruction, charter or aircraft sales. Mr. Morris stated that Atlantic would work with and encourage any private entity that would like to provide those services.

Comm. Neely asked what the schedule the current subcontracted flight instructor has.

Mrs. Jaade Plante, Manager, Atlantic Aviation, stated that the instructor works with the interested party on scheduling.

Mr. Morris noted that if flight instruction was an attractive business to offer, they would be receiving far more request for it. He noted that in the last month, zero people have come to Atlantic requesting flight instruction or charter services

Mr. Key asked how many request for aircraft rental had they received.

Mrs. Plante stated two.

Mr. Key stated that the reason people have not requested the rental aircraft service is because they know it's not available.

Comm. Arrington noted that he agreed that if a business didn't want to offer a particular service, they should not be forced into it.

Mr. Donal Key, Chairman, Farmington Airport Citizens Association, began by saying that the group had a hard time going through the minimum standards because of a lack of time due to the holidays. The group attempted to go through the minimum standards as a whole, it was unsuccessful, so the requested the individual member to review the document and bring back their comments. The consensus was that the current minimum standards meet the standards and suggestions of the FAA. In addition, they looked at the portions of the draft minimum standards that had to do specifically with releasing the FBO from full responsibility, directly, of providing certain serviced, of which flight instruction was the least of the group's concern. Mr. Key stated that the Airport has struggled to have any type of rental aircraft or charter service available. He stated there were also issues around both fuel farms. In essence, however, the biggest concern to the group is allowing for an FBO light. He commented that, historically, it is difficult for a subcontractor to provide those services, without having the advantage of the fuel sales. In group's opinion, allowing an entity to just have a fueling station is not in the best interest of the Airport.

Mr. Key then asked that whether the AAC keep the current minimum standards or accept the changes in the draft minimum standards, that under section 1-2 the addition of sub-section B be added to read:

All non-compliance or request for deviation from the Minimum Standards or any dispute in which the Minimum Standards is involved must come before the Airport Advisory Commission, as a body in session, for consideration and possible recommendation for resolution prior to action being taken. If no resolution can be found the dispute goes before the City Council for resolution.

Mrs. Jennifer Breakell, Assistant City Attorney, commented that the suggested policy procedure would bind the City Council in how they resolve items, which the AAC cannot do.

Mr. Key stated that if the provision is added to the minimum standards it is a natural flow. The AAC is going to make a recommendation to the City Council. The City Council, more than likely will not have gone through all the stuff the AAC will go through and they will depend on the AAC to provide them with right kind of recommendation and they will rubber stamp it. He said there is nothing wrong with that process if the discussion happens, but there is a great deal wrong with it the discussion doesn't happen. Mr. Key then reiterated that his group feels that current minimum standards should stay as they are with only the addition of the policy procedure.

Comm. Neely asked if the current minimum standards fulfill the airports needs with the FAA.

Mr. Gressick said that the current minimum standards are acceptable based on FAA standards right now.

Comm. Arrington asked if in the draft minimum standards if flight instruction was still required.

Mr. Gressick confirmed that it was along with charter service.

Comm. Neely commented that if disputes all go to arbitration or somewhere else, it is a concern because it will never involve the AAC. If that is the case, then there is no need for the AAC. He said that he didn't think that was the principal that the Mayor had established.

Mrs. Breakell said that issue is, if the policy is instituted it will violate the current contracts in place because of the mediation provisions that are in place in those contracts.

Comm. Neely asked if that was due to previous administrations and previous airport managers making those changes.

Mrs. Breakell said that she did not have the answer to that.

Comm. Neely said that he thought every lease should come before the Commission.

Chairman Pro-Tem said that there have been people making decisions on the airport without involving the Council and or the Commission. He said that he thought the policy procedure would help to eliminate that.

Comm. White asked if adding that statement would then create a problem with all the existing leases.

Mrs. Breakell said yes, it would conflict with all existing leases which creates a liability for the City. She said that she would have to oppose the addition of that policy on a legal basis. She said, however, there would be away to accomplish what they are trying to do without instituting it into the minimum standards and causing a conflict.

The Commission asked if Mrs. Breakell could present the AAC with a proposal on how to accomplish more AAC oversight without the conflict at a future meeting.

Mrs. Breakell said she would.

Mr. Key suggested that rather than give up the idea of incorporating the procedure policy, that they test the legality of it by including it, and then it puts the burden on legal.

Mrs. Breakell stated that it didn't put a burden on legal it violate lease holders agreements.

Mr. Key said that it didn't because the Commission was not setting policy. He stated that until it goes before City Council, and it is established as policy, no lease is affected. In his opinion it is a good recommendation for putting the Commission right where it needs to be in the process, and for them to get rid of the bypassing issue.

Comm. White noted that if it does go before Council and it is Legal's advice to say no, they are right back where they started. He said that he would like to see Legal's solution.

Mr. Key said no, that everyone would stand behind them and say they made the decision and we are behind you. He said that they needed to test the whole process.

Mr. Sitta stated that he has a copy of almost every lease on the airport, and has never seen anything in those lease that would indicate that disputes would go automatically to arbitration. He said the idea is to get out in an open forum then there would be no need to go through expensive legalities.

Comm. Neely noted that arbitration is written into agreements so people don't have to air their dirty laundry in a public meeting.

Mr. Sitta said that the issue with that is that the City becomes the interpreter and enforcer of lease agreements. He said that if a person has a dispute they should be able to go to City Council.

Comm. Neely then asked what the status of the fuel farm situation was?

Mr. Morris stated that by mid summer Atlantic will either have purchased an existing fuel farm at the Airport or will tear down and rebuild Atlantic's existing fuel farm.

Comm. Neely asked if this would include self fueling?

Mr. Morris stated that given some concession are made with the minimum standards as well as with a revised Atlantic lease, they are willing to invest up to \$2 million for a new fuel farm with self fueling, terminal renovation, and interior and exterior renovations of their hangars. All these improvements are planned over the next five years.

Comm. Arrington asked Mr. Morris to clarify what Atlantic would like minimum standards to say.

Mr. Morris said that Atlantic concurs with the changes that were made in the draft minimum standards as they are more specific than the current minimum standards.

Comm. Arrington asked Mr. Key what the problem with allowing subcontractors to be used to fulfill the minimum standards would be.

Mr. Key stated that his group has a problem separating the fueling from the other requirements. They should be required to provide the other services because they are needed at the airport.

Comm. Neely asked what percentage of a typical full service FBO's bottom line comes from fuel?

Mr. Don Sitta said that fuel sales subsidize all the other services provided.

Mr. Allen Christy stated that at one time, when the services were provided at the airport, it seemed to be lucrative opportunity. Those services being provided was how he got started in aviation.

Comm. Arrington noted that he didn't feel the City would benefit any by forcing Atlantic Aviation into spending money that they are not going to be able to recover.

Mr. Key asked that if the City did enter into a long term lease with Atlantic if there would be a provision to make them accountable to spend a certain dollar amount at the airport.

Mr. Gressick stated that the lease would outline Atlantics obligations and the time frame they would be expected to perform them in.

Comm. Arrington asked Mr. Key that if by giving Atlantic a long term lease that the City would be excluding another FBO from starting up.

Mr. Key answered in the affirmative and stated that there were two FBOs at the airport when things were better, and it wasn't possible for both to thrive. Aviation will never be like it was, and there in lies the reason for the groups caution around that issue.

Chairman Pro-Tem asked if Atlantic wanted out of the provision that would not allow for them to use subcontractors.

Mr. Morris said that would be their first choice, however if they thought they would receive a variance or waiver they would accept that.

Mr. Matt Symonds, speaking from the floor, said that what Atlantic was asking for was a monopoly with the least amount of restrictions. He as a consumer would like to have the more choices with reliable fuel at a reasonable cost, as well as multiple sources of aviation related services. If they want to keep a monopoly, then it should be a public monopoly and let the City be the fuel dispensary.

Mr. Morris said that in no way shape or form has Atlantic asked for exclusivity.

Chairman Pro-Tem Bennett said that it would be exclusive if they only sell one service, fuel, and then someone else coming in under the minimum standards and asking them to provide the other services they wouldn't be able to.

Mrs. Breakell noted that that person could also come to the Commission and ask for a variance as part of a lease negotiation.

Chairman Pro-Tem said that would just be another roadblock for a new business.

Mr. Allen McCulloch suggested that the mission of the Airport be stated in the preamble to the minimum standards to say something about advancing services on the Airport, and then with each contract it can be determined how it will advance services. They should be encouraging business at the Airport.

The Commission, after some discussion, tabled the discussion of the minimum standards to the February meeting of the AAC.

OPERATIONS REPORT

Mr. Gressick went over the operations reports.

Comm. Neely asked if a breakdown of what type of operations the airport had could be included in the monthly report.

BUSINESS FROM THE CHAIRMAN:

None

BUSINESS FROM THE MEMBERS:

None

BUSINESS FROM THE STAFF:

None

BUSINESS FROM THE FLOOR:

A member of the audience asked for clarification on the article in the paper about moving the terminal building to the north side.

Comm. White explained that the preferred alternative for the landside development in the airport master plan would split up airline traffic by placing them on the north side and general aviation on the south side. This would also allow airline passengers better access to the commercial aviation.

Asked if there was any other Business from the Floor, Mr. Don Sitta said he did. He said that several months ago he made a presentation to the AAC in regards to his leases with the Airport. He asked if the Commission would make a recommendation to the City Council, on his behalf, to hear that same presentation.

Comm. Neely asked if the issues with his leases were being dealt with through Legal.

Mr. Sitta said that he was told by Legal that if he had a dispute that he had to go to arbitration because it is in the contract. He believed however it is a mechanism for a dispute resolution and historically that was what the Commission did. If the Commission couldn't resolve the dispute, then it would go to the City Council, and then, if it wasn't resolved it would go to arbitration.

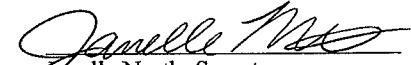
Comm. Neely said that he believed that the Commission had already recommended that Mr. Sitta go through Legal to resolve his dispute as there was nothing the Commission could do for him.

Comm. White said that Mr. Sitta should go to whoever sets the Council Agenda and have it placed as an item on the agenda.


There was no further business from the floor.

ADJOURNMENT:

There being no further business to come before the Commission, the January 16, 2013, Regular Meeting adjourned at 5:36 pm.



Janelle North, Secretary



Tony Bennett, Chairman Pro-Tem