

MINUTES OF THE CITY OF WICHITA
WICHITA AIRPORT ADVISORY BOARD

Monday, January 4, 2010

Present: Charles Fletcher, U.L. Gooch, Dwight Greenlee, Willis Heck, David Murfin, Kevin Myles, Thomas Pryor, Dr. Thom Rosenberg, Bill Ward

Absent: Ron Estes, Henry Helgerson, John Hennessy, Jay Russell

Airport Staff: Victor White, Brad Christopher, Sandy Coykendall, Traci Nichols, John Oswald, Valerie Wise, Jean Zoglman

City Staff: Joe Allen Lang, Chief Deputy City Attorney

Others: Mike Carter, AECOM
Lynn Nichols, Yingling
Mike Unruh, Yingling
Bryan Orr, Signature Flight Support
Harry Littleton, Fugate Enterprises
Dan Claassen, ExecHangar
Bob Taylor, Wichita Airport Facilities

Chairman Fletcher called the meeting to order at 2:30 p.m.

Approval of Minutes

Motion by Rosenberg to approve the minutes of the December 7, 2009 Wichita Airport Advisory Board meeting. Motion carried unanimously.

Director's Report

Mr. White announced that Kelly Fabrizius, Administrative Assistant, had a baby girl on New Year's Eve. A picture was presented of her newborn, Olivia Gail. Ms. Fabrizius is scheduled to return in the next couple of months. In the meantime, Traci Nichols will take care of the minutes, agendas as well as any communications to the board members.

Transportation Security Administration estimates the passenger count from December 18 – 31, 2009 should be up by 5% in contrasts to last year's report.

Congress has not passed FAA's reauthorization extension for airport funding bills, which affects long-term construction projects. The Wichita Airport Authority's current projects are not impacted.

It was decided to table the wildlife recommendations at the last meeting. Since then, the City Manager advised to present to the City Council and the County Commission with a

recommendation to proceed. A workshop will be scheduled in the near future. Mr. Greenlee, Chairman of the Ad Hoc Committee, will be asked to speak on behalf of the committee.

Mr. Greenlee asked if anything was sent to the City Council with a recommendation to Opt it. Mr. Christopher stated a recommendation came from the Ad Hoc Committee. A cover letter included a recommendation to all the committee members as well as the County chairman, the Mayor and the City Council for public, city and county owned properties. There was also a recommendation to hire an additional person from the agricultural department to work with the city and the county on properties. Mr. White said that the City Manager wanted to make sure the City Council and the County Commission equally understood that all the aircraft manufacturers strongly recommend to take some type of action.

Airport staff is in the process to create three new FTE positions, one for each shift, to staff the security checkpoint. The recommendation came from the City Counsel Fair Labor Standards Act. The Human Resources Department and the Law Department have approved the request and is now being reviewed by the City Manager for his consideration. The cost to staff at checkpoint is reimbursed by TSA. The police officers are paid a flat rate and work after regular duty hours. This has created a varied amount of complications, which involves a pending law suit. Overall, it is more cost efficient to create three full-time FTE positions to the organization as oppose to the after hours scenario.

Chairman Fletcher questioned if TSA reimbursed us the full cost of the three full-time positions and the estimated cost. Mr. White said the cost to the airport is not much. For years the contract with TSA is based upon on the actual dollars per hour, which is actually higher than what is paid to the officers. Ms. Zoglman mentioned there would not be any additional cost to the airport if TSA continued to reimburse the airport at the same rate. Chairman Fletcher asked if there had been any plans to hire the additional officers with any of the internal projects. Mr. Christopher stated not at this point. This information is based on the current agreement between the airport and TSA. If TSA should decide to not reimburse the airport, the airport would still have to provide an officer at checkpoint. The three additional positions would allow us to be in a better economical position. Mr. White said the current contract with TSA will expire on September 30, 2012. This will allow a couple of years with the current contract. We also looked at other options too, whether we would be able to use a security guard or a private service but TSA would not allow it. Mr. Murfin asked of the third option. Mr. Christopher said the officers would have to be commissioned before TSA would reimburse the cost. Officers are required to have full arrest powers. They cannot be an armed guard. This is a national policy. Mr. Greenlee asked if TSA had arrest powers. Mr. White said no that they are not law enforcement. Mr. Gooch asked about the training requirements. Mr. White said anybody that is hired that is not already commissioned in the State of Kansas as a law enforcement officer has to go through the police academy, which is sponsored by the Wichita Police Department. The officers will receive additional training related to the airport to address the TSA rules and airport security. The position is being advertised right now and the entire process may take approximately a year.

The position for the Chief of Safety is being advertised nationwide. The deadline to receive applications is January 22, 2010.

ACT 3 Project Update

Mike Carter, AECOM, presented to the Board a PowerPoint presentation providing an update on the current schedule, upcoming meetings and photos to reflect the recent changes from construction.

Chairman Fletcher asked when to expect the completion of the roadway. Mr. Carter believed the roadway will be completed by February. Chairman Fletcher said that he understood the rest of the construction will be behind the fence so that this would not impede the public. Chairman Fletcher asked if there were any new updates for the parking garage. Mr. Carter stated the RFP is in the process to go out for bid sometime this month and a draft will be presented to the airport.

Mr. Heck questioned if the whole process will be scheduled and reviewed by the City Commission. Mr. White said yes, tentatively scheduled for the City Council's workshop on January 26. Also, Jean Zoglman and financial consultants will have information to present at the workshop. Mr. Heck wondered about the impact on the financials with the traffic being down. Mr. White said the traffic has actually improved over the last few months. Dr. Rosenberg made aware of the Women's NCAA scheduled to come in the next couple of years. The National Mid-Amateur Women's Golf Tournament will be here this summer, which should bring somewhere between 200 to 500 people to the local community.

Chairman Fletcher asked about the bond rates. Ms. Zoglman mentioned they are working with the City's financial advisor on how to package these bonds. They are currently in the process to produce projections and are 5% higher than the current market, which have an issuance in the first half of 2010. There are actually four different bonds issues involved and they take into account what is being financed in each one. Chairman Fletcher asked if the first bond is the largest. Ms. Zoglman agreed and will most likely happen in the first half of 2010. The airport staff has not issued bonds since 2000; therefore, a significant amount of expenses have incurred from this project as well as anything that is planned to be used in 2010 and 2011. Under the trust regulations, from the time the bond has been issued it will need to be spent within 36 months or could face penalties. Mr. Greenlee questioned about the official statement and if it would include the airport revenues. Ms. Zoglman replied not at this point but to anticipate that these bonds being used solely as airport bond issues not to extend to other City general obligations so it can easily be done.

Minimum Standards for Aeronautical Services

Mr. White advised the Minimum Standards has generated a great amount of questions and concerns from users out in the field. It is important to make sure the final draft is interpreted correctly before it is brought to the City Council. A workshop will be scheduled to explain the Minimum Standards to the City Council. A few items need to be addressed so that we are all on the same page. Mr. White participated in a meeting in December with approximately eighty airport representatives, staff from FAA Headquarters, FBO spokespersons from around the country and their trade association in D.C. to discuss issues related to the Minimum Standards. The first topic is "through the fence" agreements. Cessna and Bombardier Learjet both have

“through the fence” agreements which grants access to the runways from properties that is not owned by the Wichita Airport Authority. These are long standing agreements documented and approved. The FAA has announced under no circumstances can you have new “through the fence” agreements for residential purposes. Any “through the fence” agreements will need to be documented with modified airport layouts to identify the access points for approval.

Chairman Fletcher wanted to make sure the Minimum Standards will include language to be in compliance with the FAA. Mr. White said yes. Language has been added in the final draft “through the fence” operation shall not be permitted other than for existing aircraft manufacturing tenants. Any requests for additional “through the fence” operation shall be considered on a case by case basis and any such operation shall meet all applicable Minimum Standards, FAA and TSA requirements.

Another item to address in the Minimum Standards is in the section of FBO that relates to the construction of the fuel farms. This does not apply to existing FBO’s. Language will be modified to have a more clear interpretation.

The last item to address is the one that still continues to cause the greatest amount of questions, the commercial hangar operator category. Mr. White would like to have this section divided to two separate pages to avoid any confusion. One page will read to have the commercial hangar operator to be used solely for leasing of hangar facilities to the public, which would not allow fueling privileges. The second page would include the commercial hangar operator as a fractional, condominium type of operation.

The commercial hangar operator in either case, according to what has been written so far, does not permit to do any kind of commercial activities on the premises, such as flight schools, aircraft maintenance to the public and aircraft chartering to the public. There have been questions of this intent. If the rule maintains as is, then the intent is correct because all commercial business to the public should only be allowed at the FBO.

Chairman Fletcher asked if someone built a hangar then that person could rent it to anyone. Mr. White confirmed. Any space rented as a commercial hangar operator can only rent space for a long term basis, not temporary or transient. Long term means a minimum of one year.

Chairman Fletcher asked if it was our intention to track who would be going in and out of the hangar. Mr. White agreed. There would be a list of the aircraft that occupied that hangar.

The other issue is the fractional ownership that needs to be brought to the Board’s attention. Should there be rules to limit as to how many fractional owners to a hangar. The meeting that had been mentioned earlier with the FAA and others had discussed this topic. An unlimited amount of fractional owners was not the FAA’s intention. It is the FAA’s position, when the number of owners starts multiplying, it is considered a co-op therefore any fueling rights prohibited. The FAA suggested that we should be clearer about who can be an owner, how many owners you can have and how many aircraft can use a single hangar.

Dr. Rosenberg stated that this might be too simple but if the hangar would hold six aircraft then there would be six owners. Mr. White said that this is what we are hearing from other airports, the FAA and industry consultants who are trying to deal with this issue on a nationwide basis. Just simply say the hangar has room for two airplanes, therefore there is only room for two owners. Dr. Rosenberg suggested that each airplane be registered for each space. Mr. White pointed out to have a rule(s) to govern how to control of how shares are being resold.

Mr. Claassen suggested that you would need to buy enough space for an airplane in order to occupy space in the hangar and only that airplane have access to the fuel. A condominium cannot be divided into six equal spaces because aircraft are different sizes. It would be based on the square footage. Mr. White replied that the FAA recommended that the hangar should be divided into equal shares of ownership. Mr. Claassen said that a person who owns 3% and should be able to sell the 3%. You can only sell the maximum amount of square footage that is owned. Mr. White stated the FAA suggested that in order to be non-discriminatory, we try to look at the maximum number of airplanes per hangar. The rules in the other chapter on non-commercial hangar say you have to have 10,000 s. f. of hangar space for one company. Mr. White asked about the required minimum amount of space leased is 3,750 and if it should be increased. An increase would cause fewer occupants in the hangar, which would cause the investment to be higher. Mr. Claassen said you would not have that problem if it was tied to square footage. Mr. White replied the FAA and others stated that this would be more of a co-op arrangement. If you are going to have a standard then make it high enough that the buy-in is a sizeable amount of investment to be able to build your own hangar and have your own fuel farm. Dr. Rosenberg suggested that a person would need to buy enough spaces for his airplane whether it would need to buy one, two or three spaces. He suggested to having a minimum size to fit the smallest plane so that it could be easier to sell the spaces to someone else. Mr. Claassen said since the aircraft has to occupy that one space so that would be the basis for a minimum, which you would invest from \$150,000 up to \$280,000. Aircraft have odd shapes and do not fit into perfect squares. Mr. White commented if a hangar had 15,000 s. f., it would not be fair if one person had 14,000 s. f. and the next person had only 1,000 s. f. Mr. Claassen answered to set a minimum. For instance 2,000 s. f. Mr. White asked if 2,000 s. f. is a fair number because it was originally set at 3,750 s. f. Chairman Fletcher questioned if this was included in the Minimum Standards. Mr. White responded yes. It reads that a 15,000 s. f. structure, not a fractionally owned hangar, maybe subdivided in units no less than 3,750 s. f. each of hangar floor space for the purpose of creating condominium leasehold spaces for multiple owners. Mr. Claassen asked to not make it any higher. Chairman Fletcher believed there was no reason to change the number.

Mr. Murfin asked about the conquest in terms of the square footage. Mr. White said the shares would be sold to four. Mr. Murfin questioned about the argument against a co-op. Mr. White said the simple argument has been a longstanding FAA rule for many decades that an airport owner, such as us, is not required to allow co-op fueling or hangar income arrangements. In the FAA's mind, it can create an unlevel playing field on an airport environment. Whereas the FBO is allowed/required to sell to the public and a co-op would create economic hardship for them. Ultimately, the public and the airport would suffer. Another concern would be to the public as this would create little individual fueling and activities on the airport. Mr. Murfin asked if co-

ops did not serve public fueling. Mr. White said no, they do not serve the public. Our obligation, under our federal grants is to serve public. Mr. Murfin said the way to serve the public in multiple ways would be through an FBO or the airport to sell the fuel. Mr. White agreed, that could be allowed. Some airports, including Yingling has subservice. Few airports have self-service for jet fueling. Mr. Murfin stated our mission is to make sure that the public is served. Mr. White agreed. It is also important to comply with the federal grant assurances and contracts but also to protect the long term business relationships with our tenants on the airport, including the FBO's who make sizeable, multimillion dollar investments. We need to make sure we do not pull the rug out from under them by changing the rules after they have signed contracts that require them to provide certain level of service. Keep in mind, one of the three FBO's went out-of-business due to not enough fuel business on the airport. The more fuel business that is taken away from a FBO, the less opportunity they have to meet their obligations. The FAA wants to make sure that the rules are reasonable. Some airports are struggling on how to interpret them. For an example, Oklahoma City said they have people that come out with their pickups loaded with drums of gasoline and drive out on the ramp to fuel their airplanes. Mr. Murfin said it is a fundamental and philosophical issue. We need to make sure there is language to address it. Mr. White stated as stewards of this operation to make sure we do not create crazy situations to drive people out of business. Mr. Murfin asked if there had been a situation since this airport was built. Mr. White answered that the Wichita Airport Authority policy, for forty plus years, simply said no to anybody with a request to have their own self-fueling. It worked well for decades.

Mr. Murfin suggested that we should just take a specific proposal, analyze it and then make a decision. Mr. White said the purpose for the Minimum Standards is to have a set of rules for anyone, therefore it would not change from tenant to tenant.

Chairman Fletcher asked if anyone would like to change the 3,750 s. f. Mr. Murfin and Mr. Greenlee asked if the entire document needed to be reviewed. Dr. Rosenberg felt that they should only address Mr. White's suggestions. Mr. Heck asked if the Minimum Standards included all the changes made from the previous meetings. Mr. White concurred that all the changes have been made.

Mr. White brought up another concern with regards to the commercial hangar category. Can a person build a corporate hangar but sublease out space to a non-related party. The rules have always read no when fuel is involved. Chairman Fletcher asked if it reads that way now. Mr. White replied no because this topic has not been addressed before now. Mr. Murfin said the fuel is the issue. Mr. White did not see any difference with any other commercial hangar operator if fuel is not involved. FBO's are the only ones to serve the public with fuel.

Mr. Greenlee asked if a corporate hangar had a guest fly in his airplane in for a meeting would he be allowed to park on the ramp. Mr. White responded that it is not allowed at this airport. Mr. Murfin said that this is why we need to have Minimum Standards.

Mr. Lang stated with regards to the corporate hangar, also known as an executive hangar, the airport has only one tenant and this tenant is controlled by the terms of the lease. The Minimum

Standards will not affect this lease. Mr. White asked Mr. Lang if there was a new lease that included the Minimum Standards, would they be allowed as a corporation with their own fleet to be able to sublease. Mr. Greenlee mentioned that we would be required to not give a new tenant a better circumstance than the old tenant, under the federal regulation. Chairman Fletcher stated we would need to tailor the new corporate hangar lease with respect to the existing lease. Mr. Lang informed that Koch did not want to amend their lease to allow them the same rights as others.

Mr. Heck asked when the Minimum Standards are adopted how it will affect the existing tenants. Mr. White answered the existing leases will continue until they expire or up for renewal. At that time, the lease would have to become in compliance. All FBO's are in compliance with the proposed Minimum Standards.

Mr. Myles asked if Mr. White had any objection if someone had a hangar could that person sublease the extra space as long as fuel is not involved. Mr. White said he did not see any problem but would like to know if anyone else objected since this has not been discussed prior to this meeting.

Mr. Taylor introduced himself as the representative for Executive AirShare as well as a representative for the ownership group of Hangar 17 & 19. Originally he had interpreted the commercial hangar operator would allow room to specialize in aviation service operators. Under his proposed rules, the services should be able to go through a commercial hangar operator. This does not include the ability to serve fuel. Yingling and Signature do not have space for the charter operation. There are hangar issues related with Hangar 17 and 19. Mr. White believed there might be some misinterpretation. Other than the commercial hangar category, individual like schools, air cargo companies, maintenance outfits, avionics shops can build their own facilities and operate without being part of a FBO. Or, can be allowed to be part of a FBO. Mr. Taylor proposed to be allowed to operate from a commercial hangar operator. Mr. White replied that this has been stated since the first draft, that no commercial activity or services such as flight schools, aircraft charters, aircraft maintenance, aircraft sells or any other activity where the general public could be invited into the premises are permitted on the commercial hangar operator leasehold. Mr. Taylor expressed that space is the issue to have a maintenance facility. Mr. White suggested several options. One, build a facility or go to the FBO. The third, the commercial hangar operator builds enough space to be a FBO. In this case, you are already a FBO. Mr. Taylor said he did not want to sell fuel.

Mr. Murfin said this situation would force him to be a FBO to sell fuel and compete against the other FBO's. Mr. White said it is a dilemma. Mr. Taylor said that other airports would appreciate their business.

Chairman Fletcher mentioned that we need to take in consideration if the airport is to have all three FBO's. Mr. Taylor stated he had 2009 financial information from the airport and EagleJet averaged 35,000 gallons a month of fuel sales. The other two facilities averaged between 65,000 and 78,000. This airport economically does not support three FBO's. From a transient standpoint, they are well taken care of and there are not any vacancies. There is not any vacant

tenant space. That is why I'm recommending to allow the commercial hangar operator to provide services other than fueling.

Mr. Claassen mentioned Ballard had decided to go to Newton because of these restrictions. Mr. White clarified that it was not based on the airport's restrictions. A lease had already been presented to them. Ballard's owners chose to build in Newton because of financial reasons.

Mr. White stated the commercial hangar operator is strictly to store airplanes and not intended to have shops, offices and other services like flight schools, charters and so forth. This is the reason why it is in a separate category. Mr. Taylor commented he would like to have a FBO but not sell fuel so that he can take care of his tenants and to provide maintenance.

Mr. Nichols stated he understood but disagreed. He had heard what had been proposed but with great pause to whether or not he would invest anymore at Mid-Continent Airport. Anyone is invited to Yingling to understand the complexity and intricacies of running a FBO. The FBO needs every revenue stream in order to continue business at this airport. It is important to look at each one individually and look at the ramifications to each existing tenant. He would like to continue the business here and make future investments at the airport and he looked to the Wichita Airport Advisory Board and the City Council to help ensure that they have a good deal. He stressed the rules should not continue to change after the document has been signed. Mr. Taylor said that his proposal will gain Yingling more business. Mr. Nichols said with EagleJet going out-of-business, the fuel sales should increase some for Yingling and Signature. There are ten years of financials to show that there has been a decline in fuel sales. The business cannot rely solely on fuel sales.

Mr. Taylor commented with the airplanes that are being built now are more fuel efficient and he believed the trend will continue to go downward.

Mr. White addressed in the commercial hangar standards category included a section, called Specific Conditions for Uses. The intent was to not allow commercial services. But Mr. Taylor would like to allow the ability to sublease space to maintenance shops, flight schools, aircraft chartering, aircraft sales, and any other commercial activities except fueling services. On the other hand, this could be detrimental to Mr. Nichols' business. Mr. Nichols suggested the airport be more flexible, which would allow the opportunity to look at each one individually. He believed the airport of its size would not be difficult. Koch Industries has leased 20,000 s. f. of hangar space to Yingling and in turn allows Yingling to lease the space to the public. The current rules do not allow Koch Industries to go out to the public. Koch Industries' revenue is not dependent on this type of activity. Mr. White agreed and stated that this is the traditional view of why airports around the country have always said no to commercial activities in a corporate hangar because of that reason.

Mr. Pryor asked if Executive Airshare could service their aircraft. Mr. White said that this would be permitted. Mr. Taylor mentioned there is not any space to rent. Mr. Nichols said Yingling could build a facility with the right business case.

Mr. Murfin suggested to having a committee to discuss some of these items and circulate the changes among the board prior to the next meeting.

Chairman Fletcher made known that Mr. Murfin, Mr. Pryor, himself and Mr. White will serve on the committee with Mr. Lang as legal counsel. The mission is to resolve the commercial hangar operator category in the Minimum Standards.

Executive Session

Motion by Chairman Fletcher to recess into Executive Session to consider confidential data relating to the financial affairs or trade secrets of a business and matters privileged in the attorney client relationship, and that the Board return from Executive Session no earlier than 15 minutes and reconvene in the Board Room. Motion carried unanimously.

The Board recessed for Executive Session at 4:03 p.m.

Motion by Mr. Murfin to extend Executive Session for an additional 30 minutes at 4:18 p.m. Motion carried unanimously.

The Board reconvened at 4:51 p.m., Chairman Fletcher announced that no action is necessary from the Executive Session.

Other Business

The next WAAB meeting will be Monday, February 1, 2010 at 2:30 p.m.

Meeting adjourned at 4:52 p.m.

Traci Nichols, Clerk