

PENINSULA AIRPORT COMMISSION

MINUTES

August 24, 2017

PRESIDED: George Wallace

The regularly scheduled meeting of the Peninsula Airport Commission was held on Thursday, August 24, 2017 at 8:00 a.m. in the Airport Commission Room at the Newport News/Williamsburg International Airport.

Commissioners present were:

Steve Mallon, Sharon Scott and George Wallace.

Commissioners not present were:

Rob Coleman, Walter Jubien, Jr, David Wasson

Interim Executive Director

Mr. Sanford Wanner

Assistant Executive Director

Ms. Melissa Cheaney

Director of Air Service, Marketing and P.R.

Ms. Jessica Wharton

Director, Finance and Administration

Ms. Renee Ford

Legal Counsel

Mr. James S. McNider, III

Mr. Walter D. Kelley, Jr.

Executive Assistant

Ms. Rhonda Wissinger

Public in Attendance

Jeff Wellman-Talbert & Bright

Jeff Tarkington-Talbert & Bright

Matt Neely-Mill Creek Environmental Consultants

Jared Alexander-PAC Operations Manager

Kenneth Stokes-PAC Maintenance

Andy Olson-PAC Maintenance

John Borden-PAC Facilities Manager

Brittany Stellute-New Dominion Clubs

Patricia McDermont-Citizen of Newport News

Marilyn Whitley-Citizen of Newport News
Ed Maroney-Citizen of Newport News
Ann Tiernan-Citizen
Dave Ress-The Daily Press
Viveca Munger-Legal Assistant

COMMENTS FROM THE PUBLIC

Ms. Brittany Stellute, employed by New Dominion Clubs read a letter to the Commission asking the Commissioners to intercede personally in the ongoing dispute between New Dominion Clubs and the Commission. Her letter stated that New Dominion Clubs was entitled to be reimbursed for the value of its capital investments in the Airport over many years and their lease imposed that requirement. Mr. Kelly, former counsel sent a letter in December 2016 asking New Dominion Clubs to submit its invoices and evidence for payment. Judge Mills, in his letter of opinion dated February 23, 2017 ruled that New Dominion was entitled to be reimbursed for these investments, Judge Mills stated, "As PAC expressed its intent to terminate the entirety of the Lease which represents the totality of the parties' business dealings, PAC is responsible for reimbursing New Dominion for the net book value of all New Dominion's capital investments". As requested, we submitted all of our invoices and evidence of payment over five months ago. Despite all of this, we have been absolutely stonewalled in our efforts to resolve this matter.

Our lawyer has sent numerous emails and made telephone calls trying to arrange for a meeting between the parties to try to resolve this matter. Mr. McNider has absolutely refused to agree to meet. Yesterday he sent an email to our lawyer saying he believes that New Dominion should be forced to file a new lawsuit on this issue. Based on Sunday's Daily Press story about the legal fees that the Commission has paid this year, one would think the Commission would be interested in less litigation, not more. New Dominion is also tired of paying legal fees. We want to resolve this matter. Thereafter, the parties can go their separate ways.

New Dominion respectfully requests that a meeting be scheduled with an appropriate member or members of the Commission and your accounting staff to try and resolve this matter in a business-like fashion. If such a meeting does not take place, the only people who will be happy are the lawyers.

Ms. Marilyn Whitley, citizen of Newport News, also read a letter stating that the airport has been in the newspaper week after week. After reading the story regarding the enormous legal bills being submitted by the interim attorney, she felt it necessary to appear before the commission today. As a taxpayer, she is flabbergasted, especially in light of the findings reported in the recently completed VDOT audit. The commission can no longer afford to operate in the shadows and continue to spend taxpayer monies without concern. Our community is in the desperate need of an airport with viable and affordable service. The first step the PAC needs to take in rebuilding public trust is to repay New Dominion Clubs for their capital investments in the airport. Mr. McDermott is

a small local business owner who invested his own money to the airport. Under the lease, he is entitled payment for his investments. The taxpayers and community have had enough, it's time to stand up and do the right thing. Pay Mr. McDermott. Apologize to the community and pledge that there will be better oversight of the taxpayer monies being spent by the Commission. As a taxpayer and property owner in this city, I am asking you to be part of the solution by halting this expensive legal battle with the local small businessman and paying him what is due.

Mr. Ed Maroney, past City Manager who also served on the Commission for over 20 years and has known Tom McDermott for 30 years. Mr. Maroney stated that in 2004, Tom McDermott's New Dominion Clubs began operating the Food and Beverage Service in the former Burger King location which included a full service restaurant and bar. At that time, New Dominion Clubs entered into a 5 year lease with the Commission. They continued to operate from the location while building a food and beverage kiosk beyond the TSA check point in 2006. In February 2009, New Dominion Clubs signed a new lease allowing them to build a new bar in Concourse B which would include a full bar and additional seating. Construction began on the "Pie in the Sky" pizza kitchen, Concourse B, in April of that year. In July 2010, the PAC entered into a 15 year lease with New Dominion Clubs. The lease also had two 5 year options and an exclusivity clause. It was explained to me at the time, by former PAC Counsel that if some of New Dominion Clubs' space was needed for security or passenger use, New Dominion Clubs would have to relocate with the airport. It was never the intention of the PAC that the Airport staff or the Commission would run a restaurant. As a Commissioner, my understanding was that Mr. McDermott would be able to operate all the restaurants and bars at the Airport until passenger counts reached a certain number. Tom McDermott invested his life savings into serving the airport. You cancelled his contract arbitrarily and decided to provide Food and Beverage services with airport staff. You don't have a liquor license so you cannot operate a bar. New Dominion Clubs operated 3 bars at the airport. Mr. Maroney's recommendation is for the PAC and New Dominion clubs to agree on a fair solution. He is asking the PAC to recognize the unfairness of the situation.

APPROVAL OF MINUTES OF COMMISSION MEETINGS HELD JUNE 22, JULY 12, and AUGUST 10, 2017

RESOLVED, that the Peninsula Airport Commission approve the minutes of the Commission meetings held June 22, July 12, and August 10, 2017.

Commissioner Steve Mallon made the motion to adopt the June 22, July 12, and August 10, 2017 minutes and Commissioner Sharon Scott seconded the motion.

Voting yes were:

Steve Mallon, Sharon Scott and George Wallace

EMPLOYEE RECOGNITION-JANUARY-JUNE 2017

Ms. Cheaney, Assistant Airport Director, recognized Kenny Stokes from the Maintenance Department for an outstanding job. On March 22, 2017, Mr. Stokes was performing normal duties and identified something suspicious around the perimeter of the airport. He called the Department of Public Safety and it ended up being a weather balloon. Mr. Stokes went above and beyond normal duties ensuring the safety of the airport. In recognition of his outstanding performance, Mr. Sanford Wanner, Interim Executive Director and Chairman George Wallace presented him with a plaque.

Ms. Cheaney, also recognized Jared Alexander, Operations Manager, for an outstanding job. Mr. Alexander's department has been understaffed due to transitions within his department which called for Mr. Alexander to perform the duties of both Operations Manager and Operations Supervisor over the last 6 months. In addition, Mr. Alexander took the lead on the Triennial Exercise and organized this critical exercise, which included over 125 participants. He also played a huge role in the FAA Part 139 Inspection, in which the FAA inspector applauded Mr. Alexander's department on a job well done and stated that he could tell that Mr. Alexander and his staff took great pride in the airport and did a great job preparing for the inspection. In recognition of his outstanding performance, Mr. Sanford Wanner, Interim Executive Director, and Chairman George Wallace presented him with a plaque.

ASSISTANT EXECUTIVE DIRECTOR

Ms. Cheaney, Assistant Executive Director, gave the following report:

WETLANDS PRESENTATION BY TALBERT & BRIGHT

Ms. Cheaney reported that the Commission had asked for an update on the Wetlands areas for all of our properties and she introduced Jeff Tarkington and Jeff Wellman from Talbert & Bright, as well as, Matt Neely from Mill Creek Environmental Consultants to present their findings. Mr. Tarkington from Talbert & Bright introduced Jeff Wellman to talk about the Airport Layout Plan and how it ties into the Wetland Delineation Project. Mr. Wellman stated that the Airport Layout Plan is a document that is approved by the Airport, the Virginia Department of Aviation and the Federal Aviation Administration. These agencies require the Airport to keep this document up to date. It is a conceptual plan of future facility development. Mr. Wellman stated that they identified 4 areas of airport property, 3 of which can potentially be developed. The 4th area is a wetlands litigation bank. The 4 areas are:

1. Jefferson Avenue- non aviation commercial/industrial development area.
2. Infield Area- between existing runways
3. Kentucky Farms- north side of airport property non-aviation
4. Waterworks site- existing airport wetlands litigation bank

Mr. Wellman introduced Matt Neely from Mill Creek Environmental-he conducts

comprehensive Wetlands analysis. Mr. Neely reported that he had spent the greater part of the spring and summer performing a wetlands analysis of these properties corresponding with the Army of Corps of Engineers Wetlands manual. The greater part of his study has been the study of the Wetlands hydrology, vegetation and soil. He then submitted information to the Corps of Engineers and they meet on site if requested. The Corps of Engineers then issue a jurisdictional determination which gives you boundaries on which you can put any development over and determines the potential impact for the future. Each one of the jurisdictional determinations are issued for 5 years but recently he has been able to extend them for an additional 2 years, making them good for 7 years. Mr. Neely reported his findings on each area which include:

Infield Site (area between the runways) - 284 Total Acres, 178.8 acres of wetlands. 146.5 considered Palustrine Forested.

Waterworks Site – 156 Total Acres, 46.9 acres of Palustrine Forested wetlands, 1,445 linear feet of intermittent streams. It is a pristine ecosystem

Kentucky Farms Site – 147 Total Acres, 9.3 acres Palustrine Forested wetlands, and 3.1 acres local water in the form of a pond.

Jefferson Avenue – 35 Total Acres, 0.75 acres of Palustrine Wetlands.

The next steps are to wait for jurisdictional determination from the Corps of Engineers. In the coming weeks, he will have an update on this. Currently he does have the jurisdictional determination for the infield area. He will also be conducting further coordination with the Department of Equality and further deed research for the Waterworks Site.

Commissioner Scott asked about the Waterworks property poorly draining. Mr. Neely stated that in this case it is a good thing because it prevents downstream flooding. Mr. Neely also thanked airport staff for getting him access to the property.

Ms. Cheaney continued her report stating that the Atlantic Hangar Construction is moving forward and that the review guidelines are on the website. It outlines that a member of the Commission is to help with the review process. Chairman Wallace said that he will appoint someone from the Commission. Ms. Cheaney also stated that the site plan had been submitted to the City. The design guidelines need to be updated and Ms. Cheaney is working on this.

DIRECTOR OF AIR SERVICE, MARKETING AND PUBLIC RELATIONS

Ms. Jessica Wharton, Director of Air Service, Marketing and Public Relations, gave the following report:

- Passenger numbers for the month of July were increased by 3%. Richmond passenger numbers were increased 1.4% for the month and Norfolk passenger numbers were increased by 5.4%.
- WAVY Ads- Ms. Wharton sent the Commission the 5 second vignettes that will be running on WAVY as a thank you piece for the military.

This is a promotion that will be running through December.

DIRECTOR OF FINANCE & ADMINISTRATION

Ms. Renee Ford, Director of Finance & Administration gave the following report:

Ms. Ford reported the Airport's revenues were 1% below last July 2016. Our expenditures for July 2017 totaled 1% below budget and 14.4% above July 2016.

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, the closed meeting shall be held to discuss legal issues relating to the VDOT audit, the People Express Airlines, Inc. loan, and the New Dominion Clubs litigation.

Commissioner Steve Mallon made the motion, seconded by Commissioner Sharon Scott to hold a closed meeting.

Voting yes were:

Steve Mallon, Sharon Scott and George Wallace.

The Commission entered into a Closed Meeting at 8:43 a.m. and reconvened in Open meeting at 9:51 a.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:

Steve Mallon, Sharon Scott and George Wallace.

INTERIM EXECUTIVE DIRECTOR 'S REPORT

Mr. Sanford Wanner, Interim Executive Director, gave the following report:

PROCUREMENT POLICY REVISIONS

The Procurement Policy Manual has not been updated since October 26, 2012 and the recent VDOT Audit identified some areas that need to be revised in order to conform to the VPPA. Mr. Wanner reported that there were two new additions to the Procurement Policy. The two additions include:

1. The Disposal of Surplus Property
2. Glossary of Terms

Mr. Wanner reported that there had not been a Disposal of Surplus Property Policy and it needed to be included and the Glossary of Terms also needed to be added. The Glossary of Terms is consistent with what the State and other localities use. These policies are the same that were recommended throughout the audit. As additional language, Commissioner Mallon requested that any expenditure in excess of \$10,000 not in the budget should be approved by the Commission unless it is an emergency or exempt procurement. Commissioner Scott agreed with Commissioner Mallon. Mr. Wanner will make the revision to the Policy.

RESOLVED, that the Peninsula Airport Commission approve the Procurement Policy as presented and including additional language that requires approval of any expenditure in excess of \$10,000 not in the budget unless it is an emergency or exempt procurement.

Commissioner Steve Mallon made the motion to approve the Procurement Policy as presented and including additional language that requires approval of any expenditure in excess of \$10,000 not in the budget unless it is an emergency or exempt procurement. Commissioner Sharon Scott seconded the motion.

Voting yes were:

Steve Mallon, Sharon Scott and George Wallace

DOMINION ENERGY VIRGINIA ROW AGREEMENT

Mr. Wanner reported that on January 4, 2017 Milestone Communications, owner of a wireless tower at the HRSD North Shore Operations Center on 2401 G Avenue across the street from the Airport, requested the PAC to sign a Right of Way Agreement to allow additional Dominion electrical service to the tower. The request is for a 75'x15' ROW. The line would be under G Avenue and would not impact on the roadway. HRSD supports the request. Milestone Communications has agreed to make a one-time lump sum payment of \$10,000 to the PAC upon receipt of the fully executed ROW Agreement with Dominion Energy. The FAA must approve the ROW Agreement and the DOAV concur. Staff and Legal Counsel have reviewed the ROW Agreement draft that Dominion has presented. Mr. McNider, legal counsel stated that this is a counter

offer and he is not in agreement with this as written. Commissioner Mallon stated he was uncomfortable approving anything moving forward without legal counsel approval. He suggested that we get an agreement that both legal counsel and the Interim Executive Director approve and then bring the final document to the Commission for approval. We will defer to the next meeting.

LEGAL SERVICES INTERVIEWS

Mr. Wanner reported that he is trying to set a date for the Legal Services Interviews and is trying to figure out a schedule between the Executive Director Interviews and legal services interviews.

COMMISSION REQUESTS OR DIRECTIVES

Chairman Wallace would like to appoint two new Committees. The first one being a ByLaws Committee which he would like to appoint Commissioner Rob Coleman and Commissioner Sharon Scott. He would also like to appoint an Air Service Development Committee and appoint Commissioner Steve Mallon and Commissioner Walter Jubien. Mr. Wanner stated that he would be the staff representative for the ByLaws Committee and Ms. Jessica Wharton, Director of Air Service, Marketing and P.R. will be the staff representative for the Air Service Development Committee.

RECESS

The Commission took a 5 minute recess at 10:06 a.m. to set up for Freedom of Information Act (FOIA) Training.

FREEDOM OF INFORMATION ACT (FOIA) TRAINING

Mr. Alan Gernhardt, Director of the FOIA Council, provided Freedom of Information Act (FOIA) training to the Commissioners and staff through an hour and a half presentation. Mr. Gernhardt also provided the website information for the FOIA Council to the Commissioners to retain as a reference and also offered to answer any questions the Commission may have in regards to FOIA by contacting him.

RESOLUTION FOR THE DESIGNATION OF A FREEDOM OF INFORMATION ACT (FOIA) OFFICER FOR THE PENINSULA AIRPORT COMMISSION

Mr. Wanner, Interim Executive Director, stated that Secretary Aubrey Layne had stated that one of the conditions the Peninsula Airport Commission must meet was to designate a Freedom of Information Act (FOIA) Officer to the Commission. The Virginia Freedom of Information Act: Section 2.2-3704.2 states that all State public bodies, including State authorities that are subject to the provisions of this Chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify a Freedom of Information Act (FOIA) officer whose responsibility is to serve as a point of contact for members of the public in requesting public records and

to coordinate the Peninsula Airport Commission's compliance with the provisions of this chapter. These conditions include:

- The name and contact information for the Peninsula Airport Commission's FOIA officer
- Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council or through an online course offered by the Council.

RESOLVED, that the Peninsula Airport Commission accepts these conditions and designates Rhonda Wissinger, Executive Assistant, as the Peninsula Airport Commission's Freedom of Information Act (FOIA) officer effective September 13, 2017.

Commissioner Sharon Scott made the motion and Commissioner Steve Mallon seconded the motion.

Voting yes were:

Steve Mallon, Sharon Scott and George Wallace

ADJOURNED

There being no further business, the meeting was adjourned at 11:44 a.m.

NEXT MEETING

The next meeting of the Peninsula Airport Commission will be held on Thursday, September 28, 2017 at 8:00 a.m. in the Commission Room.

**RESOLUTION
A RESOLUTION FOR THE DESIGNATION
OF A FREEDOM OF INFORMATION ACT (FOIA) OFFICER FOR THE PENINSULA
AIRPORT COMMISSION**

WHEREAS, the Virginia Freedom of Information Act: Section 2.2-3704.2 states that all state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify a Freedom of Information Act (FOIA) officer whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the Peninsula Airport Commission's compliance with the provisions of this chapter.

WHEREAS, these conditions include:

1. The name and contact information for the Peninsula Airport Commission's FOIA officer to whom members of the public may direct requests for public records and who will oversee the Peninsula Airport Commission's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's official government website at the time of designation and maintained thereafter on such website for the duration of the designation.
2. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council or through an online course offered by the Council. Any such training shall document that the training required by this subsection has been fulfilled.

NOW, THEREFORE, BE IT RESOLVED, the Peninsula Airport Commission, accepts these conditions and designates Rhonda Wissinger, Executive Assistant, as the Peninsula Airport Commission's Freedom of Information Act (FOIA) officer effective September 13, 2017.

Adopted this 24th day of August, 2017

IN WITNESS WHEREOF, the Commission by motion made on August 24 2017 designated Rhonda Wissinger, Executive Assistant, as the Peninsula Airport Commission's Freedom of Information Act (FOIA) officer, to be executed on its behalf by the Chairman and Interim Executive Director, Sanford Wanner, has executed this resolution both in duplicate, as of this day.


Executed this 24th day of August, 2017.

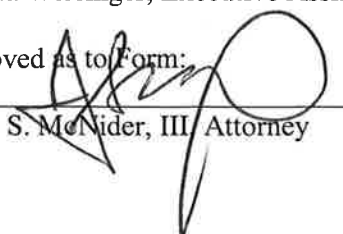
PENINSULA AIRPORT COMMISSION


George Wallace, Chairman

SANFORD B. WANNER


Interim Executive Director

Attest: 
Rhonda Wissinger, Executive Assistant

Approved as to Form:

James S. McNider, III, Attorney