

PENINSULA AIRPORT COMMISSION

MINUTES

May 15, 2017

PRESIDED: George Wallace

The special meeting of the Peninsula Airport Commission was held on Monday, May 15, 2017 at 8:00 a.m. in the Airport Banquet Room at the Newport News/Williamsburg International Airport.

Commissioners present were:

Rob Coleman, Walter Jubien, Jr. Steve Mallon, Sharon Scott and George Wallace.

Interim Executive Director

Mr. Sanford B. Wanner

Legal Counsel

Mr. James S. McNider, III

Executive Assistant

Ms. Rhonda Wissinger

Public in Attendance

Marilyn Whitley

Brittany Stellute

Dave Ress-The Daily Press

Jordan Pascale-The Virginian Pilot

COMMENTS FROM THE PUBLIC

Chairman Wallace introduced our new Commission member Mr. Walter Jubien, Jr. and welcomed him as our newest member of the Peninsula Airport Commission.

CLOSED MEETING

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

Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

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 the performance of the Executive Director and his contract, and to discuss legal issues relating to the VDOT audit and the People Express Airlines, Inc. loan.

Commissioner Sharon Scott made the motion, seconded by Commissioner Rob Coleman to hold a closed meeting.

Voting yes were:

Rob Coleman, Walter Jubien, Jr., Steve Mallon, Sharon Scott and George Wallace.

The Commission entered into a Closed Meeting at 8:02 a.m. and reconvened in Open meeting at 10:49 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:

Rob Coleman, Walter Jubien, Jr., Steve Mallon, Sharon Scott and George Wallace.

Commissioner Rob Coleman made a motion that the employment of Mr. Kenneth R. Spirito is hereby terminated immediately for cause and the Chairman shall notify Mr. Spirito of the Peninsula Airport Commission's determination in the attached letter.

RESOLVED, that the Peninsula Airport Commission terminate the employment of Mr. Kenneth R. Spirito immediately for cause based on the determination in the attached letter.

Commissioner Rob Coleman made the motion to terminate the employment of Mr. Kenneth R. Spirito immediately for cause based on the determination in the attached letter and Commissioner Sharon Scott seconded the motion.

Voting yes were:

Rob Coleman, Walter Jubien, Jr., Steve Mallon, Sharon Scott and George Wallace.

Commissioner Sharon Scott stated she supports the Peninsula Airport Commission's initiative and is looking forward to moving forward and stabilizing the airport.

ADJOURNED

There being no further business, the meeting was adjourned at 10:52 a.m.

NEXT MEETING

The next meeting of the Peninsula Airport Commission will be held on Thursday, May 25, 2017 at 8:00 a.m. in the Banquet Room.



May 15, 2017

Mr. Kenneth R. Spirito

Dear Mr. Spirito:

The Peninsula Airport Commission ("the PAC") hereby terminates your employment, effective immediately, for cause. This will set forth the basis for the Commissioners' determination, in their sole discretion, that the termination of your employment is made "for cause" under Section 3.B. of our Amended Employment Agreement dated January 1, 2011 ("Employment Agreement").

A. Purchase of MOPAR Vehicle Protection Plan with PAC Funds

You have admitted that you withheld the \$808.06 residual proceeds of the \$1,756.15 MOPAR extended warranty plan that you purchased with PAC funds in November, 2014 via the PAC credit card.

You placed title to this multi-year MOPAR extended warranty plan *asset* in your personal name. The coverage would have lasted until May 10, 2018, although you sold your car around March 2016 and collected the plan residual proceeds at that time.

The PAC never benefited from this MOPAR asset to its knowledge; it became your personal asset from its inception.

You concealed the details of the MOPAR Plan and Sales Summary from the PAC, and instead submitted just the credit card receipt erroneously representing it as an expense, and improperly calling it "vehicle maintenance".

The PAC demands that you completely reimburse it for the remainder of the purchase price of the MOPAR plan. You submitted your personal check for \$808.06 only last week, after we asked you to justify what the persistent investigation of the VDOT auditors uncovered.

By way of responding with your explanation, you have gone to great lengths in citing specific instances of financial transactions during your career at the PAC to bolster your credibility; you claim to have always had the PAC's best interest in mind. The following situations, however, do not support your claim:

- (i) You authorized each member of the PAC executive staff to charge up to \$2,400/year in gasoline directly to their PAC credit card, with no requirement that it be tied to business travel. You directed your accounting department not to treat it as taxable income. You justified your authority to do this because you have control of the "fuel expense" operating account. These payments actually are compensation to each employee receiving the free gas, not fuel expense. Accordingly, you have hidden employee compensation in the fuel expense account, also exposing these employees and the PAC to back taxes, additional filing obligations, and possible interest and penalties.
- (ii) You argue that you were authorized to unilaterally change the PAC Personnel Manual to pre-pay educational expenses to Jessica Wharton. You claimed your source of this authority was derived from the language in the Acknowledgment, that you signed, simply recording your physical receipt of the PAC Personnel Manual. Your signing a receipt did not result in a grant of authority to amend the written PAC policy.
- (iii) You failed to answer our question asking for the calculations supporting the PAC payment of \$500 monthly under your Employment Agreement towards your personal income tax, in addition to the \$810 car allowance.

B. PAC Payment for Body Work for You and a Peninsula Citizen

You obligated the PAC to pay, and did not reimburse it for, the sum of \$1,636.76, representing two paint and auto body invoices, in your name and that of a Peninsula citizen, the individual who you rear-ended while you were driving your car in November 2015. Body work to your car is not "vehicle maintenance", and if you thought so you should have fully disclosed your invoices as required under the Employment Agreement. More fundamentally, body work to the motorist's car is not "vehicle maintenance". The PAC demands that you reimburse it. The PAC was not obligated to pay the \$1,636.76.

C. PAC Payment for Second Accident to Personal Vehicle

You had another vehicle mishap on the highway in August 2015, that resulted in you presenting your PAC credit card to pay \$1,849.75 for body repairs to your personal vehicle. The PAC is not obligated to pay for your car accidents as "vehicle maintenance". The PAC demands that you reimburse it for this unauthorized payment.

D. PAC Payment for Third Accident to Personal Vehicle

You authorized the \$1,513.60 payment in February 2012 to Jessica Wharton reimbursing her for her loss in an auto accident when she backed into a stationary vehicle on PAC property. The PAC does not take responsibility for car repairs to an employee's automobile, whether he/she is driving to or from work, or is driving on PAC business during work. You pointed to no

PAC policy that supports such a payment, and there is none. The PAC demands that you reimburse it for this unauthorized payment.

Each of the foregoing four situations constitutes an independent and well sufficient basis for the action hereby taken under Section 3.B. of the Employment Agreement. The PAC reserves all its rights to take additional action as appropriate.

The standards under at least subsections 5, 6 and 7 of Section 3.B of the Employment Agreement support our determination that cause exists to terminate your employment immediately. You deliberately used your PAC credit card for other than PAC business expenses, contrary to Section 4.E. of the Employment Agreement and numerous policies of the PAC designed to prevent personal benefit from public funds. Your actions violated varied and numerous Standards of Conduct, Section 602, in the PAC's Personnel Policies, Benefits & Procedures Manual (both editions). Paragraphs 24 and 25 of Section 602 summarize the standards you have transgressed, dealing with conflicts of interest and engaging in conduct which affects your credibility, effectiveness, performance, or ability to fully carry out the responsibilities of employment and which is prejudicial to the interest, reputation or operations of the airport. Further, your actions are so egregious and detrimental to the interests of the PAC that it will not provide any opportunity to cure. This, however, does not waive the PAC's additional remedies, all of which are hereby preserved. All laws or standards of conduct that are applicable to your actions or inactions, known or unknown, are applicable and may be acted upon, as a basis for the foregoing or for future action, whether summarized or cited herein.

Very truly yours,



George E. Wallace
Chairman

PENINSULA AIRPORT COMMISSION