

# **PENINSULA AIRPORT COMMISSION**

## **MINUTES**

June 28, 2018

PRESIDED: George Wallace

The regularly scheduled meeting of the Peninsula Airport Commission was held on Thursday, June 28, 2018 at 8:00 a.m. in the Commission Room at the Newport News/Williamsburg International Airport.

### **Commissioners present were:**

Rob Coleman, Jay Joseph, Sharon Scott, and George Wallace.

### **Commissioners not in attendance were:**

David Wasson

### **Executive Director**

Mr. Michael Giardino, C.M.

### **Assistant Executive Director**

Ms. Melissa Cheaney, A.A.E.

### **Director of Finance and Administration**

Ms. Renee Ford

### **Director of Air Service, Marketing and P.R.**

Ms. Jessica Wharton

### **Legal Counsel**

James S. McNider, III, Esq.

### **Executive Assistant**

Ms. Rhonda Wissinger

### **Public in Attendance**

Walter Jubien, Jr.

Jerri Wilson-City of Newport News

Peter Dujardin-The Daily Press

Viveca Munger-Legal Assistant

## **COMMENTS FROM THE PUBLIC**

None

## **PRESENTATIONS TO CHAIRMAN WALLACE, COMMISSIONER MALLON AND WALTER JUBIEN, JR.**

Mr. Giardino, Executive Director, asked to save Chairman Wallace's presentation for last and announced that former Commissioner Steve Mallon was not able to be here for his presentation. Former Commissioner Walter Jubien was in attendance and Mr. Giardino asked Chairman Wallace if he would do the honors of recognizing Commissioner Jubien.

Chairman Wallace thanked former Commissioner Jubien for his service and stated that his absence will be noted and his contributions will be missed. Former Commissioner Jubien stated that he hopes the Airport will grow and for all local municipalities to be happy. He thanked Chairman Wallace and the Commission and stated it was an honor to be on the Commission.

Mr. Giardino, Executive Director, invited Commissioner Rob Coleman to join him in the presentation to Chairman Wallace. Mr. Giardino thanked Chairman Wallace for their time together and that he is grateful that Chairman Wallace was the Chairman that brought him here to the airport. He also said that this is a great place to work and that he is working with wonderful people. Commissioner Coleman thanked Commissioner Wallace for his leadership over the last couple of years and said that he led us through some turbulent times and has persevered and he thanks him for his service.

## **APPROVAL OF MINUTES OF COMMISSION MEETINGS HELD MAY 18, AND MAY 24, 2018**

**RESOLVED**, that the Peninsula Airport Commission approve the minutes of the Commission meeting held May 18, and May 24, 2018.

Commissioner Rob Coleman made the motion to adopt the May 18, and May 24, 2018 minutes and Commissioner Jay Joseph seconded the motion.

Voting yes were:

Rob Coleman, Jay Joseph, and George Wallace.

## **ASSISTANT EXECUTIVE DIRECTOR**

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

- Perimeter Road- working with FAA to finalize grant application for

- perimeter road design we talked about at the last meeting.
- Capital Plan- working with staff on the Capital Plan and prioritizing projects to move forward with for FY19. Also, looking ahead to 2020 and incorporating feedback from the last Commission meeting. Ms. Cheaney and Ms. Ford are working on the Entitlement Utilization Report and plan to submit it to the Department of Aviation. It will be due July 15<sup>th</sup>.

## **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 May were increased by 4.2%. This is the second month in a row we were increased in passenger numbers. For the month of June, we may be increased but we may also be flat because American Airlines had a computer glitch in their tracking system. Everything flowing through Charlotte was cancelled and we had 48 cancellations that impacted us. That will be significant when looking at numbers for the month of June.
- FY19 advertising plan is underway and we are making some tweaks to the logo, there are some website changes we will be making and we sent out a press release about the seating changes on the Commission and also Mr. Giardino's award for the Hearing Loss Association of America. This was picked up by a publication called Centerlines which is an ACI publication.

Chairman Wallace asked where we are in reference to the "Welcome" signage we had been working on. Ms. Wharton reported that we have a draft of it and incorporated the different municipalities as Commissioner Scott had recommended but it didn't seem to work well and now that we are planning to improve the logo we wanted to wait so we could incorporate our new logo into the signage.

Mr. Giardino, Executive Director reported that we are trying to capture as many municipalities as we can and our governing municipalities will have prominence but it is important to have them all. We are in the process of trying to improve the logo to incorporate that as well but the sign needs to be tasteful and easy to read.

## **DIRECTOR OF FINANCE & ADMINISTRATION**

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

Ms. Ford reported the Airport's revenues were 6.6% above budget and 14.2% above last May 2017. Our expenditures were 1.3% above budget and 11.4% higher than last May 2017.

Ms. Ford reported that the restaurant had a record-breaking month with net sales of \$57,000.00.

Now that our State funding has been re-established we were reimbursed for fire truck tires that were eligible for re-imbursement through State funding.

We also received a letter from the FAA saying they had approved the remaining reimbursement for the Consolidated Checkpoint and the remaining funds should be reimbursed within the next 30 days.

## **EXECUTIVE DIRECTOR'S REPORT**

Mr. Michael Giardino, Executive Director, gave the following report:

- Community Outreach continues, Mr. Giardino spoke to the Poquoson Exchange Club the evening of June 27, 2018.
- Hearing Loss Association of America-Mr. Giardino went to Minneapolis to accept his community service award from the Hearing Loss Association of America on June 21, 2018. Mr. Giardino reported that this is technology he incorporated into his last airport in Rochester that could also be incorporated at the airport here.
- Mr. Giardino gave a presentation at the Hampton Roads Air Service Forum held by the Hampton Roads Chamber on June 26, 2018. Mr. Bill Swelbar is a consultant the Hampton Roads Chamber hired and he works for MIT and sits on the Board of Directors for many airlines. He concurred with the PAC's strategy of going after large carriers. People need connectivity and options. Our focus remains on getting the large carriers to include United service and to add more options with Delta and American Airlines flights (our legacy partners). Commissioner Joseph stated that part of the reason for the Forum was whether or not we should have a Regional Authority and the question was met with little enthusiasm in the crowd. Mr. Giardino stated that Mr. Swelbar did our last leakage study and he said it is up to the Community. Ms. Wharton hosted a corporate Travel Manager's meeting here and we will continue to connect with the community to get our name out there. The consultants we hired (CMT) for air service were complimented by Bill Swelbar also.
- Mr. Giardino and Ms. Wharton are working on something called a Commissioners' Corner. This will be off of our website and this space will be for Commissioners' to check email. For records retention, personal email can't be used for Commission business. This will be off of the public website and we will propose to have a place for agenda's, meeting packets, by-laws, organizational staff, working documents, leases and other Commission information.

Commissioner Joseph asked how we are keeping track of Audit? Is there a closeout report? Mr. Giardino stated that all items have been completed since his arrival. Commissioner Joseph asked if he saw any closeout report or response to the Audit, a follow up step that Mr. Wanner, Interim Executive Director, took? Mr. Giardino stated that there was a letter from Aubrey Layne. Commissioner Coleman said that it was the January letter that Secretary Layne sent saying he accepted all of the actions we had taken to address the issues in the audit and he was satisfied with that. Mr. Giardino stated that he has read the audit and we are making sure that the changes we are making are aligned with the audit.

### **APPROVE FIREHOUSE LEASE AGREEMENT**

Mr. Jim McNider, legal counsel, reported that the Firehouse lease with the City of Newport News was put in the meeting package and the Executive Director has negotiated a five-figure lease on an annual basis. Currently, we have not been collecting fair market value on the lease which is unacceptable to the FAA.

**RESOLVED**, that the Chairman or Vice Chairman of the Peninsula Airport Commission (the "Commission") is hereby authorized and directed to execute the final version of the lease once it comes from the City of Newport News.

Commissioner Rob Coleman made the motion and Commissioner Jay Joseph seconded the motion.

Voting yes were:

Rob Coleman, Jay Joseph, and George Wallace.

### **GOVERNANCE REVIEW RFP**

Commissioner Joseph reported that we have received 4 responses to the Governance RFP that was due on Friday, June 22, 2018. Mr. Giardino has not opened them yet. We need to have a committee review the RFP. The current Governance Committee consists of Commissioner Jay Joseph and Commissioner Sharon Scott. What is the Commissions' desire on who would review these and who would help with the recommendation? Chairman Wallace suggested that Commissioner Joseph and Commissioner Scott review them and bring recommendations back to the Commission at the next Commission meeting. Commissioner Joseph asked if there were other stakeholders to bring in? Commissioner Coleman said to maybe bring in someone else in a leadership position from other localities or from the Commission. Mr. Giardino recused himself from the process because this is a Commission item but said that staff can help in any way, including grade sheets. Maybe we could have someone from a governing municipality help. Commissioner Joseph stated that the RFP had different processes for professional and non-professional services. We have a professional services RFP. The process would be to review, engage in discussion with 2 or more offerors deemed qualified, come back to the Commission with a ranking and then

choose one of the offerors, or we could identify the choice, engage in negotiations and present the contract to the Commission. We could either do the 2-step process or the 1 step process. There is also a Professional Services exception that says for single or term contracts less than \$30,000 competitive negotiation is not required and he is not sure where this will fall in that. Commissioner Coleman stated that for the sake of time, he thinks we should do the 1 step process of reviewing, negotiating and then presenting the contract to the Commission. Commissioner Joseph stated if we can get this done in the next 30 days we will.

### **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 claims made against the Commission by Ken Spirito.

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

Voting yes were:

Rob Coleman, Jay Joseph, and George Wallace.

The Commission entered into a Closed Meeting at 8:42 a.m. and reconvened in Open meeting at 9:08 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, Jay Joseph, Sharon Scott and George Wallace.

(Commissioner Scott arrived at 9:00 a.m.)

## **NEW BUSINESS**

Commissioner Scott asked about the training space at the Aviation Academy and if the group ever talked to them about the possibility of using their space. Ms. Cheaney, Assistant Airport Director said the Civil Air Patrol and Dr. Aaron Smith, head of Aviation Academy, are discussing this but we have not heard back what the results are yet.

## **OLD BUSINESS**

Commissioner Joseph reported that Alan Diamonstein, Esq., who is representing W. M. Jordan, contacted him this morning and a letter was hand delivered to him by W. M. Jordan that we need to address. We need to update them on where we are in lease negotiations. Mr. Giardino stated that lease terms have been negotiated. A survey was done on the property and wetlands were found on the site that was chosen by W. M. Jordan that we are addressing and Ms. Cheaney said that we have had very positive meetings with the construction team with W. M. Jordan and they seemed satisfied. These are concurrent things that we are working on and we stay in contact with them almost on a daily basis. Mr. Giardino will let legal counsel speak to the lease as there were some issues with the terms, not the business terms or fair market value, but other terms. Mr. McNider stated after we got the draft back from W. M. Jordan counsel we received word that it is not W. M. Jordan that wants to lease the hangar but Air Jordan, and further that Air Jordan could not do the transaction unless it was supported by a secured collateral loan from TowneBank. Once we found out that TowneBank would have a lien on our property we explained there were certain FAA restrictions that would prohibit it or make it difficult to do as a transaction. Mr. Giardino and Mr. McNider reached out to Anderson Krieger, same firm that has worked with us on FAA compliances, and we received a legal opinion from them. Mr. McNider said they met June 15 with W. M. Jordan and explained it was a difficult transaction and that we don't permit liens on airport property. W. M. Jordan didn't want to do the deal if not secured by TowneBank but have now changed their position and we can get back to work on the lease. Mr. Giardino assured the Commissioners that staff has spent a great deal of time on this with emails and phone calls on a daily basis. Commissioner Rob Coleman asked if we have an estimate on when the lease terms will be met? Ms. Cheaney said there is the environmental issue where we are working with the Corps of Engineers, we expect a response from them in the next 30 days to verify our permit which identified wetlands. Concurrently, once the corps agrees with that or changes their determination we will submit to the FAA a categorical exclusion, at the same time we submit that to the FAA, we will also submit our permanent process for the wetlands. Average time is about 30 days but could be up to 60 days, so we are looking at 60 days for the Environmental/FAA coordination perspective. Commissioner Joseph asked so the Corps of Engineers could take 30 days and then the FAA 60 days? Ms. Cheaney said the Corps could take 30-45 days and then the FAA's turnaround time is usually 30 days but could be 45 days so optimistically we are looking at 60 days, worst case scenario 90 days. Mr. McNider stated that we intend to have a lease prepared and ready for execution and approved for delivery before the environmental conclusion.

Commissioner Joseph asked if he could address the first three sentences of the third paragraph of the letter saying we are not being responsive. Mr. Giardino stated that he didn't agree with that. Commissioner Joseph stated that if we are being responsive, we should state so in writing. Mr. Giardino said he would be happy to write a letter and reference emails, meetings and phone calls because he has record of them. Chairman Wallace asked if we could offer alternative property? Ms. Cheaney said we could and the property has less delineation of wetlands and we did offer it to Mr. Lawson and Mr. Smith but there was no desire to use that property, they still wanted the property they originally indicated. Chairman Wallace asked if we could get a pre-ordained approval to construct? Ms. Cheaney stated per Commissioner Joseph's suggestion at the last meeting, we expanded the categorical exclusion to include all of the land in that area, which is the entire row and the wetlands delineation will be all encompassing.

Commissioner Joseph asked if we had a written opinion from Anderson Krieger and Mr. McNider said yes. Commissioner Joseph asked to see it and Mr. McNider said he already had send it to him. Commissioner Joseph said there were things W.M. Jordan could do in the 60-90 days that we are waiting and it was only fair to them to finish up the lease. He asked how long that would take. Mr. McNider said it depended on how quickly they agree. Mr. Giardino said that up until Tuesday afternoon they insisted on secured financing with a TowneBank lien. Commissioner Joseph asked if that was the only issue, Mr. McNider reported that there are many issues. They want to use a different company than W. M. Jordan which will impact the way we write the provisions for the lease. Commissioner Joseph asked if there was a redlined version of the lease? Mr. McNider sad no, we stopped talking about it once the financing issue came up. The sequence was a draft was in progress, we sent them one in May and received a redlined draft from a company called Air Jordan, LLC and not W.M. Jordan.

Commissioner Joseph said that's not unusual for a tenant, that is common practice. Mr. McNider said the Commission will need to decide if they are willing to take another company as a lessee then we can proceed but that is an issue of whether or not the financial stability of the lessee is important. Commissioner Joseph stated that we have been talking about the lease for 90 days, there are multiple disagreements on the lease other than financing and he is asking if we have reduced our disagreements to a set of comments or redlines? Mr. McNider said no because they changed the deal on us because they wanted financing and then they stopped talking to us about the lease terms. Commissioner Joseph thinks they have a legitimate complaint. Chairman Wallace stated that regardless of the claim of who is being negligent or not, we need to fix it quickly. Commissioner Joseph said there is usually a redline document that defines the disagreements. Mr. McNider said there is not. Chairman Wallace said we want this to happen so we are saying let's get it done and expedite the procedures necessary and make this a priority. Commissioner Coleman said to get a list of what they are requesting and what we are requesting and let's go from there. We need to open the lines of communication and make this a priority. Mr. McNider said he agrees but to defend the track we have taken we have been very responsive. Commissioner Coleman asked how long does it usually take to finalize a hangar deal. Mr. Giardino stated it could take over a year if you don't agree on terms. Mr. Giardino stated emails are answered immediately and he doesn't understand the W. M. Jordan letter. We went through the lease page by page 2 weeks ago. Commissioner Scott asked who went

through the lease? Mr. Giardino said Skip Smith, Jim McNider, W. M. Jordan's attorney, and Viveca Munger. They couldn't get past the one issue so therefore, there are no other redlined items. Mr. McNider gave them a draft back in May. Mr. McNider said we gave them a draft lease containing 90% of what was needed 2 weeks ago. We have not put into one document our language vs. their language. Now that we have gotten past the TowneBank lien issue we can proceed on. Commissioner Coleman asked how long will it take to develop a draft now based on the present conversations. Mr. McNider said less than a week. Commissioner Coleman said before next Friday they should have a rough draft before their counsel. Mr. McNider said absolutely but the Commission will have to agree with this. Commissioner Coleman said if we need to get together to have a special meeting for this we could do that. Mr. Giardino said we certainly could do that. Chairman Wallace said it should be brought to the Commission once it is more finalized. Commissioner Coleman asked Mr. McNider to get something to us by July. If we need to call a special meeting to work this out, we can. Everybody wants this to happen, we would like for this to happen pretty quickly. Mr. McNider said the lease will be finalized before the environmentals. Commissioner Joseph said let's get the lease signed so we can secure it, because they are losing money and we are losing money. Chairman Wallace stated the direction is to get it done but have our I's dotted and T's crossed. Commissioner Coleman asked that the Commission be kept up to date on any more road blocks with this project.

Commissioner Joseph stated that in reading the Procurement policy it said that we are to maintain diversity data and is that a report filed each year? Mr. Giardino will get back to Commissioner Joseph with an answer.

Commissioner Joseph asked where we are with the Kentucky Farms lease. Mr. Giardino said it's not ongoing. The lease is current and under Mr. Jensen. If the PAC wishes at the termination of the lease or before that, we could issue a RFP for that property. Commissioner Joseph said that it might take a year for someone to move horses and relocate them so unlike a lease that might be negotiated a few months before expiration, we should try to have an agreement in place a year in advance of the expiration to ensure that the current horses are likely to stay. Commissioner Coleman said we can't just do an extension and Mr. Giardino said no we would need to issue an RFP. Commissioner Joseph said we need to issue the RFP. Mr. Giardino said we will do it immediately.

Commissioner Joseph asked about the RFP for legal services that had been done when Mr. Wanner was here but it had not been acted on. What would the Commission like to do in terms of the RFP? Commissioner Coleman stated it was an emergency procurement when we hired Mr. McNider. Mr. Giardino stated that Mr. McNider responded to the RFP and it was issued back in July 2017. They were reviewed, scored and possibly recommended. Commissioner Scott said he didn't recommend anyone and that she thinks it would be appropriate to re-issue the RFP. Commissioner Coleman asked if we had any obligation to the people that responded. Mr. Giardino said no that we could send them letters and re-submit the RFP.

Chairman Wallace expressed his appreciation of the Commission allowing him to sit as their Chairman for the last 2 years.

**ADJOURNED**

There being no further business, the meeting was adjourned at 9:52 a.m.

**NEXT MEETING**

The next regular meeting of the Peninsula Airport Commission will be held on Thursday, July 26, 2018 at 8:00 a.m. in the Commission Room.