

**CURRITUCK COUNTY
AIRPORT ADVISORY AUTHORITY
MINUTES OF MEETING OF
FEBRUARY 15, 2006**

The regular monthly meeting of the CCAAA was held on February 15, 2006, at the Terminal Building Conference Room. Members present: Tracy Eure, Chair, , Denise Hall, Ed Ish, Bob Kohler, Jerry Old, and Richard Turner. Also present: Commissioner Paul Martin, Wayne Leary, Economic Development Director, and Katherine McKenzie, County Attorney. Guests: David Messina, Leland Gibbs, Jim Winebarger, Benjamin Landron, Sean Robey, Mario Asaro and others. Member absent: Tom Brady.

1. **Call to Order** – Chairman Eure called the meeting to order.
2. **Additions or Deletions to the Agenda** – Mr. Leary suggested deleting discussion of fuel report in the interest of time. Mr. Messina requested to give a follow-up report on airport safety from last meeting. Chairman Eure placed under Old Business. Mr. Kohler moved to approve the agenda as amended. Ms. Hall seconded the motion. Agenda was approved.
3. **Approval of Minutes** – Mr. Kohler asked for clarification on Commissioner Martin's statement regarding a full-time Airport Manager. Mr. Martin responded that it would be considered at next fiscal year budget time. Mr. Kohler also asked about the FBO agreement regarding permission to sell products in the Terminal Building. Mr. Leary was to obtain a copy of the agreement for the Authority. Mr. Kohler moved to approve the January 18, 2006, minutes. Motion was seconded. Minutes were approved as submitted.

4. **Fuel Report** – Deleted

5. **Old Business**

➤ **Approach Zone Land Clearing**

Mr. Leary gave an update on clearing of the approach zone. He had met with the subcontractor, Mr. Temple, working under Barnhill, and was negotiating with him for a quote. Due to current technology, it appeared that the clearing process would be simplified and less expensive than the previous clearing. With proposed equipment, non-marketable trees could be shredded in place and the wood chips left on site, if approved by the Corps of Engineers. This process had been used at other airports and he expected to receive Corps approval. Once the proposal had been received and a purchase order processed, it was estimated that the work could be done on a short timetable, according to the engineers.

➤ **2007-2011 TIP Submission Project Concurrence & Certification**

Mr. Kohler questioned Commissioner Martin as to whether the TIP had been approved by the Board of Commissioners. He indicated that it had been approved. Mr. Leary was to monitor the progress.

➤ **Dave Messina-Update on Airport Safety**

As a follow-up to the discussion with the County Fire Chief at the last meeting, Mr. Messina talked with the Fire Marshal, Mr. Mims, who had been tasked with looking over the property for recommendations on fire extinguisher placement. He related that Mr. Mims was not clear on how he was to report on his findings. He wanted to point out that 30 days had now passed and the Authority had not received any plan.

Regarding the Airport Emergency Plan (AEP), Mr. Messina explained that an AEP is entirely different from mutual aid response. Every airport is required to have an AEP in place and reviewed every 12 months. In the event of an accident, investigators would request a copy of the AEP. He said Mr. Mims had no knowledge of an AEP.

Mr. Messina distributed a copy of a letter he had supplied Mr. Scanlon regarding training requirements for airport fire service needs. The letter provided a schedule and pertinent information on the next available class; however, there were problems with finding people qualified for the training.

Mr. Messina recommended that Mr. Leary prepare the AEP for approval of the Authority. Ms. Hall stated that Mr. Scanlon had indicated that the county has an emergency plan for the airport although she had not seen it. Mr. Kohler had visited Emergency Management who only had numbers to call (points of contact) in case of various emergencies but no plan as such. He didn't know what the various points of contact had in place for emergencies. Commissioner Martin noted that this was certainly something Mr. Leary could work on. Mr. Kohler volunteered to download plans from the FAA website for Mr. Leary.

A slideshow of the training Mr. Messina had referred to was then shown.

➤ **North Carolina Airport Conference**

Mr. Leary reported that the conference would be held at Sea Trail in Brunswick County. He did not have the dates but gave members information on the website to visit. He asked that they contact him if they planned to attend and he would make reservations. He encouraged all who could to attend.

6. New Business

➤ Hangar Leases and Hangar Waiting List

Chairman Eure indicated that there were issues with hangar leases arising with the death of Charlie Foy. Mr. Foy leased two hangars. One was empty and immediately went to Mr. Harvey Taylor, first person on the waiting list. The second hangar held a plane which the heirs subsequently sold; and the new owners assumed that the hangar would be transferred with the plane. Chairman Eure stated the question was whether the wishes of the new owners would supersede the hangar priority list.

Ms. Katherine McKenzie, County Attorney, was introduced to make a presentation of the facts and issues. Since Mr. Ish and Chairman Eure both have an interest in the outcome of the Authority's decision, she felt they should request to be recused from action on the proceedings. Ms. Hall asked about the policy and procedure issues regarding the waiting list. Ms. McKenzie related that Chairman Eure could be next in line to receive a hangar. Mr. Kohler stated that if all interested parties were recused, the decision would be left to three members, and he wasn't sure they wanted to do that. Mr. Old related that the issue was not under the authority of the Advisory Authority, but of the Airport Manager who also maintains the waiting list.

Ms. McKenzie stated that the first policy to consider would be the hangar waiting list policy. Mr. Turner requested that all the information be presented before the recusal. Ms. Hall asked if this was a legal issue. Ms. McKenzie replied that it is not a legal issue but a policy issue for the Authority to decide. Ms. McKenzie related that when Mr. Foy passed away, the family inherited the plane. When they sold the plane, the lease ended with Mr. Foy and the next person on the waiting list was eligible for the hangar. The lease states that the hangar cannot be sublet or assigned by the leasee. She directed the members' attention to item #6 on the waiting list policy which states that the holder of a space on the waiting list who sells an airplane can elect to let this space go to the new owner or base another aircraft in place of the one that is sold and maintain the original position on the list. That is not for someone who is currently in a hangar. Therefore, this would not be a legal issue. She felt they needed to address the issue of whether they want the policy to be that the hangar could go with the plane if the Foy family did not want to replace it with another plane. In other words, does the hangar go with the plane, which has been purchased by Leland Gibbs and Jim Winebarger, or with the individual? When asked about what was done in the past, Ms. McKenzie related that prior decisions were made by the county to let the hangar go with the plane. For example, there was a transfer request from Mr. Clark to Mr. & Mrs. Robey in 2004, the decision made by the county.

There may have been other instances. However, she emphasized that the Authority needed to address the issue and adopt the policy they felt was correct.

Mr. Ish stated that he would abide by whatever decision the Authority made, but the issue was the hangar waiting list. He had researched the issue by contacting other airports, and no other airport made the same requirements that the county does, such as tie downs, taxes, etc. They operate on a first come, first served basis. Persons may have to pay a designated amount to remain on the waiting list. He moved that the Advisory Authority clean up the waiting list issue.

Ms. McKenzie indicated that Mr. Gibbs and Mr. Winebarger had brought up some issues about the qualifications of some of the people on the waiting list.

Mr. Turner asked when the priority list was generated and what criteria it was based on.

Mr. Kohler moved that Chairman Eure and Mr. Ish be permitted to recuse themselves from voting. Mr. Turner and Ms. Hall seconded the motion. Motion passed.

Ms. McKenzie had several waiting lists; however, she explained that she had only been employed by the county for six months and the staff member who maintains the waiting list, less than six months. She directed attention to the waiting list of 10/4/2000 when only one hangar building existed, and explained how it was maintained. In June 2004, the Finance Office contacted everyone on the list asking their intentions regarding remaining on the list; and a new list was constructed based on those replies or lack thereof. The November, 2005, list indicated that mailings had gone out to hangar leasees. She explained changes. The last list distributed was just the waiting list minus the renter list. A few names have recently been added.

There was further discussion on how names were moved or dropped. Mr. Ish questioned the fairness of the list and restated the need for simplification. Ms. McKenzie re-emphasized the necessity of clarifying the policy. Mr. Kohler noted that, irregardless, persons on the list were apprised of the rules and policies and, by placing their names on the list, they agreed to abide by those rules and policies. He agreed the policy should be reviewed, but as of now, it is still in effect. He further noted in Paragraph 7 of the Rules and Regulations, the CCAA reserved the right to make changes in case of conflict or disagreement in the enforcement of the rules. Ms. McKenzie agreed but stated that any changes would need to go back to the Board of Commissioners for approval. At that time, any party which disagreed with the change could appear before the Commissioners.

Ms. McKenzie also stated that she had the tax payment history list for those persons presently on the waiting list.

Mr. Leary stated that, at the time the policies and rules and regulations were adopted, County Manager Bill Richardson was the Airport Manager. Dan Scanlon assumed that position when he replaced Mr. Richardson as County Manager and remains the Airport Manager. Mr. Leary further stated that at no point has he been Airport Manager.

Ms. McKenzie prefaced the public comment session by stating that, in light of the policy as it stands, she and Mr. Scanlon agreed that it was the county's position that the hangar in question should be leased to the person in the first position on the waiting list. Mr. Gibbs and Mr. Winebarger were given first comment. Mr. Winebarger had documented their position and listed those for the Authority. He related that, based on the minutes of the meeting in 2000 where the policy was discussed, at least on three occasions, a hangar had been passed with the plane. Consequently, he and Mr. Gibbs believed that would continue to be the policy in their case and, having discussed it with the County Manager/Airport Manager, they went forward under that assumption from November 2005 until just recently when they were asked to produce documentation to substantiate their right to assume the lease. He remarked that there were too many questions about the waiting list.

Mr. Gibbs gave some of the history of the airport. He related that, in the early days of trying to build up the airport, more planes were needed; therefore, it was allowed that the hangar pass with the plane. Rules were made and, in order to qualify for a hangar, he followed the rules. Anyone who has not followed the rules does not deserve to remain on the waiting list. However, he felt that the county has allowed the list to be degraded by not checking more closely whether rules were being followed by those on the list. He challenged the list as it stands since he feels mistakes were made and, for recent years, the list was not available to the public. He also challenged the Authority to exercise its right to deal with conflicts and disagreements and resolve the issue.

Mr. Winebarger made the following requests:

- That the Authority review the matter of hangar transfer and execute hangar lease as requested on numerous occasions.
- That the Authority update policy rules to reflect current operating procedures.
- That the waiting list be audited and certified that all parties are in compliance and in correct priority order.
- That a copy of all airport rules and regulations, policies, waiting list and other documents of public interest be available for public viewing at the Airport Terminal Building

within 60 days and that all subsequent updates be maintained at that location.

He felt that, if these matters were accomplished, there would be much less confusion and misunderstandings.

Ms. McKenzie wanted to clarify that the document Mr. Gibbs and Mr. Winebarger were referring to with regard to the hangar passing with the plane was the October 19, 2000, Airport minutes.

Mr. Landron related that he agreed that the rules and policies should be reviewed and suggested that policies relating to tie downs should also be addressed and clarified.

Mr. Robey reviewed his affiliation with the airport and his experience with purchasing a plane from Mr. Clark. He related that a condition for buying that plane was that he also assume the hangar lease. He was told that had been the practice, and he approached Mr. Scanlon for his approval, which he received. He also related that Mr. Clark also purchased another plane, and the hangar in which that plane was stored was transferred to Mr. Clark. Ms. Hall asked if Mr. Scanlon brought the request to the board; Mr. Robey replied that he did not.

Mr. Kohler agreed that the decision rested with the Airport Manager and he felt that the issue should not be the responsibility of the Airport Authority.

Ms. McKenzie related that what was being questioned was whether the board disagreed with the decision and, if so, whether the policy needed to be changed. The board again stated that if the decision had been made by the Airport Manager, then the only thing before the board was whether they agreed with the policy and, if not, whether to change the policy for future situations, not the present situation.

Mr. Robey related more of his situation as he has purchased another plane. He is also on the waiting list. He questioned the priority list and felt that it certainly needed to be cleaned up. He also stated that, regarding the transfer of hangar leases, some members of the board were aware that this practice was taking place and, if they had a problem with it, they should have registered a protest with the Airport Manager. He recommended that the current practice be upheld until a complete revision was accomplished. Ms. Hall noted that several board members were new and not aware of the issues. Mr. Robey encouraged the board to exercise the authority given them by the Board of Commissioners.

Mr. Messina remarked that there had been a hangar waiting list, a priority list and a tie down list since the Advisory Authority began. He recommended that the board advise the Board of Commissioners of the

need for more hangar spaces and more buildings. Ms. Hall stated that the board had made recommendations for more hangars.

Mr. Asaro challenged the remark that board members knew of the practice of transferring hangars. Mr. Old admitted that he knew of the practice.

Mr. Ish explained his position. He knew he was at the top of the priority list and that Mr. Foy's hangar would soon be available. However, when he contacted the Finance Office, he was given documentation showing that his entitlement could be circumvented by persons purchasing Mr. Foy's plane, although he learned that no lease had been executed. He questioned the fairness and integrity of the waiting list. He pointed out item 6 on the hangar lease which states that hangars may not be sublet and contended that conveying the hangar with the plane was illegal according to the lease. Moreover, the price of the plane was inflated due to the advantage of getting to keep the hangar, which was questionable also.

Mr. Kohler recommended that the Airport Manager handle the matter and make the decision based on the priority list after the priority list has been validated and is compliant with the rules and regulations. He felt the Airport Manager had made his decision in the past without coming to the board. In this issue, he had also made his decision and was asking the board to confirm his decision. He didn't feel the board should be put in that position.

However, Mr. Kohler also expressed that the decision which had been made in the past was not in line with the policy.

Ms. McKenzie asked for clarification. She wanted to know if the board was in agreement with the Airport Manager's decision to allow the hangar to go to the first person on the waiting list after the list has been cleaned up.

After several members' remarks regarding previous decisions, Commissioner Martin interjected that, in fairness the Manager, it should be noted that this practice had never been contested in the past. It had not been brought to the attention of anyone. Had it been challenged in 2000 and 2002, then the board would have had to look at it and say the policy had to be adhered to; however, "this is the first time this issue has been raised and we have to live with what we've written."

Mr. Gibbs questioned when the policy was going to be applied, from that date or before? Ms. McKenzie stated that, since no lease had been signed, it would be effective with this situation.

Mr. Kohler restated his motion, that the County Manager, who is also the Airport Manager, is duly responsible to validate the waiting list and make

the decision based on the data who gets the hangar based on the current policy. Ms. Hall questioned “based on all criteria?”

Mr. Kohler stated that, according to the rules, the board could make the decision that the Manager was wrong and give the hangar to someone else, but he did not think that was fair to the Manager.

Mr. Gibbs asked that the board look at what the intent of the board was and, if the board doesn’t agree with that intent, change it so that the hangar does not go with the plane. Ms. Hall stated that the board would be revisiting the policies and procedures.

Mr. Turner was not comfortable with the board making the decision as to who gets the hangar.

Mr. Kohler amended his motion to add that the County Manager be directed to not assign the hangar in question until all lists are validated and brought back to the board for review.

There was further discussion on the board’s authority and whose authority prevailed, the board’s or the Manager’s. Ms. McKenzie stated that any decision made could be appealed to the Board of Commissioners.

Mr. Kohler withdrew his motion.

Ms. Hall made a motion to follow the Airport Manager’s position and his decision, but that he update the priority list based on all criteria and that the board confirm that all qualifications have been met before executing the contract. Mr. Kohler seconded the motion.

Commissioner Martin restated the rights given the board by # 7 of the rules and regulations.

Ms. Hall stated that her motion stood. She wanted everything to be governed by the rules. A vote was taken and the motion carried.

7. Closed Session

Mr. Kohler moved to go into closed session under North Carolina General Statute § 143-318.11. Ms. Hall seconded the motion. The board went into closed session. Mr. Leary maintains the closed session minutes.

There was a motion and second to come out of closed session.

8. Adjourn

There being no further business, the meeting was adjourned.

