

**Boca Raton Airport Authority
Emergency Meeting Minutes
April 3, 2013
Boca Raton City Hall - Council Chambers**

Chair Frank Feiler called the meeting to order at 10:00 A.M.

MEMBERS

Frank Feiler	Chair
Paul W. Carman	Vice-Chair
Bruce Benefield	Secretary/Treasurer
Cheryl Budd	Member
Gene A. Folden	Member
David Freudenberg	Member
Bill Schwartz	Member

COUNSEL

Dawn Meyers

STAFF

Janet Sherr, Director of Landside Operations
Paul McDermott, Assistant Airport Manager
Kimberly Whalen, Public Affairs Director
Arthur Rubin, Finance Manager
Russ Buck, Noise Abatement and Security

The meeting was televised live and videotaped for broadcast at a later date. The meeting was also streamed live to the Boca Raton Airport Authority website, www.bocairport.com.

Mr. Feiler stated that Mr. Day's mother had suffered a stroke and a heart attack and asked everyone to think of him and his family at this difficult time.

Mr. Feiler welcomed the Mayor of Boca Raton, and all others present. Mr. Feiler stated the purpose of the meeting was to discuss the Closure of the Control Tower and consider various options that are available.

AIRPORT MANAGER & STAFF REPORTS

Mr. McDermott stated that the Federal Aviation Administration (FAA) has ceased funding for 149 air traffic control towers, and as a result they will begin closing through a three phase close-out on April 7, 2013, April 21, 2013 and May 5, 2013. The Boca Raton Airport's Control Tower is scheduled to close on May 5, 2013. The airports affected have joined efforts and have continued lobbying through their local, state and federal representatives. There are several airports that have filed legal actions and the purpose of this meeting is to discuss these.

Ms. Meyers stated that a book was provided to the Members of legal suits that have been filed that may be of benefit to the Airport Authority. Ms. Meyers stated that the primary suite filed is Spokane Airport's Case. It appears that most of the other cases will be consolidated with Spokane. There is a legal analysis circulating by lawyers of Spokane that the likelihood of permanent relief is very low. They are looking and hoping for a temporary stay. The basis that they are claiming is the FAA has failed to put safety first. In all of the correspondence

received from the FAA they are quick to note that safety is their #1 priority and that many airports operate safely without towers. Ms. Meyers also stated that the Director of the American Association of Airport Executives (AAAE) is filing a suit on behalf of its members.

Ms. Meyers provided the Airport Authority's Legal Options:

1 - File an individual petition, 12-14 airports have filed, many in groups but there are petitions we could follow in short order and little expense to at least get filed in DC Federal Circuit Court. Some expense, but we would be a stakeholder;

2 - Intervene in one of the pending suits, such as Spokane, would be more costly and we would be subject to the primary party's options;

3 - Allow ourselves to be covered by the AAAE law suit, but there is a question if we would have associational standing or just solely the AAAE. There would be no cost, except for a donation of \$500-\$1,000 to help defray legal expenses. No required financial obligation.

4 - Do nothing. This will not provide the Airport Authority with a seat at the table. The current lawyers filing suits have stated that chances are slim but if you are not at the table, there is no chance at all.

Discussion ensued regarding the various law suits that have been filed by other airports and the cost associated with filing our own law suit or joining another airport due to the uniqueness of our airport.

PUBLIC COMMENTS

Neil Hanie - 800 Cypress Way Camino Gardens, Boca Raton - Board Member of the Runway 5/23 Condo Association - stated there are other options than legal, would like a discussion of the board for plan B or C. Mr. Hanie stated when May comes and funding is withdrawn, the Airport Authority should be prepared to fund the tower. Broward County came up with money and the tower will remain open. Mr. Feiler stated - POINT OF ORDER - not on topic. Mr. Hanie closed his comments.

Charles Morgenstein - 8000 F. Federal Hwy, #207 Boca Raton - stated the situation is fluid. Mr. Morgenstein stated that he is an attorney, and there is not much of an option and the Airport Authority is in a position where they need to file something legally, but would rather see the Airport Authority spend money to keep the tower open. But if there is a chance, the Airport Authority has to take it. Mr. Morgenstein stated that the Airport Authority should pursue filing an individual petition and consolidate in filing with other petitions. He also stated that the Airport Authority should look into hiring a co-counsel in Washington, DC. Stating there appears to be no real benefit in joining the Florida cases as opposed to other cases as they will all wind up in same case since this is a political issue not a legal issue. Mr. Morgenstein stated that sooner or later this will resolve itself politically, not legally. He also stated that the airport is not unsafe without a tower, but less safe and does not want to see the tower abandoned. The Airport Authority should keep the tower operational and fund it if necessary.

Charles Brady - 4800 Banyan Drive, PH 5, Ft. Lauderdale - stated that if multiple cities within state are seeking action and this is a state owned airport, why not ask the State Attorney's

office to bring a civil action. He stated that if the cause of action is similar and facts are similar but different and affects state, they should pick up the tab. Facts may be different, but if cause of action are similar, then it's a minor difference, and the Airport Authority should intervene. Mr. Brady stated as a pilot, he would rather see money spent for a permanent source then something that is new and fluid and unchartered. He stated this is politically motivated and suggested that if the Airport Authority goes forward with a law suit to limit the financial exposure as the money is better spent on the users of the airport.

Lenore Wachtel - 828 Forsyth Street, Boca Raton - stated she is totally against closing the tower expressing the liability exposure for the Airport Authority would be huge if there was an accident. She also stated that she is against a legal action as it is throwing money away. Ms. Wachtel would like to see the Airport Authority impose surcharges on landings. The surcharge would be minimal and on 50,000 operations it would be effective.

Jonathon Burls - 3900 Airport Road, Boca Raton - Owner of Reliable Jet Maintenance and Aviation Jet Maintenance - thanked the Airport Authority for paying attention to this matter. He stated that the Airport Authority should stand alone on the law suit, and offered a financial contribution from his company. Mr. Burls stated he has been at the airport since 2000 and this is a safety issue and the Airport Authority needs to keep fighting.

Harry Whittle - 1239 NW 16th Street, Boca Raton - President of the Boca Aircraft Owners Association - and stated he is a member of Aircraft Owners and Pilots Association and has been flying into the Boca Raton Airport for 30 years. Mr. Whittle stated the Airport Authority's main reason for keeping the tower operating is the same issue why Susan Whelchel became the Mayor, the safety of Boca Raton and the noise issue which the tower has resolved. He stated that he is opposed to user fees of any kind and that user fees have been the death of general aviation in Europe and will be in this country if user fees are instituted. Mr. Whittle stated the Airport Authority should look long term and see that the federal budget will shrink and towers will not be federally funded and therefore the Airport Authority should fund the tower themselves.

Vincent Costa - 4333 NW 67 Ave, Coral Springs - Boca Raton Pilots Association - stated the airport is not unsafe without a tower, but less safe. All legal options are valid but the Airport Authority will need time to go through this. Mr. Costa asked the Airport Authority to make a definitive statement that the tower will not be closed for one day and that the Airport Authority will use contingency funds to ensure the tower remains open. Mr. Costa also stated his support for the Airport Authority filing an individual suit.

AUTHORITY MEMBERS COMMENTS

Mr. Feiler stated that the purpose of the meeting was not to come to a conclusion regarding a definitive statement for funding, but to discuss the legal options available to the Airport Authority. Discussion ensued between the Airport Authority Members regarding the uniqueness of the airport and the procedures and the cost to file the petition with the federal court.

Ms. Meyers stated that a letter would need to be sent to the FAA and then the petition could be filed in the Washington DC federal court. Further discussion ensued regarding the options to file individually or to consolidate with another suit.

A MOTION was made to instruct Ms. Meyers of Berger Singerman to file an individual petition on behalf of the Airport Authority, was SECONDED by Mr. Carman and approved by all Authority Members present.

Mr. McDermott stated that the interim measures taken today was a great beginning to a long fight still ahead of us. He also stated that the Airport Management would continue to work with the other Florida airports to lobby and gain support of our local, state and federal representatives to ensure that the message is heard regarding the safety compromises that airports will face if the towers are closed.

A MOTION to contribute a \$1,000 to the AAAE in support of their lobbying efforts was made by Mr. Benefield, SECONDED by Mr. Schwartz, and approved by all Authority Members present.

Discussion ensued regarding a letter that was sent by Airport Management on behalf of the Airport Authority to Governor Rick Scott's office requesting emergency funding to keep the control tower operational based on the Boca Raton Airport being the only state owned airport affected by the sequestration. There was further discussion regarding reaching out to the Attorney General's office about filing a suit on behalf of the Authority. Ms. Meyers suggested the Airport Authority file the individual petition and simultaneously reach out to the Attorney General to file an Amicus brief along with the Airport Authority.

A MOTION directing Ms. Meyers, the Airport Authority's legal counsel, to contact the Attorney General to request support of the Airport Authority's petition against the FAA as either an Intervenor or Amicus with the court was made by Mr. Folden, SECONDED by Ms. Budd and approved by all Authority Members present.

MISCELLANEOUS

The next regularly scheduled meeting is April 17, 2013 at 6:00 p.m. in the Boca Raton Council Chambers at City Hall.

ADJOURNMENT

Meeting Adjourned at 11:05 am.

Frank Feiler, Chair

Date