

**Boca Raton Airport Authority  
Meeting Minutes  
April 20, 2022  
Boca Raton Airport Authority Administration Building**

Mr. Nau called the meeting to order at 5:00 p.m.

**BOARD MEMBERS**

James R. Nau	Chair
Robert Tucker	Vice-Chair
Randy Nobles	Secretary/Treasurer
Cheryl Budd	Board Member
Mitchell Fogel	Board Member - <b>ABSENT</b>
Gene Folden	Board Member
Melvin Pollack	Board Member

**COUNSEL**

Amy Petrick, Esquire – Lewis Longman Walker  
Janice Rustin, Esquire – Lewis Longman Walker

**STAFF**

Clara Bennett, Executive Director  
Scott Kohut, Deputy Director  
Travis Bryan, Operations Director  
Christine Landers, Office Manager  
Jada Stewart, Accounting Manager  
Robert Abbott, Operations and Finance Coordinator  
Vanessa Chen, Community Engagement Specialist

**APPROVAL OF MINUTES**

**A MOTION to approve the minutes of the March 16, 2022 Regular Meeting was made by Mr. Tucker and seconded by Mr. Pollack. The Motion carried unanimously.**

**AGENDA CHANGES**

There were no agenda changes.

**PUBLIC REQUESTS**

There were no public requests.

**CONSENT AGENDA**

A. Signature Flight Support Special Event Request.

Consider Resolution No. 04-04-22 of the Boca Raton Airport Authority granting conditional approval to Signature Flight Support to host a Special Event on January 28, 2023.

B. Noise Abatement/Operations Summary for the month of March 2022.

C. Security System Enhancements Contact Award.

Consider Resolution No. 04-07-22 of the Boca Raton Airport Authority Awarding the Security System Enhancements contract to AVI Integrators Inc., dba Security 101 to provide Security System Enhancements for the Boca Raton Airport.

**A MOTION to approve the Consent Agenda was made by Mr. Nobles and seconded by Mr. Pollack. The Motion carried unanimously.**

#### **FEDERAL, STATE AND MUNICIPAL INPUT**

There was no Federal, State or Municipal Input.

#### **FINANCIAL REPORT**

Ms. Stewart presented the Financial Report for March 2022.

**A MOTION to approve the Financial Report for March 2022 was made by Ms. Budd and seconded by Mr. Tucker. The Motion carried unanimously.**

#### **TENANT REPORTS AND REQUESTS**

Ms. Bennett reminded the Board that, at the March meeting, Premier requested a six-month extension on the permit and site plan approval requirements. At the meeting, the motion for the six-month extension was tabled and the Board requested that Premier provide background and documentation on their efforts to obtain permits and site plan approval from the City of Boca Raton. The Authority received the requested documentation.

The Board also directed Airport Management to draft an Amendment to the Lease Agreement allowing for the six-month extension and addressing the default provisions of the Lease. The Amendment was presented to Premier and they rejected the Lease Amendment as written. Premier subsequently requested to negotiate economic terms related to the construction deadline of August 17, 2023 required in the Lease, as amended.

Mr. Seth C. Behn, Attorney, Lewis Longman Walker advised the Board that he had reviewed the documentation provided by Premier relative to the permitting process and found it consistent with the development of a project of this size and complexity. Mr. Behn

added that his review did not consider the impact of the expired site plan approval on the project timeline, as he was not aware of that fact at the time of his review.

Ms. Rustin reminded the Board that, at the March meeting, the Board was willing to consider the six-month extension in consideration for amending the default provisions of the Lease. The revised language was presented to Premier; however, they did not respond in time for their response to be included in the Board Meeting package.

Ms. Petrick provided the framework for the discussion and advised the Board that it should consider two items. Related to the first, Ms. Petrick reminded the Board that Premier missed the deadline for presentation of Final Plans and permits on March 2022 and that a Notice of Breach had not been issued. The second issue related to the request for an additional extension of time. Ms. Petrick recommended that Premier articulate their request so the Board could decide how to respond.

Ms. Budd asked if there was an order of priority on the two items. Ms. Petrick recommended hearing from Premier first, as their request may impact the content of the notice letter.

Mr. Edward O. Martos, Partner, Weiss Serota Helfman Cole & Bierman, acknowledged Mr. Behn's statement that the timeline presented by Premier is reasonable. He also stated that, based on the terms of the lease, there is no breach and advised the Board that Premier is actively pursuing a cure. Mr. Martos proposed that the item be tabled until May to allow Premier to work out new language and address the issues raised by the FAA. He suggested applying the terms of the lease to determine an appropriate amount of rent, adding that Premier would be willing to commence rent payments on the required improvements by the August 2023 construction deadline, even if the building is unfinished.

Mr. Hashemi stated that their proposal was to meet with Airport Management and Legal Counsel to come up with an agreement for rent to begin prior to the building being completed.

Mr. Nau asked if these discussions could be completed in a month. Mr. Hashemi responded that it could be done in a month and that Premier should be able to provide a date and rental payment amount at the next meeting.

Ms. Petrick reminded the Board that several meetings ago there was a request to meet with Premier on improvement rent calculation issues that required clarification so that all the parties would be using the same calculations. Premier had not been interested at that time to revisit those issues.

Ms. Petrick also advised the Board that a breach and default are two separate things. Premier had a deadline that was missed, resulting in a breach. This creates the opportunity to cure and, if they do not cure within a certain amount of time, they can be found in default.

Ms. Budd asked Mr. Hashemi if there was any question on his part that they are in breach. Mr. Hashemi did not immediately respond.

Mr. Nobles asked whether the default language in the Lease would be addressed during the 30-day tabling period and whether Premier's proposal to pay rent prior to final building construction would satisfy the FAA's requirements.

Mr. Martos asked Ms. Budd to restate her question and replied that Premier does not believe they are in breach or default.

Mr. Peter Kirsch, Attorney, Kaplan Kirsch and Rockwell LLP reminded the Board that the Authority is obligated to secure fair market rent and that the FAA prohibits land banking. One way to demonstrate that there is no land banking is for the Authority to begin receiving fair market value for the property. Mr. Kirsch stated that, with both of those problems present in this situation, the FAA has been very patient with this project so far.

Ms. Budd asked if someone looked at the current situation, could they refer to it as land banking. Mr. Kirsch replied that it could be viewed that way, but it is a decision the FAA would have to make. If so determined, the FAA would ask the Authority to correct the situation.

Mr. Nobles asked if the FAA's interpretation of the situation could hurt the Authority in other areas. Mr. Kirsch stated that it could, adding that the FAA could limit discretionary grants, not offer new grants, or not respond favorably to other requests made by the Authority.

Mr. Martos stated that there is no land banking because Premier is actively developing the site and with respect to revenue. If fair market value is what is required to satisfy the FAA, it can be discussed for the vacant site.

Ms. Budd asked what happens in this scenario where we agree to move forward, but at the end of the period, no agreement has been reached.

Ms. Petrick explained the options available to the Board.

Ms. Budd asked for clarification on the notice of breach.

Ms. Petrick stated that the default provisions of the Lease require notification of a breach to the tenant once the breach is known and then the tenant has the opportunity to cure.

Ms. Petrick stated that, as consideration for the 30-day tabling period, Premier should provide written notice acknowledging that the Authority has not waived its rights relative to the breach.

A discussion ensued.

Mr. Folden suggested that Premier notify the Board of any government action pertaining to the project and that there be a set period of time to begin construction from the date they receive their permits.

Ms. Lauren Odom, Attorney, Dunay Miskel Backman, provided an update on Premier's status in the approval process with the City of Boca Raton.

**A MOTION to grant a 30-day time extension before issuing a Notice of Breach to Premier, contingent upon receipt of a written notice of Non-Waiver from Premier's counsel and direction to staff to negotiate an Eleventh Amendment to the Premier lease that addresses at minimum clarifying the default provision language in the lease; the timing of the construction for Phase III; payment for the delay in construction for Phase III sufficient to address FAA's concerns regarding fair market value and land banking rules; receipt of updates regarding Premier's efforts with other agencies to receive required permits, including applications, submittals, approvals, denials, and scheduled meetings and hearings; and an agreement that construction shall commence no more than 45 days from when permits are received was made by Ms. Budd and seconded by Mr. Folden. The Motion carried unanimously.**

Mr. Kohut presented the request from Premier Aviation of Boca Raton, LLC for consent to Sublease to La Condesa Mexican Restaurant, LLC.

Mr. Tucker asked if it was a local restaurant or a chain. Mr. Hashemi advised the Board it was a local restaurant, family owned, and this would be their third location.

Mr. Hashemi advised the Board they expect the restaurant to be open within 60 days.

**A MOTION to approve Resolution No. 04-06-22 of the Boca Raton Airport Authority consenting to Premier Aviation of Boca Raton, LLC's Agreement to Sublease with La Condesa Mexican Restaurant LLC was made by Mr. Nobles and seconded by Mr. Pollack. The Motion carried unanimously.**

#### **EXECUTIVE DIRECTOR AND STAFF REPORT**

Ms. Bennett introduced Ms. Giana Pacinelli, Director of Communications with CP Group and Mr. John Kay with Kaye Communications, representing the Boca Raton Innovation Campus.

Ms. Pacinelli presented an overview of the Boca Raton Innovation Campus along with their plans for the future.

### **AUTHORITY MEMBERS REQUESTS AND REPORTS**

Ms. Bennett addressed concerns regarding the States recent actions regarding Special Districts that were created prior to 1968.

### **PUBLIC INPUT**

There was no public input.

### **OTHER BUSINESS**

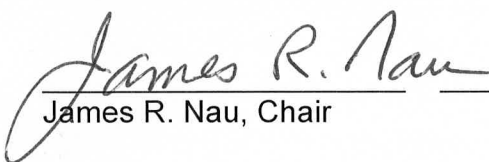
There was no other business.

### **MISCELLANEOUS**

The next regular meeting is scheduled for May 18, 2022 at 5:00 p.m. in the main conference room at the Boca Raton Airport Authority Administration Building.

### **ADJOURNMENT**

Meeting adjourned at 6:40 p.m.

 5/18/2022  
James R. Nau, Chair                      Date