



A G E N D A

THE REGULAR MEETING OF THE COTTONWOOD AIRPORT COMMISSION, TO BE HELD WEDNESDAY, **MARCH 4, 2020 AT 6:00 P.M.**, LOCATED AT THE **COTTONWOOD CITY COUNCIL CHAMBERS**, 826 N. MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE TO THE FLAG**
- IV. APPROVAL OF MINUTES** – Airport Commission Regular Meeting of December 4, 2019.

- V. BRIEF SUMMARY OF CURRENT EVENTS BY COMMISSION, FBO, AND AIRPORT MANAGER** -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION UNDER THE NEW OR OLD BUSINESS SECTION OF THIS AGENDA.

- VI. CALL TO THE PUBLIC** -- *This portion of the agenda is set aside for the public to address the Commission regarding an item that is not listed on the agenda for discussion. However, the Commission cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02.A. (H).) Therefore, pursuant to A.R.S. §38-431.01.G., action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.*
Comments are limited to a 3-minute time period.

- VII. OLD BUSINESS**
 - 1. SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF COTTONWOOD AND THE COTTONWOOD HANGAR ASSOCIATION DATED SEPTEMBER 5, 1995.

IX. ADJOURNMENT

Pursuant to A.R.S. § 38-431.02(B) the Commission may vote to go into executive session on any agenda item pursuant to A.R.S. § 38-431.03(A) (3) and (4) for discussion and consultation for legal advice with the City Attorney.

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Cottonwood Municipal Airport
1001 W. Mingus Avenue
Cottonwood, AZ 86326
(928) 340 – 2727



Cottonwood City Hall
827 N. Main Street
Cottonwood, AZ 86326
(928) 634 – 5526

"Inspiring a Vibrant Community"

MINUTES OF THE REGULAR MEETING OF THE COTTONWOOD AIRPORT COMMISSION OF THE CITY OF COTTONWOOD, ARIZONA, HELD WEDNESDAY DECEMBER 4, 2019 @ 6:00 PM AT THE COUNCIL CHAMBERS 826 N. MAIN ST., COTTONWOOD, ARIZONA.

I. CALL TO ORDER (00:50)

Minutes:

Chairman Jim Moeny opened meeting

II. ROLL CALL (01:01)

Minutes:

COMMISSION MEMBERS PRESENT:

Chairman, Jim Moeny
Vice Chair, Bill Wade
Commission Member, Tim Pebler
Commission Member, Vernon Reed
Commission Member, Bill Tinnin

COMMISSION MEMBER(S) ABSENT: None absent

CITY STAFF PRESENT:

David Hausaman, Public Works Manager/Airport Manager
Renee George, Administrative Assistant

III. PLEDGE OF ALLEGIANCE TO THE FLAG (01:20)

Minutes:

Chairman Jim Moeny led the Pledge of Allegiance.

IV. APPROVAL OF MINUTES – For Airport Commission Regular Meeting November 6, 2019 (01:49)

Minutes:

Chairman Moeny asked if the Commissioners had time to review the minutes and if there were any additions, corrections or amendments. There were none. Commissioner Tim Pebler made the motion to approve as printed; Commissioner Vernon Reed seconded the motion, motion passed unanimously.

V. **BRIEF SUMMARY (02:17)**

BRIEF SUMMARY OF CURRENT EVENTS BY COMMISSION, FBO, AND AIRPORT MANAGER – THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION UNDER THE NEW OR OLD BUSINESS SECTION OF THIS AGENDA.

Minutes:

Airport Manager, David Hausaman reported that there are two open seats for the Airport Commission, and explained the criteria needed for the positions and where to locate the application on the website to submit. Annual Verde Valley Shop with a Cop event in two weeks. Santa will be flown in on Guardian Air and this event will begin at the airport and proceed from there.

- VI. **CALL TO THE PUBLIC - (03:35)** This portion of the agenda is set aside for the public to address the Commission regarding an item that is not listed on the agenda for discussion. However, the Commission cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02.A. (H).) *Therefore, pursuant to A.R.S. §38-431.01.G., action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.*

Comments are limited to a 3-minute time period.

Minutes:

Chairman Moeny opened the floor to the public, no one came forward to speak.

VII. **NEW BUSINESS – (04:10)**

1. Second Amendment to the Lease Agreement between the City of Cottonwood and the Cottonwood Hangar Association dated September 5, 1995.

Minutes:

David Hausaman, opened this up with brief history of this lease agreement between the City of Cottonwood and the Cottonwood Hangar Association. The original lease agreement was for 25 years and in 2008 the First Amendment was approved for an additional 15 years by the City Council and this is the Second Amendment for 15 more years with clarification of the terms regarding the renewal option.

Commissioner Tim Pebler, had a question regarding who would be handling the leases. He recalls that the City Attorney's office would be handling the leases and that the Airport Commission wasn't going to be handling the leases anymore, he wanted to know why they were discussing this matter.

City Manager, Ron Corbin addressed the Commission, explaining that it is still being worked out and this is to get a recommendation for approval, (not an approval), but a recommendation from the Commission that can be taken to the City Council. There is a desire to get leases under a single Standard Operating Process (SOP), with less negotiating and this would be done by our consulting attorney before it goes to council. However, the SOP has not been approved or

finalized at this point and we did feel that the Commission needs to see this before it goes to Council.

Vice Chairman, Bill Wade, made several comments regarding this item. This goes back along way with the philosophy and the arguments I have had with Morgan Scott and the City over this type of hangar that's owned and the prevailing thought that we've debated over several years is that the City was going to take over the ownership of these hangars when the leases expired. Mr. Wade continued, that he was opposed to that, because the City would come and say that they only wanted to lease the land and you can build a hangar on the land but after 10, 20, or 30 years when that lease comes to an end, we're going to take ownership of that hangar. I really disagree with that, I think the City on one hand, says we don't want to own hangars or be in the business of owning hangars and on the other hand they put throughout the lease that they're going to end up with those hangars and I think it is very contrary to what should occur. The City should charge an appropriate rate for the lease. They should increase the cost of the land lease but they should allow people to build hangars and keep them and renew those leases and not be onerous as far as transferring those leases. Vice Chairman Wade continued about the lease that he has gone through the lease and has many recommendations regarding the lease and how it should be renegotiated. His opinion is the lease is written very loosely. He pointed out a couple of areas in the lease that should be addressed with clarifications/amendments. He stated that the intent of the majority of airports is they want to lease you land, so you can build a hangar and extend that out for 50 years, as long as the tenant is keeping up the property and paying the land lease. I don't think the City should be in the business of having the owners tear down the hangar when the lease expires. The other issue is if you come in as a company and build a hangar you should amortize that hangar at least 40 to 45 years and there is really not a clear indication in this lease that the City is readily available and interested in renegotiating leases. It was very clear, in my opinion, that Morgan Scott's opinion was that we're going to take those hangars, but you can tear them down if you like, but at the end of the lease it is going to become the city's and I would like to see that addressed. Another issue in the lease if this (the lease) goes to dispute it will be settled in Coconino County, why not Yavapai County? Another one is if the tenant dies the land lease does not go into the estate. This renewal does not get to these issues. There are parts of this lease that are onerous and are not good, it needs to be reviewed. This renewal is fine but it does not get to these issues.

City Manager, Ron Corbin addressed the Commission, these issues have been side stepped, and I was not willing to take it on at this time, regarding those issues. The City's intent is to take ownership at the end of the 15 years and so we were not ready to give that away. We did not put it in, which some members of the City did want to put in there that you couldn't tear it down, as part of the actual lease. We'd come to an agreement with the lease holder on this one and decided this wasn't the lease we wanted to start deciding all those things at this point. Mr. Corbin stated, a lot of the issues that you brought up were not settled in this lease, I would agree.

Vice Chairman Bill Wade responded, I agree that you should move on this, however, the lease does have one section that indicates, the amendment "that landlord and tenant expressly agree that this lease may be amended from time to time by mutual consent." If that is expressly agreed, I see no problem with going ahead and re-doing it now as long as you can come back and address these issues.

City Manager Ron Corbin, responded I think probably sometime after the Master Plan Study is done, I can't imagine it not being on your agenda. I have not taken that issue up and have tried to mediate my team's desires and have tried to find a middle ground to move us forward knowing that it hasn't been addressed. I assume Mr. Chair that it is on your agenda at some point to

address all the leases. I am assuming that is part of the desire is to get an SOP, to get a standard procedure done so that we are moving forward with a standard set of expectations and that means renegotiating or doing a mid-amend. I'm not saying we'll do it, but I think it is the Commission's prerogative to ask us to begin that process, to look at it in one shape or another. Again I am not making any commitment that I can get that through my City Attorney or Council. I had my review last night, and one thing that they made very clear was my continued ability to increase revenues and decrease spending, was my number one priority. So everything I do I have to make sure I am bringing in as much revenue as possible in all avenues and cutting expenses wherever I can. So just know as I look at things as a City Manager while I'm looking at economic development and growth of the Airport and all the other stuff that can happen to help the City grow, I'm also managing to make sure I'm bringing in revenues where it is appropriate and cut expenditures where I can. I'm not making any commitment on how those negotiations will go or what the end up policy will look like, but I am clearly open to bringing that up again under the new set. The other thing I will probably ask for is to wait for us to hire a permanent airport manager, with airport experience to help us through that process. No disrespect to my current interim and myself but we are out of our league. If I agreed with you I don't even have enough knowledge to fight my own folks and I don't have enough knowledge to fight you back either so it wouldn't be fair to you guys or the lease holders to begin the process until I get a permanent position filled with someone who has the experience that we need to help make informed decisions.

Vice Chairman Bill Wade, stated he had one caveat, I think the lease should contain language that if the lease terminates or comes to termination and that the owner of that land has not any alternative for an extension with nobody to assume that lease that the City obtains that land. The City has to be put in the place that something has got to be done with the hangar if the guy walks off and he has nobody to pick it up. City Manager Ron Corbin clarifying the statement, so if it was abandoned and there were no heirs and there is not anybody taking claim, we'll run that by our attorneys to see, that makes sense. The other things you talked about, the first one you made mentioned, we have a note on, I can't remember what it was but I also thought we should change it before we go to council. The ownership and that kind of thing I am just not comfortable tackling right now. If we were at a non-pass I would have to say we have to tackle it, but we have an agreement, at least an agreement to move forward. Vice Chairman Wade, stated that he seconds his thought (Mr. Corbin's thought) that they put this topic on in the future, when a manager is hired or whatever to try to address it. Mr. Ron Corbin and Mr. David Hausaman agreed to put it on the to-do list.

Mr. Al Paxhia, came forward to speak. I am the current President of the Cottonwood Hangar Association, which is the lease that you're looking at. A couple of comments, one is airport revenue, I think one of the best ways we could increase airport revenue is to have a lease policy that was friendly to those that want to build hangars. There is much talk from people flying out of the airport, several people from Sedona have told him they are interested in coming here but there are no hangars and if they could they would build a hangar here. In order to build a hangar it does take a reasonable lease. I have some concerns about the lease as it stands and I think that 15 years is a mistake, I think at least 25 year on the lease that you are proposing for tonight.

Mr. Paxhia continued with some notes that he wrote; our building was built 24 years ago and we are now coming up in the 25th year. We were frustrated for many years that we wanted to renew the lease but we could not negotiate with the administration because in fact they were going to take back the hangar at the end of 25 years and then rent it back to them the current rent that the City was doing for their buildings. Because of that and other issues, there is maintenance that needs to be done to that building, and it has been put on the back burner. If the lease is only for

15 years there is a good chance that we are going to postpone maintenance. Currently the roof leaks in the hangar, skylights need replacing, doors need new rollers they need door maintenance. We estimate there is between \$10,000 and \$15,000 worth of work that needs to be done to that building if that building sits there for another 15 years and we don't bring that up with good maintenance there will be nothing but scrap at the end of the 15 year period. So we would ask that the Airport Commission go to the City Council and ask for at least another 25 years. I agree with what Mr. Wade was saying about the lease in general there are a lot of flaws in the lease. Our position would be if we had another 10 years on top we would relinquish the right to remove the building. So in fact if the City wanted it in 25 years we would be glad to give it to them. Again as it sits today, in 15 years it will only be scrap value.

Mr. Al Gradijan, commented that a 25 year lease with a 15 year option is a standard lease.

Chairman Jim Moeny, stated he understands the precedence of the 25 year and 15 year, but he also likes the idea of revisiting these leases, next year after the Master Plan is done.

Discussion continued within the Commission regarding leases, that there needs to be consistency and possibly change the 15 year option to 25 year option.

City Manager Ron Corbin re-directed the Commission with the statement; Mr. Chair, the thing before you today is today's lease you can't get to far off topic and start discussing leases in general.

Chairman Vernon Reed stated that part of the issue that we've had over the last 5 or 6 years that has been persistent issue, and that is the alleged favoritism process that has gone on with certain lease holders, whereby others are punished. There have been lawsuits over it. There has to be an established base line that can be approved and grandfathered to the existing leaseholders whatever those conditions may be, to make everybody to feel equal and that is something that's been absolutely resisted by the City, particularly the City Attorney. There has been obvious indication that to him it's all about money. The simple fact that he would put something in a lease where all negotiations would have to happen in Coconino County, demonstrates to me that he does not want to come down here and confront the people that he has made very angry. I'm not involved in any of these, I'm not worried about it, but I see it as an absolute unfair scenario that that person has carried on the message, we're out for your money, we're out to take things away from you as quickly as we can, that's what has made people angry down here and until we get a base line lease where everybody gets put into a parody situation the anger is going to persist on everybody's part and it may result in more lawsuits over time. We have to come to grips with this, we haven't. We've side stepped it, we've basically avoided it. We let the legal representative maintain his position of authority for the last six years. It has to stop! Somebody needs to put a thumb on him and say we're going to come to grips with an equal scenario for leases from now on. Grandfather the ones that are necessary that's the only thing that is going to get us out of this situation, this has persisted for 6 years and it needs to stop.

Vice Chairman Bill Wade stated that we are kind of at an impasse situation. We're right in the middle of this new lease, and I understand from what Ron was saying is that there may very well be some issues and it seems like to me, if language were to be added that said that, title and all improvements to pass to the landlord at the end of the lease term, unless an additional extension of the lease is applied for by the tenant and negotiated between the tenant and the landlord; if some language like that were to evolve out of this agreement, I would assume that the tenant would probably repair the hangar and fix it up because there's a good likelihood that they could renew it. But I can see very well, where Al is coming from is that if they know they could lose

that hangar in a few years why should we work on it, that's not good. The compromise may be go ahead with 15 years but we'll negotiate the lease; we agree to sit down and negotiate the lease beyond that and that may resolve the issue

Again Chairman Moeny, commented the he likes the idea of revisiting these leases after the Master Plan is done and set up a Standard Operating Procedure for all leases and have a positive blueprint as we move forward. A blueprint that is fair to all parties and negotiated by all parties. Also with a provision that after the operating procedure is established that we can go back and take a look at some of the other leases and see if we can remedy some of these things. This should be a primary objective of this body after the Master Plan issue, as that will take a lot of our time and attention.

Vice Chairman Bill Wade, stated that he agreed with Mr. Corbin also except and I have no problem with the 15 year, if we are going to address that issue, of discussing the matter of cleaning up the lease language and the extensions, if it's ever done. But our history has been we agree to do these kinds of things and it just kind of goes off into the sunset and we never get stuff done. My fear of course is that we will agree to do all that, we'll sign a 15 year lease and we will never address it and it will get put on the back burner. If we say we're going to address this issue at the conclusion of the plan one way or the other and give assurance to these people that we are going to do that, then we're good.

Chairman Moeny, stated that there's a new sheriff in town and we are not seeing the procrastination that we've seen in the past.

City Manager Ron Corbin came forward to direct the Commission back to the approval of this lease on the table and if you don't want to recommend it, I do not know why its' in Coconino, neither one of us have any history it was part of the agreement that came forward and I was under the impression I thought we had an agreed upon lease between the leaseholder and us but, I am not hearing that tonight. So feel free not to recommend, I'm not putting you guys on the spot, if you're not comfortable with the lease as is, you don't have to recommend it. We're going to move forward, whether you recommend it or not we will have to make a phone call to our attorney, and get some more information. I don't have an agreed upon lease to take to Council, I don't debate things in council; if I don't have an agreement with the leaseholder I'm not ready for Council. I don't take things to Council to debate fine points for an agreement; I take them an agreement that is already agreed upon, unless it's at some kind of impasse that they have to settle. I was not here tonight thinking we were at some kind of an impasse that needed to be settled. I know that both parties weren't excited, but at least it was agreed upon and that they were ready to move forward, but that is not what I heard. Feel free to do what you need to do with this lease. I made a commitment to you it is on the record. Mr. Corbin summarized the items that the commission has requested to be addressed; Coconino is one point that I will address; the 15 versus 25 in ownership, a possible agreement there; us taking ownership if abandoned and the estate issue, I don't know if I can move on those, but I can look into it and if I need to call the owners or the president, I will do so.

Vice Chairman, Bill Wade went on to state that this lease basically says, that the tenants shall surrender peaceful possession of the property upon expiration date of the lease. The City's going to own that hangar that is the plan. City Manager Ron Corbin agreed, that is the plan. Mr. Wade continued, and that is what makes the people very nervous about putting 10, 15, 20,000 dollars into this thing. Fifteen years is going to extend, then go ahead, but within that period of time, we can go back and address that issue. Mr. Corbin stated that it is within his plans for next year 2020 to address this issue.

Mr. Al Paxhia, recommended to the commission that they not approve this lease and that you follow the path that you're taking which says clean up the lease in the other areas. Our lease expires in September, so we do have time that we could clean it up and make it right. I'd like to recommend that the Airport Commission be part of that lease negotiation, so that we could in fact figure out how to have a good lease.

Mr. Al Gradijan cautioned the commission to be careful about making changes in the lease that has already been established and agreed upon.

Chairman Moeny stated this is the lease as it was codified I think we have to honor that with the provision that we get this Standard Operating Procedure taken care of in 2020, for all leases and with the ability to look back if we can get the parties together to do it, it is by mutual consent. I would be in favor of the lease as long as we have a look back.

Commissioner Vernon Reed, commented if the lease was agreeable to both parties initially and they were willing to sign it and we're willing to venture down that path of getting a stable base line for all the leases in the future, with the provision that the look back will be taken into consideration, then I'm okay with moving forward with the lease as it exists if they're willing to sign. If they choose to wait that is certainly their option. Chairman Moeny asked if there are any more comments.

Vice Chairman Wade stated, I disagree, I don't think we should approve the lease.

City Manager Ron Corbin, Mr. Chair, I'm going to let you guys debate on how to move forward, but again, based on what we have seen tonight, we clearly have more time and the leaseholder has asked you not to approve it and clearly he would go to council as is and I would assume, he would say the same thing. Unless there is something I am missing feel free to approve it, if we come to an agreement, like if you want to recommend it knowing that the leaseholder and the City have come to a mutual agreement, but clearly the leaseholder and I are not on the same page.

Chairman Moeny, with that coming to light maybe we should table this agenda, this item until things become a lot clearer. When the ownership and the City re-negotiate this and start talking, we've got time. I would suggest that we table this item.

Chairman Moeny made a motion, all those in favor of tabling this item; Commissioner Tim Pebler, seconded the motion, the motion passed 4 to 1, Vice Chairman Bill Wade voted No.

VIII. **ADJOURNMENT**

Vice Chairman Bill Wade motioned to adjourn. Commissioner Tim Pebler seconded the motion, motion passed unanimously. Meeting adjourned at 6:47 p.m.

SECOND AMENDMENT TO LEASE AGREEMENT
BETWEEN THE CITY OF COTTONWOOD (“LANDLORD”) AND
THE COTTONWOOD HANGAR ASSOCIATION (“TENANT”)
DATED AS OF SEPTEMBER 5, 1995

RECITALS

1. The above-described Lease Agreement was entered into on September 5, 1995 for an initial term of 25 years, and first amended as of August 17th 2008 to allow for the possibility of a 15-year renewal/extension term following the end of the initial term, subject to the renegotiation of the Lease Rate.
2. Under Sections VII.E and X.A. of the Lease Agreement, Tenant retains ownership of any improvements to the leasehold premises, including but not limited to an aircraft storage hangar, along with the right to remove or demolish the same without any obligation to reconstruct such improvements.
3. The parties have successfully conferred for the purpose of extending the Lease Term for an additional period of 25 years; increasing the Lease Rate and providing for regular additional increases to the Lease Rate throughout the remainder of the Lease Term; and amending the Lease with respect to Tenant’s right to remove or demolish the same during the remainder of the Lease Term.

AGREEMENT

Now, therefore, in light of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the above-described Lease Agreement as follows:

1. Beginning September 5, 2020, the Lease Rate shall be \$358.40 per month, and shall increase by 10 percent of the then-current Lease Rate on each of the following dates: January 1, 2025; January 1, 2030; January 1, 2035; and January 1, 2040.
2. The Lease Term and all of Tenant’s rights under the Lease shall fully and finally expire on September 5, 2045, unless a new lease is negotiated between the parties.
3. Effective immediately, and throughout the remainder of the Lease Term, Tenant shall keep the improvements in good repair, normal wear and tear excepted, and notwithstanding any term or provision of the Lease to the contrary, neither Tenant nor any of Tenant’s members, officers, agents, contractors, heirs, successors or assigns may

remove, demolish or commit waste of any kind to any part of the premises, including any improvements now existing or at any time hereafter constructed or installed on the premises.

DATED this _____ day of _____, 20 _____

LANDLORD: City of Cottonwood by: _____
Mayor Tim Elinski

Attest: By: _____
City Clerk

Approved as to form: by: _____
Steve Horton, City Attorney

TENANT: Cottonwood Hangar Association By: _____ (signature)
_____ (print name)
_____ (title)

STATE OF ARIZONA)
) ss

COUNTY of Yavapai)

The foregoing instrument was acknowledged before me this _____ day _____,
20 _____, by _____