

SUMMARY MINUTES OF THE SPECIAL MEETING OF THE COTTONWOOD AIRPORT COMMISSION OF THE CITY OF COTTONWOOD, ARIZONA, HELD AUGUST 24, 2010 AT THE COTTONWOOD COUNCIL CHAMBERS, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

Chairman Gradijan called the meeting to order at 8:00 a.m.

Roll call was taken as follows:

Commission Members Present

Aleck Gradijan, Chairman
Jim Moeny, Vice-Chairman
Doug Palmquist, Commission Member

Commission Members Absent

Marv Lamer, Commission Member
Bill Tinnin, Commission Member

Staff Members Present

Tim Costello, Public Works Director
Barb Herrick, Administrative Coordinator
Dan Lueder, Development Services General Manager
Doug Bartosh, City Manager
Steve Horton, City Attorney

PLEDGE OF ALLEGIANCE TO THE FLAG

Chairman Gradijan led the Pledge of Allegiance.

DISCUSSION AND LEGAL ADVICE REGARDING ENFORCEMENT OF THE AIRPORT OPERATING RULES

Chairman Gradijan opened the discussion by explaining that Mr. Palmquist requested the special meeting to discuss issues that need to be addressed before the next regular meeting.

Mr. Palmquist explained that the issues that exist are with regard to means to enforce ordinances that exist for operating at the airport, and provisions for following through with the enforcement. Mr. Palmquist gave cases to point where it is not being done to the satisfaction of the Commission Members have to do with disabled aircraft that have become permanent fixtures at the airport. A specific aircraft is a Mooney. Even though there has been work being done on it recently, it has become a permanent fixture. The Airport Manager has applied pressure after the urging from the Commission to ensure the work is done and the aircraft would comply with the ordinance.

Mr. Palmquist indicated that the second issue that is just as important has to do with other operators at the airport that knowingly and willingly not complying with the ordinance by

parking vehicles under their aircraft and leaving them there for an extended periods of time. These vehicles contain additional fuel and oil to support the aircraft.

The last issue deals with lease requirement provisions that allow outside vendors to come in to the airport and do work on your aircraft in your T-hangar. The lease prohibits allowing outside vendors to do work in a commercial manor on any and all other aircraft.

The problem with this taking place is that we have a new FBO at the airport. When they accepted the position they were aware of the economic difficulties they would encounter and they adjusted for it. They did not anticipate that there would be outside vendors working other than what is allowed by the ordinance or lease agreements. The Airport Ordinance states that minor work can be done on the aircraft ramp and major work is excluded. There appears to be commercial work being done and it appears to be major work being done on the ramp. The Airport Commission has no desire to put anyone out of business or prevent anyone from earning a living. What needs to happen is enforcement of the ordinance and lease provisions as they exist so that everyone has an equal opportunity to compete on a level playing field.

Chairman Gradijan added that small airports are dying and nothing can contribute to the success or failure of the airport more than the FBO. We are very fortunate to have the FBO that we have and we need to do whatever we can to support them so that they can succeed. We do not want to put anybody out of business, but ordinances are in place and they need to be enforced.

Mr. Bartosh stated that the city would be happy to enforce any regulations with the backing of the Commission and City Council, and we need a clear understanding of our authority to enforce the ordinance.

Mr. Horton, city attorney, stated that we do have the authority to enforce the ordinance. He went on to say that as of right now the violation and penalties are limited to having the privilege of using the airport gate key suspended by the Airport Manager for up to one year. Mr. Horton went on to say that he recalls past conversations in which we discussed the level at which we wanted the rules to be enforced, including the general penalty provision of the City Code. This would make the violation of the Airport Operating Rules a misdemeanor and punishable by a fine up to \$1000 or jail up to 6 months for each violation. At that time, it was decided that it was more punitive than the Commission wanted to go. If desired, it could be revisited and we can link the penalties to the General Code, but at this time they are separate from each other.

Mr. Gradijan noted that at this time we have a couple of people that keep ignoring the rules, even after numerous contacts by the Airport Manager, and we need to start enforcing the rules that exist.

Mr. Palmquist stated that he takes exception to the statement from the city attorney regarding a portion of what has been discussed. He said that in the T-hangar lease agreements there is a provision that only allows outside commercial work to be done on the leaseholder's personal aircraft. It does not allow any other commercial work in a leased T-hangar. This activity has been taking place, and the leaseholder is in violation of their lease.

Mr. Palmquist went on to say that the past FBO was adamant about outside vendors coming to do work on the airport, and yet he is now doing that exact thing. The present FBO has worked with nine other FBO's in Michigan, but they all compete with the same rules.

Chairman Gradijan stated that Commission Member Tinnin was unable to attend the meeting, but he has submitted a letter that he has requested to be read. He asked Mr. Costello to read the letter.

Attached below is the letter submitted by Mr. Tinnin:

To the Airport Commission

23 August 2010

Although I am unable to attend the Special meeting on Tuesday August 24th I would like my concerns to be voiced and made a matter of record. They are as follows;

It appears to me that there are a number of persons, aircraft owners and lessees, not conforming to the accepted and approved "Operating Rules" of the City of Cottonwood's Airport. Case in point, aircraft # N5800Q, a disabled Mooney that of late has been kept in different locations through out the airport, supposedly for the purpose of repair. I can only assume with the intention of making said craft - Airworthy (?).

The specific concerns I have pertaining to the above aircraft are listed below:

- 1) I tend to question the owners sincerity and intentions toward his aircraft and the City of Cottonwood. The owner has gone through a period of time of being delinquent on fees, which took official notification to remedy; the owner has also, as of May 13, 2010, been notified officially that he was in violation of the "Disabled Aircraft removal" ordinance, Page 11, section 2.2 I., in the operating rules manual, and has to my knowledge filed No notice of appeal with the city.*
- 2) The owner has had the aircraft parked and unattended along the western fence in the proximity of mid-field both violations of Operating Rules, 2.2, B&D, page 10.*
- 3) I am of the understanding that the repairs to make said aircraft airworthy are considered to be major in nature, which according to the Operating Rules, #2.2, K., may also be a violation to the owner, in that to perform other than minor repairs, an aircraft must be either stored in a hanger or located outside the airport.*
- 4) There is also the question as to who has been Performing the required work, are they qualified and legal, major maintenance work on an aircraft, I believe must be performed by a licensed and certified mechanic per FAA regulations, see also page 14 of the "Operating Rules", #3.3, A & B, also potential violations.*
- 5) Given the history of use of the aircraft, the questionable intentions of the owner, does the aircraft actually meet the definition of "Aircraft"? The "Operating Rules definition*

states: "Aircraft "means a device that is used or intended to be used for flight in the air." Should this craft be at the airport, has the owner sincerely made any attempt to make the Mooney # N5800Q meet the definition of - Aircraft?

- 6) *My fear is that the owner's intentions are only to cosmetically repair his craft, and never meet the definition of aircraft.*

I thank the Airport Commission and City Staff for allowing me to voice my concerns.

Bill Tinnin, Airport Commission Member

Chairman Gradijan stated that it is the responsibility of the Airport Commission to advise the City Council as to airport matters. It is the responsibility of the staff to implement the direction to the council or rules and ordinances. We are making our recommendation to turn it over to staff.

Mr. Bartosh noted that the recommendation was heard and we will pursue the violations and enforcement. Mr. Bartosh requested that if commission members or airport users notice any violations, that they advise staff as soon as possible so that they can act on them.

Mr. Palmquist again noted that the reason the special meeting was called was because the regular meeting is held the 3rd Thursday of each month and we felt the urgency to address the issues prior to that meeting. We would to allow the new FBO a fair chance at surviving.

Mr. Horton asked if they wanted to leave it at direction to staff and the commission not take any formal action.

Chairman Gradijan stated that he felt it was the responsibility of staff to enforce the rules and ordinances, and our job is to point out and advise.

Mr. Lueder suggested a summary of the commission's request by stating that they specifically request that city staff diligently enforce repeat violations of Airport Rules. Minor and initial violations will be presented to violators and documented. Those who continue to violate the Airport Operating Rules will be subject to enhanced enforcement.

Chairman Gradijan opened the floor to anyone in the audience that had any comments.

Mr. Art Tevis addressed the commission and stated that he felt that there was misinformation when it was stated that he has been working on the plane the last few weeks. He stated that he has been working on the plane for about 10 months. He also informed the members that he has been at the airport probably longer than anyone in the room, and although he has had personal setbacks, his intentions have always been good. He is trying to repair the aircraft and feels like it looks about as good as any other. Mr. Tevis noted that over half of the aircraft are gone on the field now. Mr. Tevis also asked what is wrong with having more than one FBO at our field.

Mr. Harry Weisberger, secretary/treasurer of the Cottonwood Airport Users Association,

addressed the commission and asked the attorney if the city has the authority to create and maintain a monopoly by eliminating competition. Does the urgency of this meeting bypass the open meeting law? Bob Luna is not taking business from Barnstormer he taking care of people he has served for many years.

Mr. Gradijan responded to the comment about violation of the open meeting law, and stated that we were not in violation. Mr. Costello added that the agenda for the meeting was posted on Friday, August 20 and we are required to post the agenda 24-hours prior to a meeting.

Mr. Gradijan added that when the Ordinance was recommended, our basic concern was that we did not want to penalize aircraft owners from having someone work on their own aircraft in their hangars. The Ordinance states that all other commercial aircraft maintenance activity is prohibited in T-hangars.

Mr. Gundelfinger, resident of Cottonwood, asked the question again about whether the city has the right to create a monopoly. He asked the city attorney for clarification of what part of the ordinance is being violated.

Mr. Horton replied that it would be inappropriate to answer the way the meeting has been posted.

Mr. Bill Jensen, resident of Flagstaff and aircraft owner, stated that he has had Bob Luna work on his plane for many years. He said he has listened to everyone say that they don't want to run anyone out of business, but Mr. Luna has been here a long time and has loyal customers. He felt that it would be a great mistake if you run him off the airport because an aircraft owner and mechanic have a special relationship. He also suggested that you make available a T-hangar for him and let them compete.

Ms. Kami Mulcaire, tenant of Hangar M at the airport, had a question for Mr. Costello regarding a phone call she had received from him. Under the lease agreement, and the section on "Use of the Property and Premises" the last sentence says that you can have a commercial operation in the hangar with permission. She wanted to know where she would obtain the form for the request.

Mr. Costello informed Ms. Mulcaire that she could submit an application at the Public Works office, and there is not a specific form. He went on to say that most of the hangars are built for storage. If aircraft mechanical work was to be done out of a hangar, there would be building codes that have to be considered because of the high hazard.

Ms. Mulcaire noted that she did not see any application online to submit her request, but because she has the ability under the "Uses" of the contract thought she should apply.

Mr. Bartosh indicated that the city would not authorize the use.

Ms. Mulcaire stated that under the provisions of the lease agreement it says she can submit a request for consent.

Mr. Bartosh stated that he was just trying to save her time.

Ms. Mulcaire indicated that she had no desire to run a commercial business out of the hangar. She also questioned the longevity of the problems being discussed and had it been discussed behind closed doors.

Mr. Tom Mulcaire addressed the Airport Commission and expressed his concerns about how the commission members were picked. He also voiced his objections to all the rules that are being made. He stated that it seems everybody got along before there was an airport commission. He did state that he would seek legal counsel.

Mr. Jim Bailey stated that he is not an aircraft owner anymore, but we have some harsh rules. He noted that half of airplanes on the field are not airworthy. He also stated that we did a good job when we picked the FBO, and he hopes that he will stay.

Mr. Chris Bull, resident of Cottonwood, stated that he is an A & P mechanic since 1971. He also noted that he has worked on many aircraft. He went on to say that he has observed Mr. Tevis's aircraft when it had flat tires and looking its worst and unable to fly. On the most recent inspection of the aircraft, there isn't anything unairworthy that could not be fixed and it is being fixed now at a high cost. Mr. Bull indicated that the aircraft will be airworthy or is airworthy and it will fly. Mr. Bull stated that he read the letter sent to Mr. Tevis and he believes that there are three other aircraft on the field right now that are not airworthy, but they look airworthy. In his opinion after observing what has been going on at the airport, he feels that it is a classic case of "railroading". Because of the economy, people are not flying and they also cannot afford to maintain their aircraft. Regarding the FBO, he is not going to succeed here because of the people that have the aircraft here and the quality of the aircraft. Mr. Bull also added that regarding the fuel, he understands that the FBO has to pay a fee to the city for leasing of the equipment. Mr. Bull questioned what will be of the outcome of enforcing the rules, and asked if the airport would be a better place. At this time, it is just creating tension and bad feelings.

Mr. Art Tevis addressed the commission again and stated he has been in constant contact with Mr. Costello for eight or nine months and expressed my intentions. He also stated that if he had not broken his wrist the plane would be done by now.

Mr. Palmquist thanked everyone for sharing their thoughts and opinions. He stated that he felt that emotion has plugged the hearing capability of some people regarding one aspect of this meeting. It appears that some have misinterpreted the intent and they have perceived that the meeting is about curtailing commercial activity at the airport. He went on to say that it is not our intent, and we would like nothing better than to establish more commercial activity at this airport. We welcome Mr. Luna coming to our airport to work his trade. We have a problem with establishing a commercial operation in a hangar that is not authorized to do so. If the city wants to allow and permit a hangar to have a commercial operation, please seek out that permission. This action has not been happening.

Mr. Palmquist stated that for months the Airport Commission has been trying to establish an instrument approach through the FAA to facilitate a wider scope of operational capabilities at the airport. We also have been trying to establish AWOS at the airport and also extend the runway 300 feet. All of these improvements would support corporate and business aircraft and facilitate more aircraft operations.

ADJOURNMENT

Chairman Gradijan asked for a motion to adjourn. Mr. Moeny made the motion for adjournment. And it was seconded by Mr. Palmquist. The vote was unanimous and the meeting was adjourned at 9:18 a.m.