

**LAWTON METROPOLITAN AREA AIRPORT AUTHORITY**

**MINUTES**

**FEBRUARY 7, 2003**

The meeting was called to order at 9:00 a.m. by the Chairperson, Dorice Shanklin. The agenda along with the time and place of the meeting was posted in accordance with State Law.

**PRESENT:**

Dorice Shanklin, Chairperson  
Hossein Moini, Vice Chair  
John Marco, Secretary  
Don L. Smith, member  
Keith Bridges, member  
Charlie Beller, member  
Stanley Haywood, Asst. Secretary  
Larry Benson, Asst. Secretary

**ABSENT:**

Chuck Klein, Member

**ALSO PRESENT:**

Barbara Whittington, Airport Manager  
Jack Tipton, American Eagle  
Pat Hurley, Admin. Asst.  
Odell Gunter, GPIF  
Shawn Erwin, Attorney  
Buddy Green, Liberty Mutual Bank

Chuck Wade, Airport Attorney  
Kim McConnell, Lawton Const.  
Chris Pittman, American Eagle Maint.  
Leonard Paine, Land owner  
J.C. Grayson, T&G Construction  
Mark Davis, Assurant Group

The roll call confirmed that there was a quorum present.

**PLANNED OFF AIRPORT CONSTRUCTION**

Dorice Shanklin said the purpose of this meeting was to discuss the planned off airport construction as it relates to an avigation easement dated 12<sup>th</sup> September 1949 and its potential impact on airport operations. Shanklin asked Whittington to brief the Authority on the issues.

Whittington asked the Authority members to review a letter received late yesterday afternoon before from Ed Agnew of the Federal Aviation Administration, which contains the FAA's opinion on this planned construction.

Whittington showed the members the construction plans and said there were two federal regulations that the Authority would need to take into consideration concerning this project. The first is FAR Part 77; this is the standard that establishes the standards and notification procedures for objects and construction affecting navigable airspace. The regulation is enforced by the Air Traffic Division.

The second regulation is FAR Part 150, which deals with noise studies and noise mitigation, this regulation along with funding and land use issues are regulated by the Airports Division. Whittington showed the Authority a transparency of the noise contour of the airport. Whittington said in the comments from the Airports Division they objected because this development is located in the 70-75 decibel noise contour and under federal criteria, residential development within a DNL of 65 is not a compatible land use.

Haywood said that he lives in an addition adjacent to the airport and he hears the noise, but it doesn't bother him.

Beller said one of the FAA's communications said that the construction exceeds the notification criteria by 25 feet. Beller asked would moving the construction 25 feet, give them the right to continue. Wade said that he did not believe moving the project would be the answer, considering there were other issues like noise and the aviation easement.

Shanklin asked Wade to address the aviation easement. Wade said the FAA provided funds to acquire that easement in 1949 for the expressed purpose of protecting land use surrounding the airport from any obstruction that could interfere with the safe operation of the airport. Wade said the owner of the property requested a release of that easement in 1985. Wade said the Authority denied the request for release. Wade said he is sympathetic to the position of the Great Plains Improvement Foundation, but the airport did not receive notice of the rezoning last year because the Airport Authority is a tenant and not a landowner. Wade said he did not think that the Airport Authority had any responsibility in the current situation, because we were not notified until construction had started. Wade said in his opinion, with the correspondence we have from the FAA, if the Airport Authority considered releasing that easement we could be jeopardizing any future federal funding.

Shawn Erwin addressed the Authority. Erwin is representing J.C. Grayson the general contractor on this project. Erwin said "we are in a bad spot and you all are in a position to help us". Erwin said they were not requesting a release of easement, but Grayson just wanted their building permit back. Erwin said the Authority doesn't have to approve this construction, he is just asking that the Authority not oppose it. Erwin said that he believed that this construction is not a violation of this easement and asked that the Authority pass a resolution allowing this construction. Erwin said the Authority would retain the control and if the Authority changed their mind at some future date, could require them to tear down the project.

Wade said he believed the only thing the Authority can do wait for the response from the FAA airspace division following the study that will be conducted. Erwin said in lieu of taking any action today, he also recommends waiting 30 days until the FAA responds.

Whittington pointed out that the FAA Airports Division has responded to the Airport Authority with an objection to the project. Whittington said the Airspace Division's preliminary numbers were that there is no intrusion into the Part 77 surfaces and she anticipates that there will be not be an objection from them. Whittington said the Airport Authority needed to concern itself with the Airports Division response.

Odell Gunter from the Great Plains Improvement Foundation asked to address the group. Odell provided the history of this project. Gunter introduced Leonard Paine and Jim Kitchens. Paine was the owner of the property that GPIF and Jim Kitchens was an Airport Authority member.

Paine said he sold the property to the GPIF, "with the idea that they could build". Beller asked if the abstract was brought up to date, when the land was sold. Paine said he thought the easement release was in the abstract but when he reviewed it, it wasn't. Wade asked if Paine bought the property from Louis Brooks. Paine said he did. Wade asked if Mr. Brooks told Paine that he went to the Authority to ask for a release of easement and the Authority denied the release. Paine said Brook's attorney was handling this and Paine said he thought the release was approved.

Bridges asked Erwin when they became aware of the problem with this easement. Erwin said he became aware of the problem with the easement about two weeks ago.

Gunter passed out material and asked to address the Authority on the background of this project. Gunter said this project has been in planning since 1999. Gunter also stated that the City of Lawton rezoned this property for this construction. Shanklin asked if the City of Lawton notified the Airport during this rezoning process. Whittington said she did not receive notification from the City of Lawton.

Shanklin said she wanted to make it clear that the Authority was not opposed to low income housing. Shanklin said "we are all for the project", but we are bound by the FAA laws and regulations. Gunther said "The position the Authority is putting us in is, we can't do the project because of..".

Bridges said that none of the Authority wants to say "no" to this project, Bridges said he believed that this a viable project and he is saddened that someone dropped the ball. Bridges said he did not want the responsibility to vote no against this project. Bridges went on to say "the other side of this is, we have an airport to maintain and it is an economic tool for the community." Bridges said he feels like the burden has been put on the Authority to make a decision on something that the Authority has not been a part of. Bridges said he believed Mr. Erwin suggestion of shifting the burden to the FAA to make a decision was the answer.

Gunther said that time is critical on this project and he was concerned that an answer from the FAA would take too long.

Shanklin asked if the forms that are being submitted to FAA will cover both areas of concern.

Wade said that the Airports Division has made their opinion known in the letter from Ed Agnew. Wade said the Airports Division objects to the construction of this project on this site. Wade said he believed any further discussion with the FAA will not change that opinion, Wade said that he is not sure how much control they have over our funding. Beller said 100 percent control. Wade said he believed the FAA Airport Division has given the Authority their final opinion.

Wade said when the property was rezoned by the City, the Authority was not given notice.

Wade went on to say that before Great Plains purchased the property there was an attorney's opinion which noted that this easement existed. Wade said any title commitment that has been issued by Southwest Abstract dealing with this property has taken exception to this particular easement. Wade said the existence of the easement has been known, but he believed the ramifications were over looked.

Benson asked since we have the recommendation from the FAA, what the consequences would be if the Authority voted to allow this project to proceed. Wade said it would jeopardize future funding.

**MOTION BY BRIDGES, SECOND BY MOINI**, that the Authority defers action and allows the Great Plains Improvement Foundation to file the appropriate forms with the FAA to get an airspace determination.

Beller took exception to the word "allow". Beller said he believed it was their responsibility. The motion was revised.

**MOTION BY BRIDGES, SECOND BY MOINI**, that the Authority defers action until such time a Great Plains Improvement Foundation receives a response from the FAA. AYES: Shanklin, Moini, Marco, Smith, Bridges, Beller, Benson. NAYES: None. ABSTAIN: Haywood.

## **NEW BUSINESS**

There being no further business. The meeting was adjourned.

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Dorice Shanklin, Chairperson