



Minutes Tempe Aviation Commission June 12, 2007

Minutes of the Tempe Aviation Commission meeting held on June 12, 2007, 6:30 p.m., at the Public Works Conference Room, Garden Level, City Hall Complex, 31 E. Fifth Street, Tempe, Arizona.

(MEMBERS) Present:

Shannon S. Bradley
Bernard A. Eilers
Sandeep Gopalan
Ross Meyer
Gloria Regensberg
Joseph Salvatore (Vice Chair)
David Swanson
Connie Thompson
Duane Washkowiak (Chair)
Edwin R. Wiggington

(MEMBERS) Absent:

Troy McCraw
William Justus
Richard Pagoria (Excused)

Guests Present:

George Sullivan, Aviation Consultant

Citizens Present:

Barbara Sherman
Mark Thompson

City Staff Present:

Charlotte Benson, Senior Assistant City
Attorney
Oddvar Tveit, Environmental Quality
Specialist, Water Utilities
Department

Meeting convened at 6:30 p.m.

Duane Washkowiak called the meeting to order and invited the attendees to introduce themselves.

Agenda Item 1 – Public Appearances

Barbara Sherman addressed an article in the Arizona Republic on June 2, 2007 on how noise complaints to Sky Harbor officials had gone down in 2006. She emphasized that the article failed to acknowledge that;

- The complaint system in use at Sky Harbor is old. It was set up to register complaints on aircraft that deviated from agreed flight paths over the riverbed back when Sky Harbor was a smaller airport.
- The reality has changed with increases in aircraft activity levels. There are constant levels of aircraft noise, and it surrounds homes in Tempe.
- The system at Sky Harbor does not accept all types of complaints. Complaints

generated by a sophisticated computer system set up by a Tempe resident, was rejected by Sky Harbor. The Phoenix system does not accept "automatic" complaints. The complaint system was set up to make a complaint when the noise reached annoyance levels that could be individually set. She mentioned that another resident makes notes of flight observations. Over a thousand observations have been given to Tempe staff that cover parts of last year. She stated that observations are hardly noise complaints, but recommended that the City of Tempe accept these types of registrations that all are affecting individual's sleep, ability to learn etc. All types of registrations either done through the use of a sophisticated computer system or by a person sitting outside a home all represents an activity created by someone being annoyed, should all be registered.

- She also questioned what happened with complaints made to the Phoenix system.

Questions and Answers:

- Has there been attempt to contact the newspaper?
Oddvar stated that the paper had contacted the City, and upon his return from vacation after the article was out, he had called the paper to inform the journalist about the City's handling of noise complaints and where to access information about Tempe complaint numbers on-line.
- Do Tempe numbers include what Barbara addressed?
They do, except for the "automatic" complaints. Because the resident's system was set up to have them go to Sky Harbor, it could not be confirmed how many of these were submitted to the City of Tempe. He also explained why Tempe created its own complaint database and started registering complaints from its residents in 2000 and how the City keeps track of every flight identified in noise complaints to the City.
- What is the situation in Phoenix with regard to handling noise complaints?
George explained that the noise office was fully staffed and up to date. When they started receiving complaints from an automatic complaint system, the noise office made the decision not to accept automatic complaints, only those coming from residents affected by the noise. The decision was made about 6/7 years ago after an automatic complaint system was set up by a resident in Ahwatukee, and was not related to the automated system set up by the Tempe resident. Residents can complain about what they perceive as being disturbing. Noise complaints to the City of Phoenix are not limited to planes being outside the "Gate" or the Tempe "Corridor" in the riverbed. He mentioned that "Gate" deviation notices are going out to the airlines two times every week. He agreed with Barbara that the system used to register complaints is somewhat antiquated, and the airport has started looking into upgrades.
- Who receives the deviation notices? George replied that this would typically be the airlines' chief pilots.

Gloria expressed her concerns over the deflection of fault to the airlines, an impression she got reading the article, since individuals at the airport tell the pilots where and how to fly. This led to George explaining about the IGA and the agreed departure procedures, and how aircraft navigate over the riverbed, including measures set up to identify deviations. He emphasized that the airport has nothing to do with how the planes fly. That is done by the FAA's air traffic controllers. He also explained that every 24 hours, it used to be every 3 days, radar data from the FAA is released to the Phoenix flight track monitoring system. The City of Phoenix examines the flight track data to check for deviations, and sends notices to the airlines. There are no penalties for airlines that receive deviation notices. Some deviations have natural causes, a thunderstorm can cause deviations, and those are exempted from being notified to the airlines. Procedure compliance for departures to the east using the Phoenix Gate is about

97% for jets and using the Tempe corridor it is about 67% (2006). Approximately 300 large jet departures a day go east. Turboprops are not included in the Phoenix rate. He also answered questions on separation standards between aircraft inside Phoenix Class B airspace.

Agenda Item 2 – Consideration of Meeting Minutes (April 10, 2007)

Duane solicited comments to the minutes. Gloria moved to approve the minutes. The motion was seconded by Shannon. The minutes from the April meeting were unanimously approved.

Agenda Item 3 – Updates From Staff

RFQ for measuring aircraft noise and air quality:

Oddvar reported on the Request for Qualifications for professional noise and air quality assessments. The RFQ had been out and the City had received one response. He explained about how a previously crafted RFQ on noise measuring services had been combined with air quality assessment of a specific area in Tempe.

PAUWG meeting:

He stated that since he was out of town on May 17th, 2007 he had nothing to report from the meeting. Prior to the meeting he had received maps displaying adjustments to the airspaces over Falcon Field and over Luke AFB because of the Class B redesign. George commented that the Phoenix Class B redesign is a regulatory measure to improve the safe operations of large commercial aircraft. It does not change any flight procedures or ground tracks in and out of Sky Harbor, and has yet to be finalized by the FAA.

Tower/TRACON Tour:

Efforts had been made to schedule a tour for the members of the FAA facility in May.

Follow up:

Staff would work on giving the members an opportunity tour the facility at a future date.

PM-10 Inventory:

Maricopa County had finalized a 2005 emission inventory for particulate matter. It was available on the Maricopa County's web site; (http://www.maricopa.gov/aq/divisions/planning_analysis/emissions_inventory/reports/Default.aspx) where emissions from towered airports in the County could be examined. Oddvar had prepared a spreadsheet to compare the aircraft emissions in the 2005 inventory and the emissions projected in the Sky Harbor EIS for 2015. He explained that the methodology used by the County to come up with the 2005 inventory was somewhat different from the methodology used in the EIS. The 2005 inventory is a baseline, and is needed to come up with a PM-10 emissions reduction plan for the Maricopa non-attainment area. The Sky Harbor EIS includes construction emissions, which will add to emissions expected from operations on the ground and because of growth in annual landing and take-off cycles. Proportionally, the contributions from aircraft activity at county airports were overstated in the draft for the 2005 inventory and have been adjusted down from 7% to 0.2%. Emission modeling tools for airport air traffic operations calculate emissions up to mixing height, which is generally set to 3,000 feet. Aircraft emissions above that altitude are not allocated to local emission inventories. Considering all the different types of activities that create emissions at a large airport like Sky Harbor, he had suggested that the City of Phoenix take a look at the benefits of having total emissions at Sky Harbor modeled and include PM-10 emissions in the Salt River SIP to collect credits for existing and planned control measures for particulate emissions. This could benefit the region as a whole in the future in terms of achieving attainment or avoid exceeding limits set by the federal air quality standard at dust monitors.

Questions and Answers:

- Would the County web site explain how the numbers were generated?

Oddvar confirmed that the information is in the inventory and attachments to the inventory.

- Are the numbers on contributions from ground support equipment projections as well? These are numbers from the 2005 inventory. The table was generated by the Maricopa County Air Quality Department after the City commented that the draft inventory appeared to only include numbers on emissions from ground support equipment at Sky Harbor comparing the numbers with emission modeling data calculated for Sky Harbor in the 2006 EIS. The table shows that for five criteria pollutants, Sky Harbor contributes between 86 to 92 % of total emissions from ground support equipment at 8 county airports.

Letter to the Mayor and Council from Barbara Sherman:

Oddvar also informed the members about Barbara Sherman's a letter to the Mayor and Council on the report from Governor's Advisory Council on Aviation. The letter mentions the "Apogee Report" a study the City initiated 15 years ago, which she uses in her letter to focus on how expensive airport improvement projects turns out in terms of reducing delay. The report predicted that a third runway expansion would only represent a 28% chance of helping Sky Harbor to meet the projected demand in 2007. He mentioned that airport delay had been addressed in a different context at a previous meeting, because it in addition to be influenced by how the airport is configured and operated, it also has to do with how delays at distant airports affect the air traffic system and end up creating delays at Sky Harbor. Her comments were addressed in a Tempe Republic June 9, 2007 article that was included in the meeting handouts together with Barbara's letter.

Agenda Item 4 – Update From the City of Phoenix Aviation Department

Aviation Director Interviews:

George Sullivan reported that the City of Phoenix recently conducted interviews for a new aviation director, and it would take a few weeks before a new director is appointed. Acting Director Danny Murphy was among the interviewed candidates.

Implementation of EIS Projects:

The department is still working on sequencing the projects included in the EIS. It is complicated work because of the size of the projects. It is important to make sure each project can progress without having to go back and redo work that has already been done.

Building Heights in Tempe:

George had been involved in talks regarding building heights in Tempe for the SunCor Marina Heights project, and he said that SunCor had cooperated well with the airport and U.S. Airways. A lot of projects are due in Tempe and currently meetings are taking place for the Onyx project.

Questions and Answers:

- Has the airport received any input from the FAA regarding Sky Harbor noise reduction program limitations to single-family only, and to which extent FAA guidelines allow and other airports receive funding to do multi-family housing? He explained that the current program is restricted because of the way grants are specified and funding has been approved.
Follow up: George would check with the new program manger on the status of research into TAVCO's questions regarding restrictions to single-family housing.
- Who goes after the federal grant money? That is done by the airport, and grants are given with many complicated restrictions.
- I saw an incoming plane go from the third to the second runway, is that a result of conscious choice by the pilot? George explained that the pilot most likely asked for it.

Agenda Item 5 – The Open Meeting Law

Charlotte explained that Arizona Revised Statutes require that public business has to be open to the public. Sunshine Laws require that public business done with public funds cannot be done in secret. The requirements in the statute is elaborated through Attorney General Opinions when specific cases come before the Attorney General's Office and then to Court cases, as the Open Meeting Law statute gives the Attorney General authority to prosecute violations. Individuals can also file against people they think have violated the law. The law requires that members of public bodies, including boards and commissions such as TAVCO propose, discuss, deliberate, or take legal action in public. She explained the definition of terms in the Open Meeting Law:

- Decisions are made by a quorum or simple majority, except for boards and commissions that have separate charters that deviate from this requirement.
- A meeting is a gathering of a quorum where members propose, discuss, deliberate, and take legal action, but an Attorney General Opinion states that a gathering either can be in person or through the use of technological means. A gathering of the quorum can not be done through e-mail or phone. It would violate the Open Meeting Law.
- Deliberations include any matter a board or commission undertakes in its official function.
- Potential business is anything that might come before the board or commission for action. This includes exchange of facts preliminary to legal action. The law does not distinguish between facts and opinions, so referring to one or the other does not prevent legal action for violating the law.
- Taking legal action is the collective decision the board or commission reaches.

Violations of the law are enforced by making the action that was taken null and void. It can also result in responsible persons being fined and removed from office.

She proceeded by giving advice to the members on what to do and what to avoid as members of the Commission when conducting meetings:

1. Stay on the topic listed on the agenda. Avoid discussing future items or items not on the agenda.
2. When proposing a topic for a future agenda, state the topic and not the action you want the Commission to take. If action is stated you are entering into deliberation of actions of a future item that is not on the agenda, which is inappropriate.
3. Do not discuss items raised by the public in Public Appearances. E.g. when Barbara Sherman comes in to the meeting and brings up a topic that not on the agenda, it cannot be discussed. The reason is that the public can only know about a topic if it gets on the agenda. It should be on the agenda for a future meeting so people that might be interested in hearing what the Commission has to say about the topic can be notified. She stated that it is not fair to the rest of the public that a topic is discussed, deliberated, and action taken with only the representative from the public that raised the issue being present.
4. Avoid conversations in a meeting that the public cannot hear.

She also gave advice on what to avoid outside a public commission meeting:

5. Avoid "splintering the quorum", which is serial communication; a board or commission member talking to another and this member talking to third member and so on. This has been addressed in an Attorney General Opinion, and should be avoided. The Attorney General has identified situations where a series of conversations or e-mails to a quorum might be considered a violation of the Open Meeting Law, even if it is not simultaneous communications.
6. Do not propose legal action to a quorum outside a public meeting, including by the use of e-mail.

7. E-mails about commission business should be avoided. These e-mails are public records. If e-mailing about commission business, she advised the members not to forward or use the "Reply to All" button to avoid communicating with a quorum. If in doubt she told the members that ambiguities are construed in favor of the Open Meeting Law.

Questions and Answers:

- If e-mail is used, but as advised not in communication with a quorum, can you provide us with a standard we could use?
Follow up: Charlotte would give staff a standard text that could be used within the guidelines given

Agenda Item 6 –TAVCO Tasks Update

Oddvar stated that the tasks remaining on the list are pending because of questions that the members have raised has yet to be answered. The plan is to have questions addressed by air traffic controllers hopefully in connection with a tour of the new facility at Sky Harbor. The members agreed to table the item to a future meeting when the tasks could be appropriately addressed.

Agenda Item 7 – Commissioners' Business (topics for future discussion)

Duane suggested the members follow up on the Arizona Republic June 2, 2007 article and discuss a letter from TAVCO to the newspaper. Duane also asked George to get an updated view of the Phoenix complaints handling process on paper. Dave suggested that the Commission discuss establishing a joint noise commission to influence which complaints gets accepted and registered. Bernie asked staff for an update on the status for the aviation budget proposal, the "NextGen Financing Reform Act of 2007".

Agenda Item 8 – Schedule Next TAVCO Meeting

Staff was asked to push the schedule of the next meeting to July 17th 2007.

Agenda Item 9 – Adjournment

The meeting was adjourned at 7:58 p.m.

Prepared by: Oddvar Tveit

Reviewed by: Don Hawkes

Authorized Signature
Water Utilities Department Manager