

**BEVERLY AIRPORT COMMISSION
MINUTES OF MEETING
APRIL 10, 2023**

LOCATION: 50 L.P. Henderson Rd., Beverly Airport East Side

PRESENT: Commissioners Paul Trefry, Jason Roulet, Peter Gentile, Jessie Zuberek, Josh Doxsee, Christopher Hendricks and Kyle Retallack

OTHERS PRESENT: Steven Rawding and Craig Schuster

ABSENT: Aaron Henry

PUBLIC: Zuberek and Wyler

RECORDER: Christine Martin Barraford

A. CALL TO ORDER

Mr. Trefry called the meeting to order at approximately 6:00PM, which is being audio and video recorded as a hybrid meeting. Present were: Mr. Trefry-Y, Mr. Retallack-Y, Mr. Hendricks-Y, Mr. Doxsee-Y, Mr. Roulet-Y, Ms. Zuberek-Y and Mr. Gentile-Y.

1. Pledge of Allegiance

Mr. Trefry led those in attendance in the recitation of the Pledge of Allegiance.

2. New Members of the Commission

Mr. Trefry welcomed the two new “pilot” members of the Commission: Kyle Retallack and Christopher Hendricks.

3. Acceptance of Regular Meeting and Executive Session Meeting Minutes – March 13, 2023

Upon motion duly made by Ms. Zuberek and seconded by Mr. Roulet, it was unanimously voted to approve the above minutes. Roll call vote: Mr. Trefry-Y, Ms. Zuberek-Y, Mr. Roulet-Y, Mr. Hendricks-Y, Mr. Retallack-Y, Mr. Doxsee-Y and Mr. Gentile-Y. Motion passed 7-0, unanimous.

4. Reading of the Financial Report – Mr. Rawding

Mr. Rawding reported the following revenues for March, 2023 as compared with March, 2022: a) fuel flowage fee revenue at \$6,116.70 represented a decrease of \$3,456.40; b) traffic count at 6,969 represented an increase of 578.00; and c) landing fee revenue at \$9,709.43 represented a decrease of \$378.12. For the first quarter of 2023 there was a total of 18,217 operations as compared with last year’s first quarter of 15,146 representing an increase of 3,071.

Upon motion duly made by Ms. Zuberek and seconded by Mr. Gentile, it was unanimously voted to approve the above minutes. Roll call vote: Mr. Trefry-Y, Ms. Zuberek-Y, Mr. Retallack-Y, Mr. Hendricks-Y, Mr. Doxsee-Y, Mr. Roulet-Y and Mr. Gentile-Y. Motion passed 7-0, unanimous.

5. Airport Solutions Group Presentation – Mr. Schuster

Mr. Schuster reviewed the Airport Solutions Group monthly status report including the following highlights:

Airport Master Plan. Airport Master Plan and The Airport Layout Plan (ALP) have been signed by the FAA on April 7, 2023, along with ALP approval letter. The next steps are ASG will print out a full-size hard copy of the ALP plan set for the Airport files and reference; and ASG will proceed with final billing and FAA and MassDOT project closeout documents.

Aeronautical Study Runway 16-34 and 927. ASG has developed a draft scope of work and submitted it for review by the FAA, STATE, and the Airport. ASG has received and addressed scope of work comments, from the FAA, SATE, and Airport, and prepared a final scope of work. ASG has assisted the Airport with the FAA required Independent Fee Estimator (IFE) process. The Airport has engaged with an IFE. Next steps: ASG to prepare their fee based on the scope of work and submit to the Airport; IFE to prepare their fee based on the scope of work and submit to the Airport; and Airport to compare fees and negotiate as needed

Cold Storage Building – ASMP Project. The cold storage building project is on hold per MassDOT due to funding.

Discussion ensued on the various projects, including that proposed by the FAA on the repair of the cracked sealing in the amount of \$200K.

Mr. Trefry stated that the five-year contract with ASG, extended by one year, is due to expire. A subcommittee will be formed to draft and RFP for engineering bids. Mr. Schuster noted that the RFP is based on qualifications only.

Miscellaneous. ASG is providing airport management services of two days/week.

B. AIRPORT MANAGER’S REPORT

Mr. Rawding presented the airport manager’s report including the following highlights.

Airport Control Tower conducted a successful runway safety team meeting attended by the Regional Administrator of the FAA and airport stakeholders including representatives from the flight schools. Topics included traffic flow, communications and suggestions for improvements.

Three additional flush-mounted well sites have been identified to be installed to continue PFAS testing required by the DEP and EPA in the area of taxiway foxtrot. Petroleum monitoring will also be conducted.

Airport spring maintenance has commenced with grass mowing and field maintenance. Attention will also be given to sealing cracks suggested by the FAA. Additional funds are needed to address fence repairs.

C. CHAIRMAN’S COMMENTS

Mr. Trefry read the following statement provided by the City Solicitor’s office into the record:

"The below discussion is remedial action to address discussions conducted during the March 13, 2023, Beverly Regional Airport Commission meeting held at Beverly Airport and beginning at 8:15PM during an executive session convened without proper notice and purpose as defined in M.G.L. c. 30A, Section 21.

- Discussion of potential leases for space previously occupied by Beverly Police Department and currently occupied by Beverly Department Public Services.

- Summary from Vice Chair Trefry of discussions with City Council Budget and Management Analyst.
- Discussion with Chris Koeplin from Beverly Crossing.
- Discuss development of RFP for lease of buildings."

Mr. Trefry provided the following background information. At the last meeting of the Commission on March 13th, the Commission voted to go into Executive Session for the sole purpose of discussing the lease of the Airport Road property to the City. No other topics were posted for discussion at the fifty-minute long meeting, forty minutes of which was spent exploring the option of a land lease of forty years with someone else to develop the property on a land-lease basis. Toward that end, developer Chris Koeplin of Beverly Crossing was invited to the meeting to provide industry expertise on how to proceed with that option.

Two weeks later on March 28th, Mr. Trefry was called into the Mayor's Office and informed that the Commission had violated Massachusetts Open Meeting Law by not publishing an Executive Session on the meeting agenda, had spoken on topics beyond the stated topic of lease of airport property and had brought in an outside party to the meeting. At that time the City Solicitor gave Mr. Trefry a list of remedial action items, as above stated, to address in public to remedy the violation.

At the conclusion of the meeting, Mr. Trefry contacted the Attorney General's office to get a perspective on the stated violation. He identified himself as a member of an airport commission but did not divulge the name of the airport or the city, but that the Executive Session was called to discuss intended negotiations. Ms. Carey Kilcoyne of the AG office stated that, in fact, the Commission had been in violation of Open Meeting Law by not publishing Executive Session on the agenda and the remedy would be to release the minutes, which were in fact approved by the Commission at the beginning of the present meeting. She stated that the Commission was within its rights to bring a third party for advice into Executive Session, as long as the stated objective is to exclude the public and party to the negotiation. The Commission could not, however, exclude the public, and then bring the City back into discussion. She stated that this type of violation would not warrant the removal of a member of the Commission, but would then ensure that the Commission is educated about Open Meeting Law so as not to repeat the violation. While Mr. Trefry acknowledged that he was in error by not publishing Executive Session on the agenda, he stated that the City Solicitor has provided materials for additional training on the specifics of Open Meeting Law.

In compliance with the City's request, Mr. Trefry reviewed the three separate elements of disclosure with regard to conversations at the last meeting. The conversations with the City's Budget and Management Analyst, Gerry Perry, detailed in five paragraphs of minutes, were reiterated as follows:

On Friday, March 3rd Mr. Trefry, Mr. Doxsee and Mr. Roulet met with Mr. Perry, who was hired by the City Council to advise on financial matters. He was a retired employee of the Department of Revenue and was knowledgeable about financial matters. After Mr. Trefry appeared before the City Council in February, Mr. Houseman put him in touch with Mr. Perry to work with him in finding a resolution.

They initially toured Building 45 and then drove to the Airport Road property for two and one-half hours. They returned to airport headquarters and spent an additional two hours. Mr. Perry encouraged Mr. Trefry to "air everything" and explain in detail the history of what happened, all grievances and disappointments experienced and the Commission's intention of what it would like to see going forward.

Mr. Trefry acknowledged that he was grateful for the educational experience that Mr. Perry provided. He explained in detail what the enterprise fund was and was not. The airport enterprise fund does not belong to the airport, but instead is a fund that the City holds on behalf of the airport, in which all the

revenue from fees, leases, landing fees etc. are deposited. The airport does not have immediate access to the \$500K in the fund which acts as a buffer to protect the City from any unforeseen or emergency financial situations that may arise at the airport. If the airport needs funds to pay for expenses, it must solicit the City for the funds which the City Council then in turn is required to approve. In fact, when the City asked the airport to contribute \$117K to the construction of Building 45, the above procedure was followed.

Mr. Perry clarified that the funds were the City's to spend how it saw fit. The airport had no recourse when it complained that the funds may have been misspent as half of the work on Building 45 was not completed. He emphasized that the money was the City's to spend as it saw fit, and that, in fact, the City has no intention of spending any additional monies on Building 45.

Mr. Perry stated that, once the City decided not to house the municipal inspectors in Building 45, monies were not completely spent. He advised that there is approximately \$100K in unspent monies in the fund that the airport could utilize. He would support the airport soliciting the City for \$100K, and that this would leave a sufficient buffer in the enterprise fund. This would leave \$200K available to the airport. As this would not be enough funds to address Building 45, he suggested raising an additional \$200K in revenue from a jet fuel tax. The Commission will further discuss the latter option.

As far as the City occupying the Airport Road space at this time for no lease payment, Mr. Perry advised that this arrangement continue as its original intent as a payment-in-lieu-of consideration for the services that the City provides to the airport.

Mr. Trefry then asked the two members present at the meeting for their input, and they were in agreement with Mr. Trefry's summary of the meeting as being very informative on the technicalities of moving forward.

Mr. Trefry then addressed the second remedial action, i.e. the discussion with Chris Koeplin of Beverly Crossing. A roll call vote was taken to enter into Executive Session, at which Mr. Henry abstained. He read the contents of the Executive Session minutes as follows:

Executive Session Minutes – March 13, 2023

Trefry discussed the meeting with City Council's Budget Analyst Gerry Perry.

Trefry stated 'we're missing out on \$48,000 annual rental revenue of the DPS warehouse.'

Trefry stated 'on Dec. 15, 2015 two letters were sent to the FAA regarding leases of airport property. The Airport Rd lease was to be an 'In Lieu of Payment' arrangement. Trefry stated he found these letters in the Airport filing cabinets.

Trefry stated, "Gerry Perry suggests we let DPS use the Airport Rd property for NO RENT."

Trefry stated that in the Commission's open meeting of March 2021 the Mayor and Mr. Mike Collins said to the effect "let's fix up Building 45 and get this done, let's get DPS out." He added, "It never happened."

Trefry stated, "In July of 2018 Gloria Bouillon tried to negotiate a lease for the DPS warehouses but couldn't get it done."

Trefry stated he had made contact with real estate developers that lease out property at Cherry Hill Industrial Park such as RJKELLY, Windover Construction, JLL, and The Mega Group.

Trefry then introduced Mr. Chris Koeplin, President of Beverly Crossing, a real estate development group, to provide general information on how to move this process forward.

Koeplin stated he has successfully developed real estate in town including 600-700 apartment units within Beverly. He added he develops the 'Highest and best use planning.'

Koeplin referred to the Airport Rd land as "Interesting IR-Industrial Restricted Land."
Koeplin touched upon "how to get the best RFP through the City Council."

Trefry stated 'the Commission needs to be in the driver's seat according to the FAA regarding development of land.

Trefry added, "3 airport managers could not get leases with the city."

Koeplin stated, "Write lease within RFP of land development so it's codified."

Koeplin added, "Beverly Crossing can help, specifically spending some time to help solve this, or the Commission can use them as a resource for pay.

Koeplin added, 'the commission could get a survey and deed search for \$10-20k, it's easy stuff to do. He suggested the firm of Weston & Sampson as a partner.'

Trefry told Koeplin, "If this is something we want to explore, and we then go to the city, and state we've talked to 5 developers and have been given dollar figures for potential revenues, I don't think the mayor would shoot us down."

Trefry stated, 'The commission could give DPS the use of Bldg #45. We could build this into RFP.'

Regarding ANRAD & 116, Koeplin added he could get proposals to see if the land is good and see if there are any issues with the land. LEC would do wetland and soil; More and Cameron, Glovesky could do title work;

Koeplin continued, "21E report if there are hazards; we'd have to report this. You could do a Phase 1 environmental report with GFS for \$2500 to just do basic research. Otherwise we could be on the hook for big money."

Koeplin stated, 'Don't spend \$40K unless the commission knows what the end game is. Determine what do we do with \$10K per month revenue; a restaurant, etc, how do you spend the money.'

Koeplin added, "What about joint ventures, promoted positions? And we're part of future revenue."

Aaron Henry stated, "We never had conversations on what Gloria was trying to accomplish. We're shrinking one runway, adjusting pavement, and lengthening another. What happens to the airport after all this?"

Peter Gentile stated, "If we have this revenue we can hire more, fix fences, build restaurant, get new plows, cold storage building, etc."

Koeplin added, "after the first studies I'd recommend the commission then develop an RFP and send to the city council. Go from there. Optimize cash flow and then decide what to do with it."

Koeplin added, "What is the mission or goal? A 50-year lease? What business would want this space, for best use/trade space with something else for a business."

Koeplin added, “Put wide guardrails in RFP so that the land use is not too restrictive (i.e. storage units only.)

Koeplin added, ‘The First step is understanding jurisdiction.’

Peter Gentile added, “Go to the city solicitor?”

Koeplin stated, “I can help generate a roadmap and get resources pulled together.”

Trefry stated, “How do we work this out with the city?” Trefry said he has 4 companies working on 4 free proposals at this point. The City’s Planning dept. will want to work on zoning, but they won’t want to be overburdened. If the commission can come to the table with an explanation of where some of this is coming from.

Koeplin stated, “Figure out off ramps, if surveys go south or if it’s only worth \$5K per month. Also know that leases are limiting and companies will back out.”

Trefry asked Koeplin, “Chris, what do you need from us?”

Koeplin stated, “I can work in a vacuum. Nothing for now, and we’ll talk later if things ever happen.”

Koeplin asked “how is it best to talk with the Commission? Trefry responded “We could do another executive session to meet again.”

Trefry stated, “Thank you Chris. This has been very helpful.” (*end of Executive Session minutes*)

Mr. Trefry asked members for additional input. It was the consensus of members that Mr. Keoplin advised the Commission on the steps needed to go forward with the lease, namely the issuance of an RFP, and the discussion with Mr. Keoplin was in conceptual terms only. There were no votes taken at the meeting.

Mr. Trefry took full responsibility for not adding Executive Session to the agenda of the open meeting, and looks forward to the Open Meeting Law training on May 11th. The public has a full right to know the reason for the Commission to enter into Executive Session following any open meeting session.

D. NEW BUSINESS

Commission Structure: Subcommittees

Mr. Trefry noted that he had included suggestions for several subcommittees in the members’ meeting packet. He also suggested that members familiarize themselves with the airport master plan and airport layout with detailed information on the history of airport properties and boundaries over an extensive time period.

Land Lease Options: Airport Rd. Property

Mr. Trefry reported that he been contacted by several developers interested in the eleven acres of land close to the Cherry Hill Development park. All are very interested in moving forward. He has forwarded information on the history of the airport, including photos of growth over the last several year.

Lease Negotiations with City of Beverly: DPS Shop on Airport Rd.

Mr. Trefry then addressed the role of the airport is to grant assurances for a plan for self-sustainability. Toward that end, every airport has a federal obligation to maximize revenue flows wherever possible in order to contribute to the upkeep of the airport and to be an equal partner in the financial of the airport with the FAA and MassDOT. The airport has a requirement to grant assurances to develop the land and not to “give away” real estate to the City or other entity. Specifically, the airport is obliged to

get fair market value for Building 45, and it is the absolute obligation of the City to pay fair market value for the property the occupy.

He noted the failed attempts over the years to obtain compliance from the City, including former airport manager Bouillion's efforts immediately after her hiring to engage Anderson Krieger in development of eleven acres including the development of an extensive RFP at a cost of \$10K. This was submitted to the City and received no action. The Mayor has stated he did not receive the RFP.

Mr. Trefry noted that the airport is in jeopardy of losing federal funding due to non-compliance of grant assurances. With regard to Mr. Perry's suggestion that the airport impose a jet fuel tax, Mr. Trefry's research showed that the airport does not have authority to impose excise taxes. The City Council of Beverly has the authority to impose such a tax as do the Select Boards of Danvers and Wenham. Also in terms of the airport's payment-in-lieu-of arrangement to the City for services provided to it, the FAA has stated that this arrangement is illegal and the City must pay fair market value and cannot tie to services rendered. Fair market value must be paid first, and then the billing must be based on actual services and not budgeted estimates for services. The FAA has backed this statement up to the City, but the City has not responded to date. Mr. Trefry noted that the language in the letter from the FAA was strong and emphatic to the effect of "enough is enough."

Mr. Trefry discussed the possibility of pursuing a land lease. He also noted that the airport receives \$20K/year for the storage of trailers and a 120-day notice of termination can be given to the City. He will pursue getting a lease for \$4K/month for however long it remains on the property. The City in previous emails has noted that the City is ready to vacate the property in the event a real development of a higher and better use is identified and secured during the lease term.

Mr. Trefry reached out the Mayor's Office on Friday to determine who will be the negotiating party on behalf of the City and he has not received a response. He noted that the City is ignoring the autonomous authority of the Commission and believes it should merely act as advisor to the airport manager.

Mr. Trefry noted that the Mayor has suggested that the Commission wait for the new airport manager to start in his position before addressing the lease situation. Mr. Trefry noted that in seven and one-half years, three airport managers have been unable to settle a lease with the City, essentially "their boss." He noted that there is no other business entity that would be allowed to occupy property at the airport without a lease other than the "airport manager's boss."

The fact that the FAA has stated that the City must pay fair market value for the property is a singular condition that "is not negotiable" any longer.

Existing RFP for Airport Road Development: Discuss Usage

Mr. Trefry noted that if the Commission went ahead with the land lease option, the RFP would have to be updated by the City. The FAA has confirmed that the City is not allowed to interfere with the airport's development of its land. As an example of how the two entities could work successfully together, he had given the Mayor an article on a previous development of land that the Town of North Andover negotiated with the Lawrence airport. Mr. Trefry will forward a copy of the RFP to members.

Phase 1 Environmental Site Assessment (ESA) Airport Rd.: Discuss Options

Mr. Trefry reported that Mr. Coleman, the real estate developer, had suggested conducting a phase 1 environmental assessment as a first step in the RFP process for the development of the land. The last test in 2005 found contamination which was remediated. The assessment will be conducted in a search of documents as was as a GIS for a cost of \$9,500.

Discussion ensued on the process of the assessment as a first step. Mr. Hendricks stated that an environmental assessment should be done before the RFP is disseminated in order for bidders to have assurances that there will be no adverse environmental impact before making an investment in the development of the property. Members agreed to have an adequate amount of time to review the RFP before an assessment can be authorized. Mr. Trefry stated that the two documents did not have to be mutually exclusive. The process for the study could take as much as up to six weeks, and during that time the Commission could discuss the terms of the RFP. In this way, when the new airport manager started, a bulk of the work had been accomplished and he could quickly move forward. The result of the environmental assessment could be presented to the City as solid documentation that the Commission is advancing the process for bid. Members expressed reluctance to spend funds on surveys without the assurances that the City is “with us.”

Mr. Trefry reiterated that this project has lagged behind for seven years, and time now was of the essence. He had told the Mayor of his intention to resign possibly in July. The Mayor in turn asked for his resignation immediately. The Mayor was adamant that the project move forward when the new airport manager arrived. Mr. Trefry stated that he was reluctant to have “one other airport manager” be in the dubious position of negotiating with “their boss” on the terms of a lease. After his meeting with Ms. Flowers of the City Council, he was confident that a lease deal could be negotiated with interested developers. He stated that he in the right to rescind his resignation and see this project through to completion for a land lease of 35,000sf for a term of forty-nine years as a solid revenue source for the airport. The Mayor cannot remove him as Chair. The Commission is not an advisor to the airport manager but has the authority and responsibility to pursue financial opportunities.

Mr. Trefry made a motion for the Commission to spend \$9,500 for an environmental site assessment to be completed by Weston & Sampson. The motion was seconded by Mr. Gentile, but failed to receive votes. Mr. Trefry withdrew the motion.

Mr. Trefry stated he will disseminate both the RFP and environmental assessment proposal from Mr. Coleman to members. A Zoom meeting of the Commission will be scheduled to discuss both documents.

D. OLD BUSINESS

Noise Abatement Program Update

Mr. Doxsee reported that he and Mr. Roulet had a tour of the airport control tower and left a copy of the draft noise abatement policy for review and comment in two weeks. A subcommittee will be formed to review all feedback and present a final version to the Commission.

Upon motion duly made by Mr. Trefry and seconded by Mr. Doxsee, it was unanimously voted to appoint Kyle Hendricks and Jessie Zuberek to the noise abatement subcommittee along with Mr. Doxsee and Mr. Henry. Roll call vote: Mr. Trefry-Y, Ms. Zuberek-Y, Mr. Retallack-Y, Mr. Hendricks-Y, Mr. Doxsee-Y, Mr. Roulet-Y and Mr. Gentile-Y. Motion passed 7-0, unanimous.

Mr. Trefry noted that all subcommittee meetings post be posted forty-eight hours in advance for meetings excluding weekends and holidays and to be held in normal business hours. Ms. Brickman can assist in creating a link to the Zoom meeting.

E. TENANT COMMENTS

There were none.

F. COMMISSION COMMENTS

Mr. Gentile will not be present at the next meeting.

G. PUBLIC COMMENTS

Mark Zuberek appeared before the Commission. He praised the Chair for the formation of a business plan and “taking the reins exactly where they belong...with the Commission and not the Mayor’s office.” The residents of Beverly, Danvers and Wenham have suffered “because of the dictates from the Mayor’s office.”

With regard to the environmental impact statement, he stated that a survey for one piece of airport property was “useless.” Due to the airport environment, all airport property is affected by the operations at the airport and the properties to be developed. The current proposal is for a document search only of the eleven acres and does not cover the total umbrella of airport of 470 acres.

He asked that public comments be made part of the noise abatement report. He made his own comments on the draft supplied to him by Mr. Trefry will forward these along to the subcommittee.

_____ Wyler appeared before the Commission. He was in favor of the Commission bringing economic opportunities to the airport and continues to invest in the airport.

H. ADJOURNMENT

Upon motion duly made by Ms. Zuberek and seconded by Mr. Gentile, it was unanimously voted to adjourn. Motion passed 6-0. Roll call vote: Mr. Trefry-Y, Ms. Zuberek-Y, Mr. Retallack-Y, Mr. Hendricks-Y, Mr. Doxie-Y, Mr. Roulet-Y and Mr. Gentile-Y. Motion passed 7-0, unanimous. The meeting was adjourned at 8:32PM.