

City of Elkhart
Board of Aviation Commissioners
March 31, 2021

The Board of Aviation Commissioners meeting was called to order by Doug Thorne at 4:00pm on Wednesday, March 31, 2021 in the City Council Chambers, 229 South Second Street. The following commissioners were also present: Shari Mellin, Bruce Shreiner, & Tom Shoff (via Webex). Also present were: Andy Jones, Karen Shaw, Randy Arndt, Dwight Fish, Paul Shaffer, Katie England, Gueton Cubillo, and Tom Minniear.

Approval of Minutes:

Shreiner made a MOTION to approve the minutes of the February 24, 2021 meeting. The motion was SECONDED by Shoff. There being no further discussion, the motion PASSED unanimously.

Approval of Claims:

Shreiner made a MOTION to approve claims as submitted in the amount of \$64,427.00. The motion was SECONDED by Mellin. Mellin asked about the claims for kitchen renovations. Andy advised the kitchen in the administration building has gotten a lot of use in past years and had not been updated in 38 years. The cabinets were in pretty bad shape. The counter top and lower cabinets were water damaged at some point in the past and were emitting an unpleasant odor. Gaps existed between the lower cabinets including a four-inch space between the dishwasher and the contiguous cabinet. It was time for an upgrade with a functional and more modern look. All airport tenants have access to the kitchen and prior to covid-19 they took advantage of it. The expectation is that it will attract more usage from pilot's and their aviation staff as covid-19 restrictions become a thing of the past. Andy also advised that all the bathrooms in the Administration Building and in the bathroom located in the contiguous hangar have been painted and the water stained discolored drop ceiling tiles replaced. No outside contractors were hired. All the renovation work was performed by airport maintenance staff. There being no further discussion, the motion PASSED unanimously.

Manager's Report:

Andy advised the City of Elkhart Street Department had an early opening in their schedule to start the milling & paving of the 50 & 60 series hangars, so the work is currently in progress. This will help with the recurring problems of standing water in the 60 series hangars which has caused flooding inside several hangars. All the tenants being directly affected during the construction were informed a head of time and given relocation options. Andy advised the Street Department will also be paving an access road to the farmhouse property using a portion of the millings generated from the removal of the 50 and 60 series ramps. New asphalt will overlay the dirt section of the perimeter between TMC and Mach Air. Andy also advised the backflow valve in the Control Tower that has been leaking for a number of years has been repaired. Andy advised that door springs on several garage doors and hangar doors have snapped recently resulting in having to call in an outside help to affix repairs. In addition, there was a need to replace the bottom panel of the maintenance garage. The furnace in Building 7 (Former Coachman) has been reactivated, and the gas service re-established. Andy shared that he was relieved that after being dormant for about 10 years there were no major problems with restarting the furnace. Andy is currently working on a quote to have the new windows installed in Building 7 that have been here in storage for about 4 years. The work may begin on that and other projects in Building 7 after Widgeon (seaplane) is moved out of the way. The funds for some of the renovations (HV/AC and plumbing) were encumbered and carried over from the 2020 Aviation budget. However, the window installation costs were not and will need to come out of the 2021 budget. The construction materials for Mark Dokey's new hangar (hangar 41) have arrived and Andy is still working with Abonmarche on the site plan. The Street Department will pave the access road for this and future hangars. The curb cut will be off of Airport Road once the building is up. Fence construction continues on with the final phase and

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the gates are beginning to be installed on the airport's south side. There is a temporary fence where Mark Dokey's hangar will be and the contractor has agreed to delay the final installation of that section of fence until the hangar walls are up so it can connect up with the side of his hangar without causing him to incur the additional expense of having to move a brand new fence. There was another accident involving an automobile penetrating our new fence. It happened on CR 6 just east of the John Weaver Pkwy. The damage is estimated to cost \$2,500 to repair. This is the second accident in the last 4 months causing damage to the fence. The driver is insured and will be paying for its repair.

New Business:

Thorne advised the first item under new business is Radios & Wildlife Deterrent Equipment. Andy advised the airport is receiving a Covid-19 related operating expenses grant of \$23,000. Andy would like to invest the funds in the replacement of outdated communications equipment, including digital radios, a repeater with longer ranges, and headsets that will allow for communication between the control tower and maintenance personnel operating lawn mowers in the safety areas. The other items are state of art bird deterrent lasers. These new lasers allow the user to direct a blue laser beam over thousands of feet toward wildlife (mostly birds) that tricks them into leaving because they think a predator is nearby. Andy advised he would like to purchase 2 units at \$3000 each. One would be kept in the ATCT and the other mobile in a maintenance vehicle. Andy advised that we will continue to also keep the bird scare guns in each vehicle. Andy advised the total proposal for all equipment is just under \$21,000 and will not exceed \$23,000. Shreiner made a MOTION to approve radios & wildlife equipment purchases not to exceed \$23,000, Mellin SECONDED. Shoff asked Andy if the control tower can use the bird laser from within the tower or if they have to go on the gangway outside. Andy advised that he is unsure of the range from inside the ATCT. The expectation is that the controller can access the catwalk to use the lasers when no maintenance is on duty. Shoff also asked if Andy has looked into automated lasers that no one has to manually use. Andy advised that he had, and they are much more expensive and we would need more of them. Andy sees more value in hand-held devices. There being no further discussion, the motion PASSED unanimously.

Thorne advised the next item under new business is the BMW Partnership Lot 38 lease. Randy Arndt from the City of Elkhart legal department advised that he contacted Dane Slabaugh and was advised the names of the owners of BMW Partnership, and that they are still interested in renewing the land lease. Randy advised they have no contractual right to renew the lease, but need to enter into a new lease agreement with the current market price and not one that was written in 1979. Randy proposes to draft a new lease that the board can agree to and approve and send it to BMW. Randy advises this new lease must adhere to terms regarding aircraft storage, as this company has not stored aircraft in the hangar for many years, and only stores items such as cars, boats, trailers and aircraft parts. In addition, two of the partners are storing their airplanes at Indiana Flight Center. Andy Jones then took to the podium to advise he has done research on current markets rates for hangars the size of each of the three located on Lot 38. Andy suggest a motion to establish a new lease fee of \$1000 per month for each of the 3 separate hangars for a total of \$3,000 per month. The current tenants be given 30 days to either agree to the new lease terms offered or to vacate.

Thorne advised that prior to the board taking action on the lease price the board first have the opportunity to see the entire new lease. He then proposed 30-day timeframe. Andy advised a new lease is not prepared for action by the board today. Thorne advised he sees a gentleman in the back row that would like to speak. ***{Side note: the speaker is inaudible on the minutes recording because he did not come to the podium microphone – it is suggested that he wanted clarification on the new proposed monthly rate}***. Andy then reiterated the new suggested cost of \$1000/month per hangar, instead of

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their current rate of \$42/month. The gentleman started speaking again (Inaudible) and Thorne asked him to come to the podium. Gueton Cubillo did so, and stated that he represents one of 3 owners of a Hangar located in building 38. He stated that owners he represents are Patrick Industries, Welch Packaging, and NIBCO. Mr. Cubillo wanted clarification that his share would be \$1000 per month, and Andy answered if approved by the board that is affirmative. Mr. Cubillo thanked Andy and went back to his seat. ***{Side note: inaudible on the video, comments made as Mr. Cubillo was going back to his seat}.***

Thorne asked Andy how he proposes the board review the new lease within the timeline and Andy stated he has a model of a similar lease and it should not take long to draft this one. Mellin asked why the board should even consider offering another contract when this company has not complied with the last one regarding airplane storage, access to the building, insurance, etc... Andy advised there will be provisions in the lease for accountability of these issues, including: keeping an airplane in the hangar that belongs to the person leasing it; not objecting to putting cars or boats in the hangar also as long they belong to the person who is leasing the hangar and that storage is approved in advance by the board. Andy advises that all terms of the lease need to be followed because grant agreements with the FAA require following the rules. This is not an attempt to be unreasonable, but the need to be fair to the taxpayers, the airport, and all tenants.

Shoff advised he doesn't believe BMW is completely to blame, as Andy wasn't the manager at the time the initial lease was overlooked. Thorne agreed, saying the airport didn't do its due diligence in terms of the lease, and asked the gentleman in the back if this is true. At this point, Tom Minniear came to the podium and advised he is the chief pilot for Welch Packaging & Patrick Industries. Mr. Minniear advised that they utilize the hangar for support of the jets that they keep next door in hangar 39. He further advises that BMW has not been approached by any airport staff in a reasonable timeframe or manner. Thorne advised that he understands, but the conversation today is about an expired lease and the option of renewal is long past. The plan moving forward to reach closure is for the legal teams of the City of Elkhart and BMW Partnership meet to discuss and agree to terms of a new lease and bring back to the board for approval at a later date. Mr. Minniear then asked Andy if an airplane is stored in the Coachman hangar & how the City uses other hangars. Andy stated the only issue in front of the board today is the usage of Hangar 38. Shoff then asked Mr. Minniear why they are keeping their planes in another building other than their own hangar, and Mr. Minniear advised the two jets are too big for hangar 38. Mr. Cubillo came back to the podium to state that it was his understanding that the original lease was 40 years plus 10 more years after that. Thorne advised this issue doesn't apply because the window for renewal has passed, which is why the 10 additional years is no longer on the table. Mr. Cubillo again replied that it was his understanding that Dane Slabaugh spoke with former airport director, Dave Pixie, and that the renewal was in the works, but then Covid happened and Mr. Pixie left, but he thought everything had already been taken care of as far as the lease renewal. Mr. Cubillo goes on to say that the companies he represents has 2 planes worth \$10 million (in hangar 39 not in hangar 38), they give about \$20,000 each year in fuel flowage fees to the City, and that NIBCO has 750 local employees; that Patrick Industries has 5500 local employees, and Welch Packaging has more than 400. Between the 3 companies they move about \$2 billion thru Elkhart, and wonders why Andy Jones wants to complain and pick a fight about why there is only equipment stored in the hangar. He continues on to say that he cannot have equipment in the same hangar as the aircraft, because aircraft needs to be in a clean environment, where the aircraft can move in and out without vehicles and snow plows being in the way because the taxiway has never been plowed, and that is why the other owners have to keep their planes at Indiana Flight Center.

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Thorne commented that the answer is in negotiations between the City of Elkhart attorneys and Hangar 38 attorneys to work thru issues in terms of developing a new lease. Thorne goes on to say the board recognizes the value the owners of hangar 38 bring to the community, but the board also recognizes that the Elkhart airport have multiple tenants and that there must be fairness in how leases are administered.

Shoff requests a MOTION to extend this out 60 days so there is time for the parties to meet and a new lease to be drafted that can be reviewed by the board at the next scheduled meeting. Mellin SECONDED. Shreiner then asked Andy for clarification as to how he calculated the new proposed lease fee for each of the three hangars on lot 38. Andy stated that he compared each of 3 hangars sizes to another comparable city owned hangar. Shreiner wonders if the proposed rent for BMW should be lower. Andy advised that the proposed price is more than fair. Shoff made a MOTION to table the new lease terms for 60 days SECONDED by Mellin. The motion passed 3 to 1.

Privilege of the Floor:

Thorne opened comments. Dwight Fish asked if there will be money for infrastructure in stimulus funds. Andy advised that a 3rd stimulus of \$1.9 trillion was recently passed, it is estimated that the airport could receive between \$69,000 and \$75,000 that could be used for that purpose. Andy added that nothing has been confirmed so he cannot give a firm answer as to how those funds may be used.

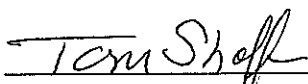
Mr. Minniear addressed the Board regarding ILS (Instrument Landing System), and would like to know when/if there will be a resolution of changing this threshold from 288 feet to 200 feet, which is similar to other airports in surrounding counties. He further advised that he addressed this issue with Dave Pixie in the past and has received no solid answers. Andy advised that he is working toward a resolution to the issue. Trees between the airport and Wal-Mart have grown to heights great enough to penetration the approach to runway 27. This is the reason for the ILS clearance threshold still being at 288 feet, which is mandated by the FAA. Andy advised he is looking into this but has worked with who he believes to be the owner of the property in the past. The property owner has not been willing to sell this property to the airport so we could have full control of the approach. Instead he would only allow the trees to be topped which required hiring climbers. Climbing & scaling safely what could be hundreds of trees individually would run into the hundreds of thousands of dollars. Thorne asked if there is an easement so the airport can investigate further, and Andy advised there is. Shoff advised the owner of that property in now deceased, and the wife that currently owns the property may be agreeable to looking into options. Shoff & Andy agreed to set a meeting with her, and Andy also agreed that he would keep the board and Mr. Minniear updated on progress of this issue. There were no further comments.

Adjournment:

The meeting was adjourned at 5:10pm by Thorne.

Next regular BOAC meeting is scheduled for Wednesday, April 28,2021 at 4pm. Location will be City Council Chambers, 229 South Second St, Elkhart, IN 46516 & via WebEx.

Respectfully Submitted,



Tom Shoff – Aviation Board Secretary

4-28-21

Date