

Marin County Aviation Commission
Minutes of December 7, 2017 Meeting
7pm – Room 329
Marin Civic Center, San Rafael, CA

Commission Chair: Humphrey Ogg

Commission Vice-Chair: Louis Franecke

Commissioners Present at Roll Call: Richard Beach, Vice Chair Franecke, Richard Nave, Zev Rattet, Douglas Watt

Commissioners Absent at Roll Call: Marius Nelsen, Humphrey Ogg

Staff Present: Eric Steger (DPW)
Dan Jensen (Airport Manager)
Ann Hearty (Recording Secretary)

The Chair gavelled the meeting to order at 7:01 pm.

1. Chair Announcements – Vice Chair Franecke stated that Chair Ogg and Commissioner Nelsen had excused absences for this meeting and he would serve as Chair. He noted there had been no Commission meeting in October because there was no quorum. He read the purpose and mandate of the Commission aloud and reminded all present that the Brown Act insists that commissioners only briefly respond to statements made by the public. The Vice Chair asked that the roll be called: Commissioners Beach, Franecke, Nave, Rattet, and Watt were present, with Nelsen and Ogg absent.

Commissioner Beach made a motion that the Commission amend the evening's agenda to take immediate action on the \$1.1 million loan to finish the runway resurfacing. The motion failed to receive a second, so it did not generate a vote.

2. Minutes of the August 3, 2017 Meeting - The Vice Chair asked if the members had an opportunity to review the minutes. **M/s Beach/Nave to approve the minutes as presented.** The Vice Chair asked for any public comment, but no one from the public spoke.

Vote: Aye – Beach, Franecke, Nave, Rattet, Watt

Nay – None

Abstain - None

Absent – Nelsen, Ogg

Motion Passed, 5/0

3. Airport Manager's Report and Comments

- a. Aircraft/Airport – Incidents and Accidents: Mr. Jensen reported that since the last meeting, there were two aircraft that experienced flat tires (one on taxi for takeoff and one on landing). He also indicated an aircraft had landed long on Runway 13 that impacted the Noise Abatement Sign on the south end of the runway with no injuries and no major damage (except for the sign). The Vice Chair confirmed these took place before the runway was closed, which the Airport Manager agreed and added that two people got out the morning before the runway was closed, as well as multiple crafts continue to request landing, though none have touched down. Mr. Franecke asked for any public comment, but no one spoke.

- b. Runway 13/31 Rehab – The Airport Manager relayed that Team Ghilotti started the runway resurfacing project on September 25th. He stated that on October 6th, Team Ghilotti notified the County that they had discovered asbestos in the subsurface materials on the runway. He said the County immediately took samples and found low levels of naturally-occurring asbestos ranging from .08 to 4.8%. He reported the County then contacted the Bay Area Air Quality Management District and filed the required notifications. He referenced the County also hired an environmental consulting firm, which tested the material and prepared a Health and Safety plan to move forward.

Mr. Jensen continued to say on November 14, Team Ghilotti began importing base rock for the base layer of the Runway; however, this layer of base rock failed to meet FAA specifications for the Plasticity Index (PI), which is 5 or below. He concluded with the test results coming in much higher and Team Ghilotti are now working on a plan to potentially utilize a lime or cement treatment which will be reviewed by the County and the Airport consultant (Mead and Hunt) before paving can proceed.

Commissioner Rattet asked what the PI index referenced. Mr. Jensen responded that it was Plasticity Index of the material. Mr. Franecke noted that an Airport item was going to the Board on 12/12/17 regarding the runway rehab. Mr. Steger indicated it involved a short term loan from County reserves so that any final scope and change orders are funded in the interim, before any supplemental grant funds are pursued and/or received.

Commissioner Beach inquired on the factors affecting any interest rate and whether the Board item authorizes interest to be paid by

the Airport Enterprise Fund. Mr. Steger explained it was a County transfer action and no interest has been discussed.

The Vice Chair requested any public comment. Ken Mercer from GFCA expressed concern about the additional financing coming out of the Airport Fund operating expenses, stating it could result in a \$150,000 a year deficit or more for the next five years. Mr. Franecke asked if there were any other means by which the Airport could generate funds to pay this overage without taking out a long-term loan. Mr. Steger discussed the FAA and Division of Aeronautics process for overages and change orders, which aren't guaranteed, but worth pursuing. Ted Newman, GFCA, asked the County to investigate the core samples that were taken prior to the runway work and how it wasn't until October 6th that the asbestos surprise was discovered. He stated that the cost overruns were beyond the asbestos issues and extend to the quality of the materials being used. Commissioner Watt asked for clarification regarding the core sampling. Mr. Steger explained a geotechnical firm sampled in 35 locations down 5 to 10 feet throughout the Airport, but there was no testing for asbestos. He noted that the contractor conducting his own testing and that's when asbestos was discovered.

Kirk Heiser, Airport community member and retired from an architectural engineering firm, had never heard of doing a state or federal project that did not include hazardous waste geological testing. He claimed the County was being run down a road by a poor set of plans and specs. He shared Ghilotti did work for their firm for state projects and should be overseen by a three-phase constructability review. He requested that the Airport open up the taxiway while work is halted to let the planes that want to get out leave. Commissioner Nave made the point that there are multiple Ghilottis and that Mr. Heiser did a disservice in painting them all with the same opportunistic brush. Mr. Franecke related his understanding that the FAA forbid any taxiway takeoffs. Mr. Heiser stated that according to FSDO, the decision belonged to the Airport Manager. Mr. Jensen clarified that both statements were correct – that in the beginning, the FAA did forbid takeoffs from the taxiway; but as the closure continues, the FSDO said it may be possible under certain conditions. The Airport Manager has referred those parameters to the County Office of Risk Management and is awaiting their counsel. The Vice Chair assumed there would be a contract review to determine any fault by the contractor to see if

they are overreaching and Commissioner Watt suggested that review also include any consultants.

- c. Fuel Survey Results - The Airport Manager passed on the full results of the County's fuel survey with written comments from tenants regarding potential extra fuel services. Mr. Beach asked for a breakdown of responses that wanted av gas or jet fuel in the fueling tracks. Mr. Jensen responded that most of the jets responded that wanted jet fuel trucks, rather than self serve. Mr. Steger cited that 86 percent of the responses marked self serve very important or important and two-thirds of the responses from the same people also stated that the fuel trucks were important. The Vice Chair asked if the results of the survey had been shared with Mr. Neff or anyone else and the direction things might go. The Airport Manager said that DPW Real Estate will be meeting with Mr. Neff for ongoing discussions in the next few weeks. Mr. Franecke asked for any comments from the public on the fuel report. No one came forward.
- d. Eagle Scout Sign Project – Mr. Jensen shared the Airport is working with a Boy Scout from Novato on an Eagle Scout project. He noted the project will be a solar-powered welcome sign for the Airport, which will be installed at the entrance. He concluded this project will be completed by late spring of 2018. Mr. Franecke asked for any comments from the public on the Eagle Scout Project. No one came forward.
- e. CAO Commission Biennial Report Correspondence – The Airport Manager relayed County Staff was notified by the County Administrator's Office that the 2018-2020 Biennial Reports for the Aviation Commission are due by March 1st, 2018. He indicated the Reports were forwarded to the Chair and will be brought to the Aviation Commission at the next Commission meeting on February 1st. Mr. Beach asked for it to be posted to the website. Mr. Steger agreed to do that. Ted Newman asked if the reports were available to the public. Mr. Steger instructed how to find past reports on the County Administrator's webpage.
- f. Correspondence to County Staff from Rick Beach and Ken Mercer – Mr. Jensen commented that commissioner packets contained two letters for the Aviation Commission from Commissioner Beach and President of the GFCA, Ken Mercer. Mr. Franecke asked for any comments from the public on the correspondence. Ken Mercer noticed that the actual digest of information does not seem to have

been included. He stated that he and others struggle how to have input into Commission operations and the Airport itself. He said that he hoped it caused the Commission to think about some of the concerns of the Airport's customers. He mentioned 40 people emailed him saying they were not able to attend tonight's meeting and 15 stated they saw no point in continuing to attend. He claimed that GFCA has requested before every meeting for the past two years to have an item about public comment on the agenda, but it is never honored.

The Vice Chair wanted to comment that regarding the leases, he understood that they were a concern to many in the Airport community and they are being reviewed by the Real Estate branch of the Department of Public Works. He noted that since the Aviation Commission does not write the leases or have any authority over the leases, those who want a place at the table regarding lease concerns should contact DPW. Mr. Mercer countered that the Aviation Commission was the venue where Airport users get information about the leases. He indicated that his original email was the Airport community's concerns up to the October Commission meeting that was not held. Commissioner Beach mentioned that several people contacted Supervisor Arnold's Office for release of the appraisal report, which makes the credentials of the people used for that appraisal transparent. He found that the appraisers have airport experience and properly recognized the lack of amenities offered at Gnos. He asked for a planning activity to figure out what the public and DPW want the land side of the BEMAC property to look like. Mr. Franecke cautioned that Mr. Beach was going beyond a brief response to the public question.

Commissioner Watt asked if the rent relief that went to the Board on December 5 passed. Mr. Steger reported that the Board approved one month free for all tenants in good standing for January 2018. Mr. Mercer said it was very much appreciated and a major step, but unfortunately, it doesn't address the \$600,000 in lost business income. Dan Bedford, a member of the Airport community, spoke on behalf of pilots who use their planes for business and think that the County does not feel an urgency to solve this problem. Ms. Grady submitted a letter that detailed the aeronautic economic impacts to the region for the Commission's consideration. Michael Knight of Skydive Golden Gate commented that his company and others will not receive rent relief, as well as not being able to operate at Gnos. Susan Royce, GFCA and the

99s, spoke on behalf of Pat Scanlon and Scanlon Aviation, saying there is no point in asking the Aviation Commission for assistance because all that happens is they lecture people trying to make it through this disaster, giving people only 3 minutes to present their issues, and then allow the County unlimited opportunity to respond. Ms. Royce expressed her own frustration how this project has become never-ending.

Sandy Walker, a member of the Airport community, said nothing can be done about what's already happened, but we should adopt Kirk's measures to prevent anything else from happening down the line. She noted his recommendations about supervision and accountability to see a significant change to limit the financial and legal burden on the County. David McConnell, a member of the Airport community, expressed concern that Chair Ogg was reported to say that only half a dozen people have serious questions to ask the County and, should that prove his accurate statement, he and the rest of the Commissioners just don't get the magnitude of what's going on at Gness. He went on to claim all the people who are concerned were not here because they don't believe in the Commission and its ability to make anything happen. Rich Elb, a member of the Airport community, felt for the businesses, but also for all the pilots who have hangars whose aircraft is being stored outside. He also commented that when things go wrong, it's usually a series of things and the community winds up unprotected, so please do whatever is within their power to complete this projects as soon as possible. Tom Ryan, a member of the Airport community, quoted it is what it is and we are where we are and there's nothing we can do about it now. He implored the Commission to find some advantage in all this mess, like using the fill to make it possible to come in at different angles, something positive that would be a good thing for the Airport.

Vice Chair Franecke responded that no one sitting on the dais is unmindful or unsympathetic and is probably just as angry as the speakers about how long this is taking. He assured them they were being heard as the Commission is well aware what the situation is. He acknowledged users need a voice and that the Commission will try to speak for and recommend in its role as an advisory board. He noted that the trouble was the Aviation Commission is not running Ghilotti or DPW and things have been uncovered that are disturbing. He thought that down the road there may be litigation, that the County will take a hard look at the contract, and he believed that DPW is pushing the project as hard

and fast as they can. He agreed that everyone wished the Airport could open tomorrow because the Commissioners have aircraft stuck in hangars at Gross as well. Mr. Watt asked if DPW is doing anything different in supervising the runway rehab project. Mr. Steger enumerated multiple changes, including sub-consultants, laboratory work, more DPW Engineering staff and equipment, and the resources to get the project done as soon as possible.

Tim Walter, a member of the Airport community, said he was frustrated with the lack of accountability on the project and the attitude of Chair Ogg that only half a dozen people have anything to say about this situation. He said it was not acceptable that the resources of the County were so incompetently squandered and everything that can be done should be done to get the Airport back in operation. Mr. Beach registered sympathy and understanding, but thought commissioners had an opportunity to take a position on communicating the concerns that were leading up to the memo of December 12 to be acted on at the Board of Supervisors' meeting. He stated that because the Aviation Commission agenda does not have any indication that the Commission is going to render any decision to the BOS, the Commission is culpable in not taking action to issue the advice and recommendations to the BOS. He went on to say that if there is no agendized topic, the public has no mechanism through which to be heard. He noted that Mr. Mercer's correspondence with the Commission requested that three items be put on the agenda: the fuel survey, the hangar lease appraisal, and another item that was not agendized.

The Vice Chair asked what the agendizing of those items would have accomplished. Mr. Beach said it represents the intention that the Commission is seeking public comment on advice recommendations to the Board of Supervisors. Mr. Franecke said to the items mentioned, the Commission is not in the position to do anything different, for there are no votes or motions to be made at this present time. Commissioner Beach asked when does that decision get made – that Chair Ogg says the Commission does not need to discuss that decision with the public? The Vice Chair responded that the public has every right to talk with the Commission in Open Time and there are reports on the agenda that take public comment. Mr. Beach complained that the mechanism that allows that Commission to take a position and communicate it to the BOS as a letter providing advice and recommendations is missing, as is the purpose of the Commission correctly described at the start of the meeting.

Sandy Walker read an email from Kirk Heiser stating that the money should come from the design team's errors and omissions insurance.

4. Unfinished Business – Vice Chair Franecke asked if there was any unfinished business that had not already been discussed; hearing none, he moved onto the next item.
5. New Business – Vice Chair Franecke asked if there was any new business that had not already been discussed; hearing none, he moved onto the next item.
6. Aviation Commissioner Reports and Comments – The Vice Chair noted that reports covering the Seaplane and the zoning issues, as well the supervision of the runway rehab project and the white paper, have already been addressed during the meeting. Mr. Franecke asked if Commissioner Beach provided the financial information to the Liaison Committee, which was investigating the financial aspects of Gness Field and its revenue generating. Mr. Beach responded he had received no notice that any meeting has ever happened. Mr. Franecke asked if he was unaware of the Liaison Committee. Mr. Beach said he was aware of it, but he disputed the behavior of the Committee because it has not provided the public noticing required under the Brown Act.

Commissioners Rattet and Watt said the paper was interesting and Commissioner Nave commended him on the work he did. Vice Chair Franecke asked for public comment on the white paper. A member of the public declared that the Liaison Committee has not been properly formed under California law, that it is in essence a standing committee, and every time it meets, proper public notice should be given. Mr. Mercer said the document is a summation of three years of work, with the information provided by the Director of Finance, Roy Given, and Mr. Steger. He hoped there were questions about it because it needed to be understood.

Mr. Franecke said that the Chair, Humphrey Ogg, wished him to read the following statement – “The report has not been authenticated as to accuracy or the assumptions validated. It is unfortunate that Commissioner Beach chose not to cooperate and work with the Liaison Committee who was investigating and requesting financial information from the County so that the information could be verified, that the assumptions could be validated, and the presentation would not be

misleading or inaccurate to the public. I hope that Mr. Beach in the future will cooperate with his fellow Commissioners when it is known that the Subcommittee is working on a particular project and share his information." The Vice Chair requested Mr. Steger have the paper reviewed by the County Finance Committee so the public gets an accurate picture of what the Airport picture is and what Gness Field generates. He also requested that the Seaplane and San Rafael Airport information be included. Mr. Steger said he would consult with the departments involved and would hope to have something out by the next Aviation Commission meeting. Mr. Franecke told Mr. Beach that he appreciated his efforts, but was concerned the process of verification should have been done before it was made public.

Peter Gruele, a member of the Airport community, wanted to thank Commissioner Beach because he thought the Airport accounts looked like a dumping ground for overages from the County. He stated his interest was is the Enterprise Fund making money or not. Mr. Beach commented that one of the frustrations was the presentation that Mr. Mercer did was in December of 2016 and no agenda topic on finance has been listed, so there has been no public discussion or staff report. Rich Elb asked the impact of the runway closure on the business failure rate. He referenced Michael Knight, Pat Scanlon, and their loss of revenue. Commissioner Beach presented some calculations of gross revenue at risk for the 13 to 15 businesses operating at Gness Field. He stated that the Department of Finance responded to a public records request and that information suggests for the ten weeks the Airport has been closed, \$600,000 of operations revenue to date is at risk, as well as 25 employees impacted by the slowdown. Mr. Franecke asked for comments by other Commissioners or the public.

Mr. Beach went on to report a meeting with Supervisor Arnold and others on a pre-budget discussion on the Airport Fund on September 25. Commissioner Beach said the meeting consisted of a tutorial on the mysterious A-87 cost allocation charges, a trial balance for 2016-17, and a DPW spreadsheet of unspent grant funds from the FAA. He indicated that following the meeting, there was a communication from Supervisor Arnold's office that there would be no discussions with Mr. Given and the Commissioners and there would be no public hearing about the budget. He thanked Supervisor Arnold, Mr. Given, and Mr. Steger for initiating that meeting.

Vice Chair Franecke suggested that once the actual budget numbers are verified and/or modified as accurate numbers and assumptions, a budget/finance meeting should be agendized to explain such issues in

regards to the Airport. Commissioner Beach said there was no mention at the Liaison Committee in organizing the Arnold meeting. Mr. Franecke responded that was because he didn't coordinate it with the Liaison Committee, which he is required to do. Mr. Beach countered that he had no requirement to do that. Mr. Franecke stated that unless he is not representing the Commission when he goes to see Supervisor Arnold...Mr. Beach said he was not representing the Commission, so the concern goes away. Mr. Beach went on to say that he was an individual member of the public who is also a member of the Commission and he has never seen the Liaison Committee act. He continued that as a consequence, he is not invited to the Liaison Committee, there is nothing to coordinate with, and he resents the implication that he is doing something which is not provided for in the Commission Handbook nor the Brown Act. He stated that he was talking to his Supervisor about the lack of information and she organized the meeting which he attended. Mr. Franecke pointed out that the issue is not that he doesn't have the right to talk to his Supervisor, it is when he was getting the information knowing there is a Liaison Committee and he did not share that information or go through the protocols to make it appropriate to present to the public, which he did not. Mr. Beach asked to see an authority that says...Mr. Franecke said it was Mr. Franecke's responsibility.

Commissioner Rattet offered it was a wonderful idea to organize a time to place the finances on the agenda and the Commission should do so as soon as they are ready. Mr. Mercer reiterated that Mr. Given was very specific that he did not want to come into a public meeting and end up answering questions that are basically a waste of his time, that was Mr. Mercer's interpretation. Mr. Mercer thanked Commissioner Beach for doing the work the public asked for, unlike the Liaison Committee. Mr. Franecke ended with perhaps Mr. Given will come if that's what Supervisor Arnold wants. Andy Bogdan told the Commissioners they have to figure out how to get along and he wondered why two Commissioners chose not to attend when there is so much going on that has to be taken care of.

7. Liaison Committee – Vice Chair Franecke said there was nothing left to report that had not already been addressed and he understood Chair Ogg had met with Mr. Neff and attempted to meet with Mr. Scanlon and others regarding issues and concerns discussed here. Mr. Beach asked if the Liaison Committee has met. Mr. Franecke responded no, matters have been discussed on the phone, and members had individually pursued various items that are not ready to report at this time.

8. Open Time – {A member of the public asked if the Commission was going to report or discuss the Seaplane issue in Strawberry during the Airport Manager’s Report, which belongs in Open Time.}
Commissioner Beach reported that he attended the August 28 Planning Commission meeting; they voted to modify the existing permit by eliminating the conditions for noise, approaches, and landing procedures. Commissioner Nave stated that if any rezoning were to arise relating to aviation issues, they would come before the Airport Land Use Commission, which has not heard any such item. Mr. Steger offered that he had talked with the Assistant Director of CDA and there are no plans to bring the Seaplane issue to the BOS. He noted that the land use changes were to make the zoning consistent with the adopted Countywide Plan and will not impact any aviation activities or Airport use. Mr. Franecke stated that if there is any additional activity on either of these issues, the Aviation Commission will make it known that they need to be involved.

Charles Gallagher, a member of the Airport community, said quoting a well-known politician, this Airport thing is a total disaster. He noted that the runway rehab was a very simple project and that not doing the homework in advance has created a lot of hardship for a lot of people. He concluded that there was no sense in complaining about this, but the actual damage it is causing needs to be recognized and entered into the record and those affected should be offered relief.

Susan Royce said that she respected the Commission and would hope the Commission respected the Airport community by all the Commissioners showing for the meetings. She noted that the last meeting was cancelled for lack of a quorum, which she called unacceptable. She said she ran for a seat on the Commission, but a present Commissioner was reappointed and should be at every meeting, especially since the Commission only meets six times a year.

David McConnell respectfully requested that the Commission share with Chair Ogg that more than six people are concerned about what is going on.

Ken Mercer described Brad Archer’s potential forfeit of his 1031 exchange, worth \$400,000 in taxes, if he cannot get his plane out of Gness by December 29. The Vice Chair said he should approach the FAA for a waiver. Mr. Mercer referred back to the beginning of the meeting where Mr. Franecke stated that the Commission is tasked with advising and recommending and that is all the Airport community

is asking – for a place to come vent and be heard. He asked that the Supervisors be informed that the repair needs to be pushed and that the people who make up Gness want and need their support.

Dan Bedford questioned what form the Commission's advice and recommendations take and how he can get copies of all the reports the Commission must have made for the last four years. The Vice Chair directed him to the approved minutes on the website. Mr. Bedford asked if the white paper will be presented to the BOS for their consideration. Mr. Franecke said at this point, he doesn't know, but to understand the finances is important. The Vice Chair also said that the Airport Manager stated that other than the runway project and the operating budget, there are no matters that require immediate attention, so there is no crisis about the budget at the moment.

Ted Newman was also sorry that all Commissioners and County Counsel were not present. He stated that the Marin County Aviation Commission should be terminated and indicated he will formally recommend to the Board of Supervisors that it be removed.

9. Adjourn – Vice Chair Franecke asked for a motion to adjourn. **M/s Nave/Watt.**

The Vice Chair gaveled the meeting adjourned at 9:15 p.m.