

Minutes of the March 08, 2017 BHB Airport Advisory Committee Meeting (AAC)

Location: Hancock County – Bar Harbor Airport, Airport Fire Station, Conference Room

Committee members in attendance: Leroy Muise, Robert Bouffard, Nate Holyoke, Nat Fenton, Mike Allen, and Karl Warner.

Non-committee members in attendance: Steve Collins, Joe Keeney, Erik Vroom, Michael Lessard, and Commissioner Antonio Blasi.

Meeting opened at 4:30PM

Airport Manager Brad Madeira welcomed and thanked everyone for attending. Members of the committee introduced themselves.

Manager Madeira detailed the terms that are associated with each individual committee member based on all of the recent appointments made by the Hancock County Commissioners.

Current AAC Chairman, Nat Fenton was nominated and approved by all to be the AAC Chairman for 2017.

Manager Madeira requested that he had a number of items concerning airport minimum standards that he would like to explain, and that after that, he would turn the floor back over to the Chairman so that the committee could discuss the issues at hand.

The Chairman acknowledged Manager Madeira's request.

Manager Madeira started by making the following statement regarding ethics as related to the Airport Advisory Committee member responsibilities:

“In accordance with the resolution passed by the Hancock County Commissioners in 1990 regarding the creation of an airport advisory committee, and because, in the judgement of the County Commissioners, it is in the public interest to encourage public participation in the involvement and decision making process concerning the airport, the purpose of the AAC is to serve in an advisory capacity to the County Commissioners on specific matters relating to the operation, maintenance, and development of the Airport, including the review of existing airport plans, policies, and standards among other items described in the resolution. The Commissioners expect that the committee will provide recommendations and advice that is in the best interest of the airport both now and in the future so that the airport continues to grow and prosper and serve the public well. If, as a committee member, you feel that you are not able to vote on certain motions moved by this committee

because of a conflict of interest, and/or if you feel for any reason that you are not able to vote in a way that serves the best interest of the airport both now and in the future, then it is your responsibility to abstain. Each committee member must make that decision for themselves regarding any motion that is so moved, and if a committee member chooses to vote, then it shall be assumed that they have done so ethically and in the best interest of the airport as a whole.”

Manager Madeira then explained why we are discussing BHB’s Airport Minimum Standards today, and stated the following:

“Steve Collins, the owner of Biplane Rides over Atlanta, Inc. dba Acadia Air Tours recently said he would like to purchase a Piper J-3 Cub aircraft and offer year-round flight training and discovery flights from his leasehold at BHB. Mr. Collins’ lease grants him operating rights to conduct FBO Category II Flight Instruction, but the agreement also requires Mr. Collins to provide those services on a year round basis if he chooses to provide them. All lease and operating agreements between Hancock County and aeronautical service providers require that those services are provided in accordance with the Airport’s Minimum Standards. After reviewing the Airport Minimum Standards as they pertain to Flight instruction it became evident that Mr. Collins does not meet the Minimum Standards as they are currently written.” Manager Madeira explained that once an airport sponsor receives a proposal for a new aeronautical business, that, according to the FAA, it must ascertain whether the existing minimum standards can be used or if new minimum standards should be developed to better fit the new business. Manager Madeira went on to explain that other issues had come up recently including independent operators and the use of sub-contractors that probably ought to be addressed in any update to the airport minimum standards document.

A Brief history of the BHB Airport Minimum Standards was outlined by Manager Madeira. He explained that the BHB Minimum Standards were initially adopted in July, 1979 and that the first amendment/revision to the Airport Minimum Standards was made in 1994 which addressed the following issues:

- a) A change to the number of fuel storage tanks to be maintained by an operator performing FBO Category I fuel sales.
- b) “Private Hangar Tenant Leases” was added to the glossary of terms.
- c) A new article identified as “Private Hangar Tenant Leases” was created.
- d) A statement was added regarding the Owner’s (County’s) requirement to provide a new location to any tenant who is required to be relocated as a result of the physical development of the airport.
- e) Insurance limits were increased.

He explained that the second amendment/revision to the Airport Minimum Standards occurred in November, 2010 which made changes to Section 8, (Standards and Procedures

for FBO Category III Aircraft Charter and Air Taxi) to reduce the ground lease requirement from not less than 12,000 s.f. to an appropriate amount of ground space for aircraft tie-down and/or to lease from the owner an area of not less than 8,000 s.f. of ground space on which there shall be erected a building to provide at least 3,000 s.f. of floor space for aircraft storage and at least an additional 175 square feet of floor space for an office. The previous standard required 500 square feet for office space. Equipment requirements were reduced from not less than one (1) single-engine, four-place aircraft and one (1) multi-engine aircraft to just one (1) single-engine aircraft or one (1) multi-engine aircraft. Service hours were reduced from being required to be open and have services available eight (8) hours per day, six (6) days per week to four (4) hours per day, five (5) days a week.

Manager Madeira then provided a statement regarding Developing Airport Minimum Standards In accordance with FAA advisory circular 150/5190-7. Manager Madeira read aloud the following:

“Developing Airport Minimum Standards
In accordance with AC 150 5190-7

- The airport sponsor of a federally obligated airport agrees to make available the opportunity to engage in commercial aeronautical activities by persons, firms, or corporations that meet reasonable minimum standards established by the airport sponsor. The airport sponsor’s purpose in imposing standards is to ensure a safe, efficient and adequate level of service is offered to the public. Such standards must be reasonable and not unjustly discriminatory.
- The FAA suggests that airport sponsors establish reasonable minimum standards that are relevant to the proposed aeronautical activity with the goal of protecting the level and quality of services offered to the public. Once the airport sponsor has established minimum standards, it should apply them objectively and uniformly to all similarly situated on-airport aeronautical service providers. The failure to do so may result in a violation of the prohibition against exclusive rights and/or a finding of unjust economic discrimination for imposing unreasonable terms and conditions for airport use.
- Any use of minimum standards to protect the interests of an exclusive business operation may be interpreted as the grant of an exclusive right and a potential violation of the airport sponsor’s grant assurances and the FAA’s policy on exclusive rights.
- When developing minimum standards, the most critical consideration is the particular nature of the aeronautical activity and operating environment at the airport. Minimum standards should be tailored to the specific aeronautical activity and the airport to which they are to be applied.

- Considerations for applying those standards may include, but are not limited to, the following:
 - (1)** Apply standards to all providers of aeronautical services, from full service FBOs to single service providers;
 - (2)** Impose conditions that ensure safe and efficient operation of the airport in accordance with FAA rules, regulations, and guidance;
 - (3)** Ensure standards are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect the investment of providers of aeronautical services to meet minimum standards from competition not making a similar investment;
 - (4)** Ensure standards are relevant to the activity to which they apply; and
 - (5)** Ensure standards provide the opportunity for newcomers who meet the minimum standards to offer their aeronautical services within the market demand for such services.
- Minimum standards can be amended periodically over time; however, a constant juggling of minimum standards is not encouraged.
- An airport sponsor can provide for periodic reviews of the minimum standards to ensure that the standards continue to be reasonable.
- Airport sponsors are encouraged to develop minimum standards for new aeronautical business ventures it desires to attract to the airport.
- Minimum standards should be updated to reflect current conditions that exist at the airport and not those that existed in the past. In any case, once an airport sponsor receives a proposal for a new aeronautical business, it must ascertain whether the existing minimum standards can be used for the new business or new minimum standards should be developed to better fit the new business venture. However, in all cases, the airport sponsor must ensure that in changing minimum standards for whatever reason, it is not applying unreasonable standards or creating a situation that will unjustly discriminate against other similarly situated aeronautical service providers. The FAA stands by the principle that once minimum standards have been established, airport sponsors must uniformly apply them to all similarly situated aeronautical service providers.
- Can new minimum standards be designed to address the needs of both existing and future aeronautical business? If not, can a tiered set of minimum standards be developed to address the same type of aeronautical activity but differ significantly in scale and investment?
- Specialized Aviation Service Operations. When specialized aviation service operations (SASOs), sometimes known as single-service providers or special FBOs,

apply to do business on an airport, “all” provisions of the published minimum standards may not apply. This is not to say that all SASOs providing the same or similar services should not equally comply with all applicable minimum standards. However, an airport should not, without adequate justification, require that a service provider desiring to provide a single service or less than full service also meet the criteria for a full-service FBO. Examples of these specialized services may include aircraft flying clubs, flight training, aircraft airframe and powerplant repair/maintenance, aircraft charter, air taxi or air ambulance, aircraft sales, avionics, instrument or propeller services, or other specialized commercial flight support businesses. Airport sponsors generally do not allow fuel sales alone as a SASO, but usually require that fuel sales be bundled with other services.

- **Independent Operators.** If individual operators are to be allowed to perform a single-service aeronautical activity on the airport (aircraft washing, maintenance, etc.), the airport sponsor should have a licensing or permitting process in place that provides a level of regulation and compensation satisfactory to the airport. Frequently, a yearly fee or percentage of the gross receipts fee is a satisfactory way of monitoring this type of operation.
- **Flight Training Activities.** On-airport flight training can be provided by the airport sponsor/owner or by a service provider. The minimum standards imposed on flight instruction operations should take the following information into consideration:
 - **(1)** What type of flight training will the service provider offer?
 - **(2)** What arrangements have been made for the office space the school is required to maintain under 14 CFR 141.25? What is the minimum amount of classroom space that the service provider must obtain?
 - **(3)** Will flight training be provided on a full-time or part-time basis?
 - **(4)** What type of aircraft and how many will be available for training at the on-airport location?
 - **(5)** What provisions have been made for the storage and maintenance of the aircraft?
 - **(6)** What provisions will be made for rest rooms, briefing rooms?
 - **(7)** What coordination and contacts exist with the local Flight Standards District Office?”

Manager Madeira mentioned some things for the committee to consider while they are contemplating the recommendation of any changes to the airport minimum standards to the County Commissioners including:

- a) If it is determined that the minimum standards pertaining to flight instruction should be changed (reduced), aside from allowing more aeronautical service providers to “set up

shop” at this airport (a potential benefit to the public), what other negative unintended consequences may result? For instance, if the amount of classroom space is lowered below 500 square feet, CAS would have no requirement to maintain that amount of classroom space and group ground school instruction may cease to exist here?

b) Alternatively, is the public missing out on additional aeronautical service opportunities and is the airport limiting itself because of a set of minimum standards that is preventing growth?

Manager Madeira then described all of the Airport Minimum Standards presently in place regarding FBO category II, Flight Instruction. He pointed out the specific standards that Mr. Collins is challenging including:

- 7.A.** The Operator shall provide 500 square feet of floor space for office, classroom, briefing room, pilot lounge and restrooms, which shall be properly heated and lighted;
- 7.D.** The Operator shall have premises open and services available eight hours daily, five days a week. The Operator shall make provisions for someone to be in attendance in the office at all times during the required operating hours.
- 7.E.** The Operator shall have, on a full time basis, at least one flight instructor who has been properly certificated by the FAA to provide the types of training offered. On this he explained that the “full time” requirement was the only element of this standard being challenged.

Manager Madeira then handed out a spreadsheet comparing Airport Minimum Standards in Maine as they pertain to flight instruction. He summarized the results.

Then, Manager Madeira described the minimum standards as they pertain to flight instruction at some out of state airports including Chesapeake Regional Airport in Virginia and Gary Chicago Airport in Gary, Indiana. He noted that at Chesapeake Regional Airport that flight training activities only require "suitable space" as determined by the airport operator and that there, the staffing requirement only requires one full-time properly certified flight instructor to be available on-call eight hours a day, six days a week. Additionally, he mentioned that at Gary Chicago Airport, operators engaged in flight instruction are only required to occupy properly heated and lighted space on the airport appropriate for the type of work as determined by the airport authority, and that hours of operation there can be provided on an “as arranged” basis.

Manager Madeira then presented the Chairman of the Committee (Nat Fenton) with a list of Motions for the AAC to consider which included:

- 1 A motion (or motions) considering any changes to airport minimum standards pertaining to flight instruction.

- 2 A motion to direct the airport manager to include a provision that addresses independent operators performing aeronautical services into an airport minimum standards update.
- 3 A motion to direct the airport manager to include a provision that addresses the use of sub-contractors by existing aeronautical service providers to perform aeronautical services into an airport minimum standards update.

At that point, Manager Madeira turned the floor back over to Chairman Fenton.

The Committee then took a brief two minute recess.

Chairman Fenton opened the discussion regarding airport minimum standards as they pertain to flight instruction.

Steve Collins commented that he has the square footage to comply with the minimum standards and that he is also willing to lease office space in the terminal building. He explained that his lease allows him operating rights to do flight instruction, and that he doesn't see a problem not having someone at an onsite office 8 hours a day in the winter. Committee member Muise said he does have a problem with Steve not having someone on site 8 hours a day, because he (Columbia Air Service) pays someone to do that. MCFC has coverage on site 40 hours a week per sublease agreement with Columbia; 8 hours a day 5 days a week.

Erik Vroom interjected that these Standards were designed to protect the level of quality and service.

Steve Collins said he wants to grow his business and develop a broader foot print. He explained that he has the qualified people for the niche business he is going after.

Committee member Warner: "So what line items are missing regarding the Minimum Standards?"

Committee member Holyoke: "Does a person have to be on airport property 8 hours a day?"

Manager Madeira: "This committee needs to decide if it is reasonable standard to require that this type of SASO be required to have an office attendant there all day."

Committee member Muise stated that he will abstain from voting due to conflict of interest in this matter.

Manager Madeira explained that he thought that the minimum standards in section 10 (Aircraft Rentals) would also likely apply to Mr. Collins business proposal because if he is using an aircraft that he owns to provide flight instruction, that he is then also engaging in aircraft rental.

It was determined that Mr. Collins has the equipment necessary in order to comply with section 7B of the minimum standards requiring at least one aircraft capable for use in instrument flight because his Waco aircraft are IFR equipped.

Committee member Warner: I make a motion to amend paragraph 7D and 7E. Motion seconded by Committee member Allen.

Chairman Fenton opened the topic for further discussion.

Chairman Fenton suggested the following rewrite:

Paragraph D Section 7:

Operator shall make a provision so that the operator's office is attended at all times during the required operating hours, which for the period of May 15 to October 15 are eight (8) hours a day, five (5) days a week, and for the period October 16 to May 14, the operator shall at least maintain on call status eight (8) hours a day, five (5) days a week.

Paragraph E Section 7:

For the period of May 15 to October 15 the Operator shall have, on a full time basis, at least one (1) flight instructor who has been properly certificated by the FAA to provide the types of training offered. For the period October 16 to May 14, at least one (1) full time properly certificated flight instructor shall be on call at least eight (8) hours a day, five (5) days a week.

Chairman Fenton requested a vote on these changes.

5 yes, 1 abstained – Motion Passed.

Committee member Warner made a motion to amend section 10A. The motion was seconded by [NOT RECORDED].

Chairman Fenton opened the topic for discussion.

Committee member Warner suggested amending the square footage in Paragraph A of section 10 so that it is consistent with section 7 as follows:

The Operator shall lease from the owner an area of not less than 10,000 square feet of ground space on which shall be erected a building to provide at least 1750 square feet of floor space for aircraft storage and at least an additional 500 square feet of floor space for office, customer lounge and rest rooms, which shall be properly heated and lighted; and shall provide telephone facilities for customers to use.

Committee member Bouffard explained “he always envisioned that a full-service FBO become established at this airport, and expressed concern regarding the ability for any full service FBO to be able to do that when we allow all of these smaller single FBO service providers to nip away at the total service offerings here”.

Chairman Fenton requested a vote.

Motion to amend section 10A in accordance with the verbiage previously proposed by Committee member Warner: 5 yes, 1 abstained

Committee member Warner motioned to accept language of Paragraph D Section 10 to be the same as in Paragraph D, Section 7. The motion was seconded by Committee member Allen.

Chairman Fenton opened the topic for discussion.

Paragraph D Section 10:

Chairman Fenton recommended the following language:

“Operator shall make a provision so that the operator’s office is attended at all times during the required operating hours, which for the period of May 15 to October 15 is eight (8) hours a day, five (5) days a week. For the period October 16 to May 14, the operator shall at least maintain on call status eight (8) hours a day, five (5) days a week.

5 yes/1 abstained – Motion Passed

A motion was made by Committee member Warner and seconded by Committee member Allen to direct the airport manager to include a provision that addresses independent operators performing aeronautical services into an airport minimum standards update to be presented to this committee at a later date.

5 yes/1 abstained – Motion Passed

A motion was made by Chairman Fenton and seconded by Committee member Holyoke to direct the airport manager to include a provision that addresses the use of sub-contractors by existing aeronautical service providers to perform aeronautical services into an airport minimum standards update to be presented to this committee at a later date.

5 yes/1 abstained – Motion Passed

A motion was made to adjourn by Karl Warner. Motion seconded by Committee member Bouffard.

6 yes – Motion Passed

Meeting adjourned by Chairman Fenton at 6:55pm

