

Minutes of the April 19, 2017 BHB Airport Advisory Committee Meeting (AAC)

Location: Hancock County – Bar Harbor Airport, Airport Fire Station, Meeting/Training Room

Committee members in attendance: Barbara Butler, Robert Bouffard, Nate Holyoke, Nat Fenton, and Mike Allen.

Committee Staff in attendance: Brad Madeira, Airport Manager

Non-committee members in attendance: David Vroom

Meeting opened at 4:30PM

Manager Madeira requested that Chairman Fenton allow him to have the floor for a few minutes to address the first few agenda items. Chairman Fenton approved that.

Manager Madeira welcomed and thanked everyone for attending the meeting.

Manager Madeira: “There was a motion to amend paragraphs 7D and 7E which pertain to flight instruction in the airport minimum standards. The previously passed motion was to amend paragraph 7D to state that the 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 per day and five (5) days per week, and for the period October 16 to May 14, the operator shall at least maintain on-call status eight hours per day and five days per week. For paragraph 7E, that same language is used except there it is referring to the requirement to have a full time certified flight instructor. The next motion that passed was a motion to amend the square footage in paragraph A of section 10 so that it is consistent with section 7 because it was determined at the last meeting that if a business is engaged in flight instruction, that they will also typically need to be engaged in aircraft rental and therefore the minimum standards as they apply to the amount of ground lease space required and office space required and operating hours should be consistent between those two (2) FBO categories, and so a motion was made to lower the minimum ground lease space under FBO Category 10A from 12,000 square feet to 10,000 square feet and to lower the minimum building square footage from 3,000 square feet to 1,750 square feet. That motion was approved. A motion was approved to change the language in section 10D and 10E to be consistent with section 7D and 7E as described earlier. That passed. And then the last two motions that passed were, (1) to direct me to include a provision that addresses independent operators performing aeronautical services into the airport minimum standards update to be presented to this committee at a later date, which is now, and (2) to direct me to include a provision that addresses the use of sub-contractors by existing aeronautical service providers to perform aeronautical services into the airport minimum standards update to be presented to the committee at a later date, which again, is today. So those are the motions that required me to create a draft revision to the minimum standards, and so at this time, I would like to review the draft.

In order to address non-tenant operators, I had to go through the whole document to ensure that the language included reference to the temporary permit, which is an element that has not ever been addressed before in the minimum standards here.” Manager Madeira then displayed the draft up on the projector and started to go through it.

I am going to start at the end of the document and we will work our way back through it. The last page of the document includes a summary of the square footage requirements which were amended in accordance with the changes previously approved. If you folks recommend these changes, then I will put this draft before the County Commissioners for their next meeting which is on May 2nd, and if they approve it, then the minimum standards will be amended that day. I will start with the paragraphs that describe non-tenant operators and the use of sub-contractors to perform aeronautical services. What I have added is section 19(E) which states the following:

The OWNER recognizes that aircraft operators utilizing this airport may require specialized assistance with the maintenance of their aircraft including services that are not offered by any existing FBO tenant on the airport. The OWNER also recognizes that not all aeronautical services that are, or could become needed by the public, are provided by on-airport service providers. For all of these reasons, the OWNER will allow non-tenant Operators to offer Commercial services on this airport on a temporary basis via a permit and in accordance with the following terms.

1. Non-tenant operators seeking to offer Commercial services (except for FBO Category I – Fuel sales) on a temporary basis shall apply for a permit with the OWNER in accordance with the application requirements described in section 5.
2. Non-tenant Commercial Operators shall be required to comply with all of the basic terms and conditions listed in section 19 of these standards including all insurance and hold harmless requirements.
3. Non-Tenant Commercial Operator permits will typically be issued on a weekly or monthly basis.
4. Permit fees are established by the Airport Manager on an annual basis.
5. The non-tenant Commercial Operator must pay the permit fee specified prior to issuance of a permit and commencing operations.
6. Non-tenant Commercial Operator permit applications shall be submitted to the Airport Manager, who shall reasonably investigate the credentials of the applicant, and the nature and scope of the proposed Commercial activity, and who may in his or her discretion, accept the application, or present the application to the OWNER for consideration. In the event that the application is denied, the Airport Manager shall specify in writing the grounds for denial.
7. Non-tenant Commercial Operator permits shall (a) be narrowly tailored to the approved Commercial service (b) designate a location on the airport where the approved Commercial service may be provided; (c) be limited to the time reasonably required for the approved Commercial service; and (d) not be transferred or assigned by the Non-tenant Commercial permittee.
8. Non-tenant Commercial Operators wishing to operate a motor vehicle on airport public apron areas are required to complete the airport driver training program.
9. All vehicles operating inside the AOA shall be clearly designated with the name of the Non-Tenant Commercial Operator displayed on the outside of the vehicle as required by the Airport Rules and Regulations.
10. Non-Tenant Commercial Operator permits shall be available for inspection by the airport authority and if applicable shall be displayed in a vehicle window.
11. Non-tenant Commercial Operators providing services on the airport must know and comply with all applicable Local, State, and Federal guidelines and regulations.

12. Non-tenant Commercial Operators shall conform to and abide by the requirements and procedures of the Airport Rules and regulations as now and hereinafter amended.

13. Non-tenant Commercial Operator permits may be revoked by the Airport Manager at any time for cause. Cause may include, but shall not be limited to:

- Violation of any rule, regulation or standard of the airport or any other act or omission which poses a danger to public health, safety, or welfare.
- Violation of any applicable law.
- Failure to perform any of the conditions and covenants entered into with the Airport Manager including failure to make timely payment of any fees.
- Operating in a manner which adversely affects airport operations.
- Failure on the part of any agent, employee, or representative of the non-tenant Commercial Operator to obey any directions properly issued by the Airport Manager.

That whole section is new and it pertains to the airport authority's ability to issue permits, and really quickly I am going to segway into..."

David Vroom: "I have a question, is the language here from an advisory circular?"

Manager Madeira: "No, in order to develop the language for this I looked at several other airport minimum standard documents and I grabbed from those documents the parts that seemed relevant for us and then I had it reviewed by the FAA, and I also looked at it with an attorney, and that was the development process".

Committee Member Bouffard: "Are we going to have a chance to review this, are we going to receive copies of this to look over?"

Manager Madeira: "I did not print paper copies because I am trying to save paper, but I certainly can print this for you."

Committee Member Bouffard: "Are we going to have a chance to analyze this before we do anything with it?"

Manager Madeira: "I had thought that the committee was going to analyze and discuss this now and that there would be a vote to either support these changes or not at this meeting, however, if not, that's okay too. My only concern regarding a delay with some of these changes, is, with, for instance, with mobile service companies. It is difficult to address those companies if I don't have a document that describes the permitting process."

Committee Member Bouffard: "Se we either approve this now, or wait another month to do so, do we have that option?"

Manager Madeira: "Yes, of course."

Committee Member Bouffard: "That one month won't be critical will it?"

Manager Madeira: "No that is fine. I would like to describe the temporary permit fee calculation. As I described the temporary permit fee will be offered on a weekly or a monthly basis. After speaking with other Airport Manager's about this, and in trying to determine the most appropriate way to set this fee,

the consensus was that the fee should equate to what the existing FBO's pay the County on a weekly or a monthly basis. Some airport managers that I spoke with thought that I should even include fuel sales into that calculation; however, I am concerned that if we did it would drive the fee too high. Realize that we do want the fee to be high as to discourage non-tenant operators and to protect our existing operators."

Manager Madeira then pulled up a spreadsheet on the projector showing how he is calculating the fee.

Manager Madeira stated, "This spreadsheet shows the existing County revenue produced by our existing FBO's which is then averaged and analyzed on a monthly and a weekly basis. For 2016, the average was three thousand six dollars and 54 cents (\$3,006.54) per month and when broken down weekly that equates to six hundred ninety three dollars and eighty two cents (\$693.82). That is what the County would charge as a temporary permit fee in 2017. This is intentionally expensive"

Committee Member Bouffard: "You need to protect the operators that are here".

Manager Madeira: "Yes we do, and that is why this fee would be set in a way that would make it expensive, however, non-tenant aeronautical service providers also may have another option other than obtaining a permit, which is that they may be able to become a sub-contractor under an existing tenant aeronautical service provider, and so now we will look at that.

New language was added to section 19(F) that states:

1. The OWNER recognizes that tenant operators may elect to utilize qualified sub-contractors to perform certain FBO services on their leasehold which they have been previously authorized to provide via existing LEASES/CONTRACTS/OPERATING RIGHTS AGREEMENTS with the OWNER.
2. The OWNER will look to the tenant, and not any sub-contractor to ensure that FBO services are being offered in accordance with safe operating practices and with the airport minimum standards.
3. Tenants who elect to utilize sub-contractors to perform FBO services are required to ensure that their sub-contractors procure and continuously maintain insurance, of the types and in at least such minimum amounts, as described in section 19 of these standards.
4. Please note that while the use of sub-contractors does not require the prior written consent of the OWNER, a request to SUB-LEASE or ASSIGN the whole or any part of the demised premises defined in any lease agreement with the OWNER does.
5. FBO tenants are required to include any revenues that are generated from the activity of their sub-contractor on their monthly activities report, and the OWNER will look to collect any applicable percentage of gross fees from its tenant, and NOT from any sub-contractor.

So, if a non-tenant company wants to come here and provide, for example, specialized turbine maintenance services, and they want to avoid the airport permit fee, and if an existing tenant that has operating rights wants to work with the non-tenant company, they have the option to work as a sub-contractor. Those are there options. So those are the two items that I put in the draft to address the last two motions that were passed at the last meeting, and then, going back up through the document, again, you will see in several places where I had update the wording to include non-tenant temporary permits.

Ok, next we are going to look at the changes to the minimum standards pertaining to flight instruction in accordance with what was approved at the last meeting. You can see now that item 7D now states, "The operator shall make a provision so that the operators office is attended at all times during the required operating hours, which for the period of May 15th through October 15th are eight hours per day and five days per week and for the period of October 16 through May 14th, the operator shall at least maintain on-call status for eight hours per day five days per week. Then item 7E was also updated to state that for the period of May 15th through October 15th, 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, and for the period of October 16th through May 14th, at least one (1) full time certificated flight instructor shall be on call at least eight (8) hour per day and five (5) days per week. So I put that in there exactly as the motion was approved at the last meeting. Under section 10A for aircraft rental, in order to make section 7 and section 10 consistent, that 12,000 sf of ground lease was reduced to 10,000 sf and the 3,000 sf requirement for building space was reduced to 1,750. Then under item 10D, the same language earlier discussed is now shown regarding the office attendant hours, and under item 10E, the same language earlier discussed is now shown regarding the flight instructor staffing requirements. The only other changes are where the references to the temporary permit were carried throughout the entire document and the airport logo was updated on the first page."

David Vroom: "On the language, you have something in there that says..."

Manager Madeira: "Should I go to a particular section of the document?"

David Vroom: "Yes, you have a full-time flight instructor in one section and then you have an on-call basis. What is the difference between the two? In other words, the operator shall have, on a full-time basis, a flight instructor who has been properly certified, so what is the difference between the words on a full-time basis and on-call, in other words, does this flight instructor have to be sitting in the office for eight hours a day and five days a week? There is no language to describe what that means in between that and on-call. It is not clarified. On-call is on call."

Manager Madeira: "So what is shown crossed out is what is there today, and that states that 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 and that verbiage was modified so that it allows a flight instructor to be on-call for part of the year. I encourage the rest of the committee to chime in here because the language that was chosen was determined by the committee and not by me."

David Vroom: "Ok, I'm just looking at the two terms and I don't see the difference between the two terms, that's all."

Chairman Fenton: "The question came up regarding the off season. The guy lives in Ellsworth or something, but he's on-call, and could say that I will meet you at the airport in 20 minutes, type of thing, they just don't have to physically be here for part of the year."

Committee Member Allen: "I think it was written so that somebody had to be in the office all the time, but that's what was recommended to be changed so that could be covered by an on-call person for that period between October 16th and May 14th."

David Vroom: "Well, there is something about the flight instructor that doesn't make sense because flight instructors are not usually in the office. The next thing that I had, if that's OK, I was unable to be

here for the last meeting because of a missed communication. I did make a letter for the last meeting that I would like to present to you”.

Manager Madeira: “David if I could really quickly, at this point, I have gone over all of the changes that needed to be made as per the committee’s recommendations at the last meeting, and I will turn the floor back over to Nat, and then the committee can look at your letter.”

Chairman Fenton: “Is there a chance to print out one or two pages of the changes that you are proposing today so that we can take a look at that?”

Manager Madeira: “Sure, why don’t I just print out at least a couple copies of the entire document, how does that sound?”

Committee Member Butler: “Quick question, I realize because I missed the last meeting, but since there has been some changes that were not voted on concerning the temporary permits, is it the proper protocol to have another meeting to have time to review these changes?”

Chairman Fenton: “Yes, one reason that I was late is because I went back to look at my computer thinking that there must be something in my email on this, but I had not seen it.”

Manager Madeira: “Perhaps the most appropriate thing to do would be for me to email this document with the proposed changes out to everybody, and then we can meet again to discuss it.

Chairman Fenton: “Yes, I think that would be the best thing”.

Manager Madeira: “That is no problem.”

Committee Member Butler: “I don’t know if we can meet before your next Commissioner meeting on May 2nd, but I think that we do need time to review this.”

Chairman Fenton: “Do you need to have your supporting material to the Commissioners so many days ahead of the meeting?”.

Manager Madeira: “Yes, for the May 2nd meeting I will need to get all of my supporting documents to the assistant to the County Administrator by this Friday.”

David Vroom: “Can I hand this out, or is that not appropriate at this time?”

Manager Madeira: “I think so, Nat are you OK with that?”

Chairman Fenton: “Yes, that is fine”.

David Vroom passed out a letter that he wrote.

Manager Madeira: “Would you like for me to submit this to the Commissioners as supporting material?”

David Vroom: “Yes. I was kind of surprised that it all got approved at one meeting”.

Manager Madeira: "Just so that you understand, nothing has been officially approved as far as any changes to the airport minimum standards. The committee makes a recommendation to the County Commissioners. The County Commissioners are under no obligation to make any changes in accordance with the committee's recommendations, however, it is not likely that the board would make a determination that is not in line with the recommendation of the airport advisory committee, but there have been no new changes to the airport minimum standards thus far. This committee can alter the items that were approved at the last meeting if they want to. Ultimately, we are working towards a draft update that is supported by this committee."

Chairman Fenton: [to David Vroom] "So, is this something that you would like for us to address tonight?"

David Vroom: "No, no, that is just a letter to the Committee, that's all, I just wanted to be able to answer any questions that you might have, and want to bring in a more broad perspective, instead of just the airport. I've been in the flight training business for a long time and have a sense of what is going on in the industry as well."

Chairman Fenton: "Great. So, we will review the letter, and we can take this up if there is some action needed at the next meeting. So, I did have a question on some of the language regarding non-tenant operators. So is this for people, for instance, coming in to do annuals on their own aircraft type of thing?"

Manager Madeira: "Yes, they would have to purchase a temporary permit if they wanted to provide that service whereas today, they are not allowed to do that at all as per the minimum standards, or alternatively, as we discussed, they could operate as a sub-contractor with the approval of an existing tenant."

Chairman Fenton: "But I was also thinking about other situations, like for instance, my hangar door got all smashed up and so I had a contractor come in to fix my door, so I don't know if the language distinguishes between non-aviation and aviation sub-contractors?"

Manager Madeira: "That is a good point. The permit is intended give non-tenant aeronautical operators the ability to provide their service and I was not intending for this to affect other non-aeronautical service providers."

Chairman Fenton: "Right, I didn't think so."

Manager Madeira: "Let me see where I might be able to clarify that. So section 19(E)(1) states that the OWNER recognizes that not all *aeronautical* services that are or could become needed by the public are provided... so it does specify aeronautical services but maybe I could include that in the title to that section to change it from non-tenant operators to non-tenant *aeronautical* operators."

Committee Member Bouffard: "Well if you had to have some work done to your hangar, wouldn't you just notify the airport manager and get permission to allow the contractor to come in to access your hangar?"

Manager Madeira: "That depends on the nature of the work that you are having performed. If you are just, for instance, having some electrical work done at your hangar, the hangar owner can just escort the

contractor in and no notification is required, however, if work is going to be performed on your hangar apron within the taxiway safety area, then it would require notification and possibly coordination.”

Committee Member Bouffard: “My point was that you are getting into a secure area now”.

Manager Madeira: “Yes, well, escorting is OK, but obviously tenants are not supposed to provide access credentials to contractors who have not had the driver training required by the FAA. I will change the title to include the word aeronautical operators.

Committee Member Allen: “That’s what, two meetings ago, we discussed with regard to companies such as Air Bear doing maintenance service work while Leroy has to let them through the door so that they can get to the ramp to do it”.

Committee Member Bouffard: “Wouldn’t that be addressed in the hangar lease agreement?”

Manager Madeira: “Well, it is, but most of these types of things happening are occurring right out on the public apron, but this new language would allow me to address all of those happenings.”

Chairman Fenton: “Yes, that would be great if you could email that to us”.

Manager Madeira: “I will do that tonight before I leave”.

Chairman Fenton: “Is there anything else?”

Manager Madeira: “Why don’t we set up a time to meet next with whatever all of you think is enough time to review the draft, and then we can meet up to discuss any potential changes or if the committee would like to approve and recommend these changes.”

Chairman Fenton: “And I would suggest that if some folks feel that some items here don’t make complete sense, that if you could recommend some language that you want to insert or,”

David Vroom: “Yeah, OK, this is just the first time that I had seen it”.

Chairman Fenton: “Yes, well we could take that up at the same time. OK. So, this is Wednesday night, or is Wednesday night good for people, yes, so, two or three weeks?”

Manager Madeira: “Two weeks out on a Wednesday will be May 3rd”.

Chairman Fenton: “4:30 is good, yes?”

Manager Madeira: “OK, so Wednesday, May 3rd at 4:30pm, then for the next meeting”.

Committee Member Bouffard: “Great”.

Chairman Fenton: “Any other business to discuss?”

Manager Madeira: “I did put number six on the agenda to find out if there are any other additional topics that the committee would like to discuss and/or request information from me on for now or for the next meeting?”

Chairman Fenton: "So we lost the jet service I heard, right?"

Manager Madeira: "Yes, we did".

Chairman Fenton: "So, how did we do on the number of passengers?"

Manager Madeira: "We did not make it [to 10,000 boardings] last year with Elite Airways...well, I should not say that, officially, we don't know yet, and will not know until we get all of the charter numbers in, and we won't get those numbers in until... The FAA's final count does not come in until August sometime when they finalize the numbers for the previous year, but having said that, I don't that it is likely that we are going to get to ten thousand boardings even with the charter numbers as the gap is just too large to make up".

Committee Member Bouffard: "So it is just Cape Air?"

Manager Madeira: "So we have both Cape Air and PenAir presently, and of course last year, we also had Elite Airways, and ultimately it is still too early to tell if we will make it for last year. We will be close for 2016, but moving forward, without Elite Airways, I think that it will be almost impossible to get to 10,000 boardings."

Chairman Fenton: "And I understand from the new [presidential] budget, that would knock out any subsidy to any of the airlines".

Manager Madeira: "Well, so the blueprint budget that the president is proposing is vague, but it does propose to eliminate the essential air service program, however, Barbara and I have talked about this, the fiscal amount being proposed to be eliminated from the EAS program is not the entire amount of the program, and so, because they have not yet provided more detail, we don't know if that means that they are proposing to cut part of it or all of it, but the verbiage in the blueprint budget seems to indicate that they want to slash the entire program. If the administration was actually successful at passing that through congress, that would likely mean that scheduled year round air service here would probably not continue, but none of us know what is going to happen with that, if that came to be, we would have to find out what the air carriers want to do. PenAir operated here subsidy free for a number of years, it was only last year that PenAir started receiving a relatively small subsidy to operate here, so would PenAir continue to provide seasonal service? It is quite likely I think, but I don't know. One thing that I think is important for everyone to keep in mind is that the essential air service has been on the chopping block on Capitol Hill for almost every year and the legislators have never been able to pass its elimination, and so, the only real change is the new administration and what affect they may have by increasing the political pressure for the issue, but I don't know if this is anything to get too worried about at the moment because we have been in this position many times before. As far as the airport improvement program and the federal entitlement program for the airport, that is what is highly impacted by the number of passenger boardings, and that will affect our capital plan moving forward. After we deplete our carry over entitlement, and if we continue to have less than 10,000 boardings, then the airport is only currently eligible for \$150,000 per year. It is really the difference between growing our capital infrastructure and simply maintaining what we presently have. We are fortunate in that we already have a good level of capital assets, but without the higher level of entitlement, when the day comes that we need to resurface a runway, we are not going to have the five or six million dollars in entitlements needed for that type of project, so in that case, we would go to the FAA and

request discretionary funding and often times the FAA funds those types of projects, but the difference is that the airport is not entitled to those funds, we have to ask for help. There is not a plethora of air carriers out there that can augment and support our existing air carrier service but at the same time ensure that they do not step all over them. Elite was a good fit that way because they provided something different. I don't think that they affected or hurt the service provided by Cape Air or PenAir, and at the same time offered a new service to a different destination with different equipment. And so, I am not all that optimistic that we are going to get another air carrier to come in here and provide the type of service that Elite did."

Chairman Fenton: "Do we know how many passengers they had?"

Manager Madeira: "Oh yeah, I can get that for you it's on the enplanement report, but I don't have that in front of me, but would be happy to report on that at the next meeting."

Committee Member Butler: "Well, honestly, the essential air service program originally had a stop date on it, and we have just kept going so we are fortunate that it has continued. There was a couple years where they talked about a radius around certain sized airports and if you were outside of a certain radius that you would still qualify for the money and if you were inside that radius you would not get any of it".

Chairman Fenton: "Yes, well it seems very important in order to keep this airport operating as a year-round airport".

Committee Member Butler: "Well, we are fortunate in that we have some congressional people that support Maine airports".

Chairman Fenton: "Yes, I remember at one point three of the members of the board of directors of AOPA were flying in here too."

Committee Member Bouffard: "We have a little political influence on the island too".

Chairman Fenton: "Yes".

Manager Madeira: "That's another thing. If this airport finds itself in need of capital to, for instance, reconstruct a runway and we can't get enough funding from the federal government, we would then ask for charitable donations from the public and hopefully we could get that".

Chairman Fenton: "Yes, those are tax deductible and charitable donations".

Manager Madeira: "Yes, the airport has received considerable donations in the past in situations like that, and so, I think that there is hope. This is pure conjecture, but I do think that it is possible that if the legislators really work to sharpen their pencil with regard to the EAS program, that they might make airports such as this one ineligible because of our proximity to Bangor, but again, who knows. Presently, if you are located within 40 miles of a small-hub airport, then you are ineligible. Bangor is presently classified as a non-hub airport and we are within 40 miles of Bangor, but because they have not yet reached small-hub status, we are still eligible, but that is my biggest fear in terms of EAS in that the legislators will likely not cut the entire program, but there are ways that they might trim it which could affect us, and I think that is more likely than seeing the entire program cut."

Chairman Fenton: "Ok, if there is not anything else, is there a motion to adjourn?"

Committee Member Butler: "Motion to Adjourn".

Committee Member Bouffard: "I second the motion".

Chairman Fenton: "All in favor?"

All: approved

Meeting adjourned by Chairman Fenton at 5:20pm