

The North Little Rock Airport Commission Special-Call Meeting was held at 11:00 a.m. on Friday, August 30, 2019 at the NLR City Services building, planning department conference room.

Chairman Mark Halter called the meeting to order.

The roll being called, the following Commissioners attended: Mark Halter, Brad Hughes, Mark Bentley, Don Blakey, Jim Julian, Adrienne Smith.

Also Present: Clay Rogers, Mayor Joe Smith, Marie Miller- City Attorney's Office, City Attorney Amy Fields

Minutes

There are no minutes to approve.

Financial Report

There is no financial report to approve.

Old Business

None.

New Business

NLR Aviation Partners Lease- Mr. Halter says NLR Aviation Partners has removed their request for any changes to the standard 40 year lease, so they are seeking approval for a standard 40 year lease.

Engineer's Report

Jordan Culver says they'll do a final inspection on the new apron next week and we'll be ready to close out that grant. Mr. Hughes moves to approve the standard 40 year lease, Mr. Julian seconds. The motion carries unanimously.

Lease assignment from Barry Beck to Four Horsemen, LLC- Mr. Rogers says Barry Beck wants to assign the remainder of his lease to Four Horsemen LLC. Mr. Rogers says he's met with them about the process and gone over the lease and rules and regs with them. Mr. Blakey moves to approve the assignment, Mr. Hughes seconds. The motion carries unanimously.

NLR Jet Center Lease- Mr. Halter says he's going to let those who have signed up speak on the issue for 3-4 minutes, starting with Mayor Joe Smith. Mayor Smith thanks the commission for serving and for the time they give. Mayor Smith talks about the terminal and FBO expansion project being a big part of economic development for the city, more than just about the airport itself. He would like the airport to be a great first impression for companies flying in and considering doing business in the city of North Little Rock. Mayor Smith discusses the time line of the bonds that were approved by city council that funds this project, and that there is a lot of moving parts and a tight deadline on getting leases put together to continue through the bond process. Mayor Smith says because of that timeline, that's why we need a special call meeting, and that there may be more special call meetings needed. He would like the commission to get the lease approved by the commission, and sent to the city attorney's office for review, and then reviewed by the bond lawyer. The mayor says he isn't able to stay for the rest of the meeting. Presley Melton is in attendance and signed up to speak. Mr. Melton says he is reiterating some points he put in his letter to the commission. He says he likes Tommy Murchison and thinks he's doing a great job. He is uncomfortable with the rate proposed for the new lease, that Barrett Aviation's lease was signed at a dollar per square foot 8 years ago for a far inferior hangar. He says more than anything, he has a problem with the length of the lease, and that 25 years is too long. Mr. Melton says if there is value in that hangar as an FBO, that value belongs to the airport commission, not the holder of that lease, who can then sell the lease to someone else. The length and ability of assignment are what bothers him the most, that within that 25 year lease length, that lease could be assigned to somebody else and we have no idea who that would be or how they would operate, and could wind up being the only entity selling fuel on the airport. He says if the airport is going to have in the lease that they won't sell fuel, they should only give up that right for 5 years at most. He encourages the commission to think about those points. Bill Schlatterer is in attendance and signed up to speak. Mr. Schlatterer says he likes Tommy Murchison and thinks he's doing a great job. Mr. Schlatterer says that hangar is the municipal city hangar, the city made the investment into that hangar, the city maintains that hangar, that is a city investment. Tommy's contracts with his customers are his equity in the business. He says the commission has the obligation to develop the airport for the betterment of the airport and the city, and if you give up options in any way, you can't in good responsibility do that. Mr. Schlatterer says 3 year term with 3 year option or 5 year with 5 year option would give the airport more control over its hangar. He says when there's no investment, those terms are common in his real estate lease experience. He says he thinks Tommy will do a great job, but you don't know what can happen in the next several years, so you should take short term leases. If the commission wants to renew at that point they can, but they shouldn't give away their options. Mr. Schlatterer says he also has a problem with the assignment clause. He says the assignment clause gives value to that lease that Tommy could then sell. He says that should be the city's benefit, and

shouldn't be given away. Mr. Schlatterer also has a problem with the utilization clause. He says when the lease was signed 20 years ago the city wanted a true FBO and put in specific terms for an FBO, and those terms were not maintained. Now, 20 years later he just wants those terms taken out of the lease. He says the airport may be fine with that now, but we don't know what the airport's needs might be in the future, and the airport may want a true FBO, which goes back to his concerns about the length of the lease and giving up control. At least keep shorter terms so the airport commission can revisit that every 3-5 years. He says he commission doesn't lose anything by keeping the terms shorter and options open. Tommy Murchison is in attendance and is invited to speak. Mr. Murchison says his lease negotiations shouldn't be with Bill and Presley, but he understands they have a difference of opinion. He says to the point raised that the lease process only benefits him and that he's getting a cheap rate, and that he shouldn't be able to create value to his business he doesn't agree with. He says the city isn't paying him to run the FBO, he's employing people. Mr. Murchison says to the comment that he didn't make an investment, that isn't true. When he took over, there was a padlock on the front door, there was going to be a public auction, there was a burned up bus out back, there was a fuel system that wasn't even close to being usable. He says he took a chance on this business, and the commission took a chance on him. He says he invested over \$400,000 into that facility. He said when he first started he did have flight training, a maintenance facility, charter services, then a tornado came through and took off the back part of his hangar and his maintenance facility. He says he did get some concessions from the commission at that time to try and rebuild, but at that time he didn't have a place to rebuild the shop. But he did give all of that equipment to the people working for him and they went across the field and opened a maintenance facility, and that though he's not employing them anymore, their business came through him. He says the country went through a recession which impacted the charter business 90% and he had to make a business decision to stop doing that business. He says his lease said he had to operate that aspect of the business within 12 months of the lease, it doesn't say he has to continue that part of the business forever, no matter what it costs him, and no prudent business person would sign a lease saying that. He says to the comment that the city has the total investment at the airport, that's not true either. The airport is federally funded and the city puts in a percentage. He says with the new facility, that's a separate issue, what we're talking about today is his current lease on his current building. He says he does have a large investment at the airport, and having options and assignment options is pretty standard in FBO leases and he thinks it would be irresponsible of him to his business to sign a short lease with no options because then he is essentially running the city's FBO instead of his own business. He says he hopes he and the commission can agree to terms on the new lease today. Mr. Halter says one of the factors in his mind is with the new building and hangar going in, we need this to work and this isn't your typical situation. Mr. Halter says there are a lot of factors going into it, and this isn't a typical commercial

real estate situation. Mr. Halter says we're doing the best we can and we've had people disagree with our decisions before, but we've done what we thought was best for the airport and we've caught flack in the past for decisions that wound up being good for the airport and we weren't being irresponsible then, and whatever we decide today is not being done irresponsibly. Mr. Julian asks what Director Rogers recommends. Mr. Rogers says the lease term changes he has given to the commissioners today are a result of his conversations with Mr. Halter, Mr. Bentley, Mr. Murchison. Mr. Rogers is proposing the existing lease with the NLR Jet Center, with the 7 changes listed in the lease term renewal document, everything else would stay the same. Mr. Julian says to start the process of a proper debate, he moves to approve the new lease with the 7 changes listed. City Attorney Amy Fields says she would like to say that any lease agreed to today will have to be subject to review by the bond council if it has any impact on the bond funded terminal/FBO building. Mr. Halter says everything voted on today is for the existing lease and the existing hangar, but that if it does have any impact on the future project, he agrees it should be reviewed. Mr. Halter says the formal process for discussing an agenda item is to have a motion and a second, and then discussion follows that. We usually do the discussion first, but the formal rules are to have a motion and second, and then discussion before a vote. Mr. Hughes seconds the motion. Mr. Blakey would like to go through the proposed changes one at a time. Mr. Blakey would like to see the assignment clause changed back to the original language that the lease cannot be assigned. Mr. Bentley explains the difference between an assignment and a sublease. Mr. Halter says we may want to allow for assignment but not sublease. Mr. Blakey says he is okay with a 10 year lease, but he's uncomfortable with the two extension options. Mr. Bentley says in the leases he deals with the extension rarely goes longer than the original term. Mr. Blakey says he thinks the proposed rental rate should be higher based on what the original lease rate was. Mr. Halter asks if this rate is based at a dollar per square foot. Mr. Rogers says it is. Mr. Blakey says he thinks it should just include a 5% increase every 5 years to make things simpler. Mr. Blakey says he's okay with the maintenance language, but he still has an issue with the fuel sale restriction language. He says that former Department of Aeronautics told him that the airport can't restrict anyone from doing business at the airport, including ourselves. Mr. Blakey says it's an FAA regulation, and reads from the manual about exclusive rights prohibition at the airport. Mr. Blakey recommends Mr. Rogers call our FAA representative to get more information. Mr. Blakey says his main concern on all of this is being in violation of FAA regs. Ms. Miller from the city attorney's office says from what she has been able to find, it is within the rights of the airport to contract that right to sell fuel away. Ms. Miller says Mr. Rogers could still contact the FAA for clarification, but she believes that the airport commission is allowed to do that if that is what the commission decides. Mr. Rogers says how he reads that regulation is that the airport can't grant exclusive rights to any entity or prohibit any entity from doing business at the airport, but it is within the rights of the airport to say they won't compete. Mr. Halter

says he agrees about granting and prohibiting other private entity from doing business, but the question is can we exclude ourselves, and that needs to be answered because we can't enter into a lease agreement with an illegal clause. Mr. Halter says we get to that point to vote, we could make that restriction subject to if we are legally allowed to do it. Mr. Julian says looking at the regulation on his phone, he says it is written vaguely but agrees with Mr. Rogers' interpretation. Mr. Halter says that item should be subject to Mr. Rogers checking with the FAA. Mr. Murchison says in terms of the lease length options, Mr. Murchison says he knows anchor tenants are given longer terms because of the value they bring. He says it's up to the commission if they feel he is an anchor tenant, but he does believe anchor tenants are often given special consideration. Mr. Murchison says on the fuel issue, he would never want something in the lease that would jeopardize the airport's grant eligibility, and that would negatively impact his business. Mr. Murchison is fine with seeking some clarification. Mr. Halter says there is also separate language in the lease that the FBO has to charge reasonable and fair rates, so even if Mr. Murchison was the only FBO operator, there are protections to the airport on what he can charge. Mr. Halter says he would like to vote on each individual term proposal one at a time, subject to a final lease the lease review by bond council. This vote would be to show intent of the commission of what we would be agreeable to. On the assignment clause with language about "if the lessee is a natural person" doesn't apply because the lease is with the corporation NLR Jet Center. Mr. Halter says yes that part can be taken out. Mr. Halter says he'd like to say the commission can have approval if there is a change in ownership of the corporation. Mr. Julian says he thinks the natural person language should be taken out. Mr. Julian asks if we should consent to a sublease in addition to an assignment. Mr. Hughes asks about the jets that he keeps, are those subleases? Mr. Julian doesn't think we need to be micromanaging Mr. Murchison's business on subleasing spots for individual jets. Mr. Halter suggests saying assignment or subleasing the whole lease. Mr. Julian agrees there should be language like that added, that we can consent to a sublease of the lease in whole. City Attorney Fields says they can come up with language to make that concept work. Mr. Julian makes that motion. Mr. Rogers asks if language should be added that the commission must consent on a change in ownership of the corporation since that's who the lease is with. Mr. Julian says he's not sure we need to address that. Mr. Halter says then the motion is the same as when Mr. Julian made it, Mr. Hughes seconds. The motion carries unanimously. On the 10 year lease term, Mr. Julian moves to approve, Ms. Smith seconds, the motion carries unanimously. On the Renewal Option, one 10 year and one 5 year option. Mr. Julian moves to accept that, Mr. Hughes seconds. Mr. Julian, Mr. Hughes, Ms. Smith, Mr. Bentley, Mr. Halter vote yes, Mr. Blakey votes no. The motion carries. On the Rental Payments, Mr. Julian moves to approve the rental rate as presented, Mr. Hughes seconds. Mr. Blakey suggests taking out the CPI language and just make it a 5% increase every 5 years. Mr. Rogers says his intent was for an increase every 5 years. Mr. Blakey says he thinks 5% increase every 5 years is easier. Mr. Julian likes the

CPI language because it takes into account inflation. Mr. Halter says the CPI would likely be higher. Mr. Halter says the motion has been made and seconded with the language as is. The motion passes unanimously. On Utilization of Leased Premises (f) maintenance agreement, Mr. Julian moves to approve as written, Mr. Hughes seconds. The motion passes unanimously. On paragraph (i) concerning fuel sales restriction, Mr. Julian moves to approve as written, subject to Mr. Rogers checking with the FAA. Mr. Hughes seconds. Mr. Julian, Mr. Hughes, Ms. Smith, Mr. Bentley and Mr. Halter vote yes; Mr. Blakey votes no. The motion carries. Mr. Julian asks now that each amendment has been voted on, do we need to vote on the lease as a whole. Mr. Halter with these agreements, and subject to review from bond council and discussion with the FAA, the commission can vote on the lease as a whole. Mr. Julian moves to approve, Mr. Hughes seconds. The motion carries unanimously.

Mr. Halter says we will have to have future discussion on leases for the new building.

Mr. Blakey moves to adjourn. The meeting is adjourned.