

**Commonwealth Of Massachusetts
County Of Dukes County, S.S.
MARTHA'S VINEYARD AIRPORT COMMISSION MEETING**

**April 7, 2004 5:00 pm
Martha's Vineyard Airport**

Notice of Such Meeting having been Posted as Required by Law.

Present:

Airport Commissioners: Chair Jesse B. (Jack) Law, Vice Chair John Alley*, Frank Daly,
Leslie Leland, Norman Perry

Dukes County: E. Winn Davis- County Manager ex-officio

Airport Staff: Bill Weibrecht - Manager, Sean Flynn - Assistant Manager,

Others: Marni Lipke – Recorder, Fred Natush - MVTV

* Late arrival or early departure (see * in text)

The meeting was called to order at 5:08PM.

1. Approval of Meeting Minutes of March 3, 2004.

It being determined that a quorum was sufficient to pass the minutes **MR. FRANK DALY MOVED TO APPROVE THE MARCH 3, 2004 MINUTES; MR. NORMAN PERRY SECONDED; MOTION PASSED, 3 AYES, 0 NAYS, 1 ABSTENTION – MR. LESLIE LELAND** due to absence.

2. Remaining D/EIR Chapters

- For Vote on April 21, 2004

Airport Manager Mr. Bill Weibrecht presented the Draft / Environmental Impact Report (D/EIR) which was now complete except for the Martha's Vineyard Airport Commission's (MVAC's) editorial comments. The new material consisted of:

- responses to all the comments that were received after the filing of the Environmental Notification Form (ENF),
- the subsequently filed Notice of Project Change with comments submitted by the Sheriff regarding the Jail issues—which were inserted directly into the D/EIR,
- Chapter 15 on endangered species and mitigation—which Natural Heritage will review after the D/EIR has been filed (this would mean about a two week delay),
- Chapter 5 on storm water drainage and water supply—which has been changed slightly, and
- Chapter 16 on Federal Environmental Assessment needs.

The MVAC already reviewed the rest of the D/EIR – for the MVAC's convenience Management did not submit Report chapters until they were in finished form so that the Commissioners would only need to review them once.

Mr. Weibrecht again reviewed the D/EIR filing schedule and asked if two weeks was adequate for the Commissioners to review the new material.

- If the MVAC were to vote April 21st, the D/EIR would get published in the Environmental Monitor on or about May 8th, the D/EIR comments would be due back by June 7th and there would be a D/EIR decision on June 14th.

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- If the Airport were to slide further and the MVAC were to vote at its first meeting in May, the D/EIR would get published on May 26th, comments would be due back June 25th and the Secretary's decision would be made July 2nd.
- 7 to 10 days was the Secretary's time frame to file and publish, however the Environmental Monitor came out only twice a month: on the 15th and at the end of the month.

Mr. Daly asked about the distribution of the report noting that as an expensive and intensive document it might be of interest to local business people and other concerns on the Island. He was interested in the general public knowing that the document existed for their use. Mr. Weibrecht described the distribution.

- It was mandated to be distributed to anyone who had sent in a comment in the two previous rounds. This would cover, the MV Commission, town planning boards, etc.
- The MV Airport would also hand out copies to various relevant parties such as the County.
- The Environmental Monitor was mandated to post that anyone wishing a copy should contact Hoyle Tanner Associates (HTA) which sent out these extra copies as requested.
- The Report was also sent to all agencies participating in the initial round of the review, about 13 or 14 entities such as, Mass Highways, Natural Heritage, Federal Aviation Administration (FAA), Mass Aeronautics Commission (MAC), Environmental Protection Agency (EPA), etc.
- The general public could download the D/EIR off the Internet.
- Although there was no specific requirement that the D/EIR be published in the local press this discussion would be shown on MVTV.
- County Manager Winn Davis and Mr. Daly suggested distribution to the public libraries and Mr. Weibrecht confirmed that they would end up at the libraries. Mr. Perry also suggested a press article as the Report was an impressive piece of work and he had learned so much about the Island in reading it.

Mr. Leland asked if Mr. Weibrecht was expecting a lot of flak. Mr. Weibrecht replied in the negative, although he noted that the Airport certainly did not agree with everybody from both sides, ultimately, however, the Report did address those issues. Another important part was that the Island was going through somewhat of a change on the planning board and planning commission levels. Two big community items were involved, especially the Jail, and both issues were dealt with in the Report. The Airport had not received anything from the public, either negative or positive, since the first filing. Mr. Davis noted that in his experience a report that was as extensive and well done as this one tended to put fears down as opposed to creating fears. People looked at the report and saw how much work went into it and felt they could trust it to a certain degree. Mr. Weibrecht agreed. Mr. Perry emphasized that the plan was caring for the Island and people would see this and be responsive to it. Mr. Weibrecht added that as part of the client group when issues were seen that just did not make sense or were going in a completely wrong direction for this community, it was easier to nip it in the bud at that point rather than further along through in the process.

Chair Jack Law's polled the MVAC and the general consensus that they felt comfortable voting at the April 21st MVAC meeting.

- Mr. Daly said he could do it in time but noted that there was so much material which was so in depth and some of it out of his area, that he read it and filed it in the back of his mind so that he would know where to find the information if he should need it in the future.

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- Mr. Leland agreed that he could make it in two weeks.

- Mr. Perry was comfortable with the deadline.

Mr. Weibrecht said that was great and it would be put on the agenda for the April 21st meeting (see also below p. 11).

3. Supplemental Budget Approval

Chair Law introduced the supplemental budget — about which he had spoken to Assistant Airport Manager Mr. Sean Flynn. Mr. Winn Davis offered to explain the situation and the purpose of the current meeting. The County had a lot of outstanding bills, issues, and budget lines that were not matching up, so a County Financial Advisory Board meeting had been requested and finally scheduled for about eight or nine days from now. Subsequently the County has asked all department heads, on very short notice, to put together their supplemental budget needs so that everyone could make it through the year correctly. This was why the MVAC meeting and supplemental budget had been called without warning, not because Management was behind in any way, just that the County itself had such little notice.

Mr. Flynn explained each line item of the supplemental budget request starting with personnel expenses followed by capital items (see documents on file).

- 1. An adjustment from Ms. Cynthia Dauphinais who retired (see 10/1/03 Minutes p.4#2) back into New Wages Reserve. (See Line 10.)
- 2. An adjustment from Mr. Mark Bagdigian who left in June, '03 after the budget had been approved, back into new wages reserve. He was replaced by Chris Oteri —see Line 9.
- 3. An adjustment from Ms. Eileen Wullschleger who left in September, 2003 back into New Wages Reserve. She was replaced by Ms. Mercier — see Line 11.
- 4. An adjustment from Mr. Sean Waite who just left, back into new wages reserve. He was replaced by Mr. Gary Coates --see Line 13.
- 5. The line item for Richard Michelson had \$3,828.31 more than was needed so the residual should be transferred back into New Wages Reserve.
- 6. Mr. Eric Hatt was recently promoted to Supervisor so the salary increase should be transferred from New Wages Reserve.
- 7. Mr. Robert Oslyn was promoted to Field Coordinator so the salary increase should be transferred from New Wages Reserve.
- 8. Dealt with an increase in a coordinator's position.
- 9. Mr. Chris Oteri was hired to replace Mr. Bagdigian — see Line 2.
- 10. Mr. Suzanne Cioffi was hired to replace Ms. Dauphinais — see Line 1.
- 11. Ms. Elaine Mercier was hired to replace Ms. Wullschleger — see Line 3.
- 12. This was the first opportunity to fund the new Grounds and Facilities position the MVAC approved in the fall (see 10/1/03 Minutes p.5 #3). It was hoped the new staff would be on board by June so the line item transfer covered two pay periods.
- 13. Gary Coates was hired to replace Sean Waites — see Line 4.
- 14. There was a miscoding at the County Treasurer's office such that Permanent part-time employees were erroneously being taken out of the Temporary Employee line. This transfer was to rectify the balance by transferring \$6,000 from Permanent Part-Time to Temporary Employees.

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- 15. \$13,000 was being transferred into Temporary Employees to cover summer hires through the end of FY04.

The remaining transfers came from the Unreserved Fund Balance which was currently un-audited but which Management knew to be healthy.

- 16. In FY03 money was set aside to paint the runways and taxiways. The Contractor failed to perform in FY03 and as a maintenance item the funds could not be carried over the fiscal year so it was returned into the Unreserved Fund. Management hired the next best contractor who performed in FY04 so this transfer was to cover the expense as incurred in this year.

- 17. There was a slight overage in the Miscellaneous Equipment line.

- 18. As previously noted the FAA would be moving out of the General Aviation Building (see 11/5/03 Minutes p.4 #3) first to give the Airport better meeting room space and also to allow greater passenger lounge accommodations. This transfer would cover furniture, awnings etc. at the new FAA space.

- 19. Mr. Weibrecht spoke to this item. There were three ongoing PCE issues dating back to 1997-98-99.

Management recently received an update on Airport status and what would be needed to close out all the stations. The proposed transfer along with some moneys already in the budget line would carry the Airport through FY04 and into FY05. The transfer would cover the reports and close out documentation for two wells and some treatment for a hot spot well located on the original location of the spill.

° In response to Mr. Perry's question Mr. Weibrecht explained that PCE's were a very nasty pollutant used in such things as brake cleaners and dry cleaner solvent—the source of the Airport ground and consequently ground water contamination.

° Here at the Airport the plume was handled by a system of pumps and aerators which volatilized (or atomized) the pollutant into the air in accordance with Department of Environmental Protection (DEP) and EPA regulations. Mr. Davis asked if the Airport used distillation pumps and then aerated the water. Mr. Weibrecht replied that this was correct and that in addition low volumes of permanganate was added to act as a volatizer. Mr. Davis asked where the residual was sprayed Mr. Weibrecht replied that it was discharged directly back into the ground and recycled, so it bubbled in chambers similar to the fingers of a septic discharge and then flowed back in, was picked up and retreated, and retreated again.

° Sample readings depended largely on ground water speed which was only 200 ft./year at the Airport taking a long time to show up at testing sites. (Mr. Davis had a similar problem to in Falmouth when they lost a well to PCE's from Otis Air Force Base and where the ground water ran at 1 ft. / day.) The wells were located on the Airport perimeter, the water was pumped back here for treatment and then released. At the moment the water now being caught and pumped back into the system was below (i.e. well within) drinking water standards, however some change in the ground conditions, such as a heavy rain, would release a pocket of PCE's which changed the readings and which the system was continuing to treat. It was noted that the root cause had been eliminated but different conditions made the readings erratic.

< Dry seasons depressed readings and held the PCE's.

< A rain would then wash it down and spike the test results.

< A globe of pollutant might be off to one side of one well not showing direct results until the staggered well that was next down the line would pick it up.

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° Each test well had to show a certain number of clean samples in a row. There were many reports showing how the Airport had shrunk the plume down however there had been a couple of rebounds that set the Airport back; for example three yearly quarters of clean samples were needed before consideration of the next step, and in some cases there had been one small spike that reset the clock back to the beginning.

° In an effort to close out this issue in the most efficient way—making sure, of course, that all requirements were met, last month the testing was taken in-house and was now performed by Airport Water / Waste Water Operator Michael Eldridge. Previously the Airport paid the Licensed Site Professional (LSP) Rizzo Associates to do the testing. Rizzo would still oversee the results—as required by law—as well as continue the future treatments. Mr. Daly confirmed this. Mr. Weibrecht expounded, just for the MVAC's edification, that about six months after he was hired he investigated switching LSP's to get 'an arm's length' perspective but found no reason to change so that Rizzo would stay on the job.

° The MVAC would see this issue addressed in the D/EIR ground water chapter, where an ongoing testing system was proposed to form a pick up line for various chemicals including hydrocarbons—which were not traditionally a problem at the Airport.

° Mr. Weibrecht could say that the items out from Coffins field which was never conclusively linked to the Airport problem (see 1/2/02 Minutes p.2 #3) were also below drinking water standards so there was no pressing issue of adjoining wells and human consumption. The Airport still needed to meet drinking water standards regardless.

° Mr. Leland noting the issue had been around for 8 years—and really since World War II—asked if Management could estimate an end point or was it impossible to predict. Mr. Weibrecht stated Management could not predict any estimated end point. Every time in the past the MVAC had heard Management state they were in the last quarter, there had been a rebound. Mr. Flynn noted the Airport had been very close a couple of times and then had the close out ruined by a spike.

Mr. Flynn continued with the Supplemental Budget line items.

- 20. The final water bill from Oak Bluffs was \$24,000 over estimate. At Mr. Leland's question Mr. Flynn noted that all meters were installed as of January, 2004 and first quarter bills would be going out shortly.

- 21. In accordance with the MVAC's direction (see 1/21/04 Minutes p. 9-11) Mr. Weibrecht investigated de-icers and an appropriately sized and equipped truck could be purchased and delivered (hopefully in time for the winter season) for about \$150,000. Chair Law expressed his approbation.

- 22. There was a budget line item for unpaid bills from FY03. However unpaid FY02 bills could not be paid in without the authorization of the County Financial Advisory Board. Palmer & Dodge, were attorneys for the Master Plan Update and for the Airport's collective bargaining negotiations.

° Mr. Weibrecht explained that roughly \$24,000 was work above and beyond the scope of the Master Plan that was asked for by the MVAC. In a lengthy process the bill was negotiated down greatly to the advantage of the MVAC. In addition there was a change in eligibility for potential additional grant moneys to be able to fund some of the activities. These two factors delayed the bills, however he emphasized the large savings on a lot of the work.

° An additional \$8,000 was work associated with collective bargaining. During this period the responsible attorney left Palmer & Dodge for another firm occasioning a delay in the receipt of the bill.

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° Mr. Leland asked how Chair Law felt about these bills. Chair Law replied that the bills were legitimate and had to be paid. The Airport was still using Palmer & Dodge among other things for the grant that the County would be paid, etc. Palmer & Dodge worked for Mass Port, and LAX, and were knowledgeable in the business. In addition they had been very helpful to the MVAC with litigation. Mr. Davis warned Mr. Leland that if he was nervous about this bill he should see the bill the Mr. Davis would present to him as a County Commissioner next week. Edgartown's enormous legal bill was noted and it was remarked that lawyers got rich on everything.

° At the end of the discussion on the Supplemental Budget Chair Law stated that nobody liked to pay legal bills but they were a guard that had to be taken. Mr. Leland noted it was unfortunate. Mr. Daly joked that that depended on whether one was a lawyer. Mr. Flynn observed that the Airport had actually been fortunate in that for a couple years the Airport paid only about \$35,000 in legal bills, so that these more expensive years were sort of balancing them out. There was a sense that it was just the way it was and that it beat going to jail and also that it was only going to get worse.

- 23. This was another FY02 bill. When the new fire trucks came, one of them had a defective radio system. The fire truck company sent a purchase order to Bardwell Electronics to repair the system but they never paid Bardwell. Bardwell consequently made a claim on the Airport to pay the bill. Mr. Flynn made great efforts to get the fire truck company to pay the bill but to no avail. However Management assured the MVAC they would seek payment directly from the fire truck manufacturer in Florida.

- 24. In the past a good portion of the Business Park was rented without infrastructure. When current management came on board certain portions were put on line, however, over time NStar equipment requirements changed. A certain piece of equipment, no longer on the acceptable list was changed out to maintain power to a tenant who also had electrical work on a different issue. This line item covered these expenses.

- 25. The Airport was allowed to carry over money from one fiscal year to another but not for a second year. Mr. Flynn was not sure that the Request For Proposal (RFP) for the crane truck would be done in time for the end of FY04. Therefore he was asking the Financial Advisory Board to re-authorize the appropriation so that it could continue until (most likely) July. A little later in the discussion Mr. Leland asked about what kind of truck the Airport was planning on purchasing. Mr. Flynn explained this was for a crane truck for Waste Water / Water Department that would be utilized to lift pipe, hydrants, pumps, etc. It could also be used for large, heavy deliveries that often went in awkward spots; it would include a generator, could be used for taking samples for the PCE testing (see above Line 19.), as well as being used as a service truck carrying water meters, tools, etc. for the Waste Water / Water Department. Currently the Department was using a 1984 pick up truck, and the Airport was contracting out much of this work or was using a loader which was not always the most appropriate vehicle. They described examples of similar trucks, one purchased recently by Oak Bluffs and some currently owned by gas companies.

Mr. Perry asked about the Unreserved Fund Balance and it was explained as the equivalent of Town Certified Free Cash. Chair Law called for a motion. **MR. PERRY MOVED TO ACCEPT THE SUPPLEMENTAL BUDGET AS PROPOSED; MR. DALY SECONDED; MOTION PASSED UNANIMOUSLY, 4 AYES, 0 NAYS, 0 ABSTENTIONS.**

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4 Airport Manager's Update

Mr. Weibrecht referred Commissioners to the correspondence on file and went on to the rest of his update.

- Peak Period Pricing

Mr. Weibrecht will meet with officials from MassPort at the end of the week on the potential of some exclusion from peak period pricing for the Cape and the Islands. Management and the MVAC have addressed this issue several times in the past (see 1/7/04 Minutes p.5 and 3/5/03 Minutes p.2 #4) and will again in a couple of weeks. The County Commission voted to send a letter, as have others such as Town governments and Chambers of Commerce from both Islands and the Cape all of which will help (see documents on file).

- The MVAC has heard about the issues, however Mr. Weibrecht briefly explained again that under this program smaller planes would be charged a disproportionate rate during peak period of times; some definitions—such as exact designation of peak period times—were still unclear.

- The initiation of peak period pricing was an environmental requirement much like the MV Airport which was going through their own EIR, so Boston/Logan when they submitted their EIR in 1997-98 was required to develop a program—not defined by Environmental or FAA staff. This program, written by Boston/Logan staff, was the first of three likely to be written over the next several years.

- Unfortunately as a pilot program, it was not know if it would work as intended.

- The program was a progression towards eliminating slots, which although not imposed in Boston were imposed in such places as Washington, LaGuardia, JFK and Chicago. There was a maximum number that an airport could handle during certain weather conditions, so there was a set number of landings and take-offs (slots) that could be handled. As an airport reached a series of thresholds approaching that maximum number they would look to divert traffic away.

- The FAA wanted to move away from slots as was Congressionally mandated. Unfortunately this was in direct conflict with a hub and spoke system which a smaller airport such as the Vineyard would always depend on, in that MV flights went to a hub such as Boston or New York to connect with other flights.

- The pricing program was intended to shove smaller plane traffic away from peak hours by imposing stiff fees, and leaving them with non-peak slots. This would compel passengers to wait four to five hours to make connecting flights to Florida or wherever else they wished to go. Mr. Perry confirmed that there was a charge for landing at an airport. Mr. Weibrecht confirmed this and explained that the Logan charge would be disproportionate during certain hours.

- Because the charge had to be revenue neutral—in other words Boston/Logan could not benefit from imposing the program—what would happen would be that the larger airplane's costs would come down and the smaller airplane's costs would go up. As an example, one had only to do the math to see the problem in the difference between spreading a \$400 operating fee over a 9 seat airplane, or spreading an \$800 fee over an airplane that might have 400 seats on it which would come out to \$45 per passenger versus \$2.

- Further it was not always the size of the airplane that was the key. For example USAir might decide they wanted a 45C airplane to arrive at a peak time because the net profit on the connecting flights was high enough that they would be willing to bear the burden to the baby plane. For example, if they knew that a flight from Raleigh/Durham to Boston in a small airplane was worth the connection to someplace else, the back end might be pay enough that they would be willing to absorb that small plane fee.

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- ° The Vineyard could not do this as Cape Air was the only independent airline flying in the North East today. Everyone else was code shared – sponsored with or by a major airline.
- ° Charters would certainly be effected. The difference with the charter was that the charter passenger could decide if it was important enough to go during that time frame and pay that peak price. Mr. Leland confirmed that a charter would have to pay. Mr. Weibrecht confirmed this stating the passenger would have to pay, which Mr. Leland amended to, “eventually”.

- This would be extremely detrimental to any Martha’s Vineyard / Boston service, and Cape Air, the current operator, would be directly effected as would any future operator. It would make it economically unfeasible for a passenger to fly to Boston Logan at those times. Mr. Leland stated this would put Cape Air out of business. Mr. Weibrecht assented and added that more importantly than just Cape Air, which was providing a valuable service, it would do the same for anybody who tried to do the same thing. Mr. Leland stated Cape Air had given the Island great service for years. Chair Law emphasized it would also prohibit anybody from coming in to take their place.

- Mr. Leland asked if this was all MassPort’s doing. Mr. Weibrecht corrected him that it was being imposed on them by the environmental regulatory agencies and agreed to at least in principal by the FAA. There was a brief general discussion and in answer to a question Mr. Weibrecht explained that the program was mitigation for the construction proposed in the Boston/Logan Master Plan for the construction of a 5,000 foot runway 14/32 which would allow certain operations during north west wind conditions. During those conditions Boston experienced its heaviest delays as currently they only had one capable runway that faced that direction. Ironically Cape Air would not be able to use that small runway. Boston Logan was not trying to mitigate the impact of Cape Air. They were trying to reduce noise and air pollution which could be done in two ways: they could reduce the number of airplanes or they could reduce the delays on the ground.

- It was Mr. Weibrecht’s hope that once the group had met with the officials from Boston / MassPort they would have a chance to comment on and offer suggestions and alternatives prior to the submission of their document to the FAA. The program was a different animal for the Islands which were so geographically challenged and the Airport would weigh in as loud as it could to protect the Island’s interest.

- Mr. Perry noted that there were some pretty heavy names on the distribution list such as Senator Kerry. Mr. Weibrecht affirmed that the Senators would certainly weigh-in as this was a large part of their constituency no matter how it was cut. The State had invested an awful lot of money into the Cape and Islands airports with good reason, as the Cape and Islands generated a lot of tax dollars associated with tourism that went back to the State. So there was a reason for that investment and Management wanted to make sure none of that investment got wasted and there were ways to make that happen.

- Mr. Leland noted that if they did not have Cape Air they would be sitting with a lot of vacant space. All agreed. Mr. Weibrecht explained that at the very least there would be service to more distant cities on a less frequent basis which would end up costing more but there would be no alternatives to go to Boston for a business meeting.

- Medical treatment would also be effected as the Airport flew a lot of people by Cape Air and Angel Flights, sometimes at no cost to the patients. All those airplanes would be subject to the same policy so the issue was huge to the Island. Mr. Leland remembered back when he was flying with Ted someone was air-vacced to a Boston hospital and he used to fly the family up and there was maybe a \$25 landing fee. Mr. Weibrecht, not to be an alarmist, stated he felt there would eventually be an exclusion

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for life flights and such, but Angel Flight was not a life flight since the patients were going up to Boston for treatments and not for emergency evacuations.

- Mr. Perry asked what the primary group was that was challenging the program. Mr. Weibrecht replied that to some extent it would end up being CapePorts, an association of the southeast regional airports. Mr. Perry and Mr. Leland noted this would be a group that represented many different airports such as Hyannis, New Bedford, etc. Mr. Weibrecht was elected Chair of the group three or four weeks ago. In a large part it would just depend on the way the issue was approached and if more information could be obtained. Mr. Weibrecht emphasized that he did not want to object to the program or to oppose the improvements to Logan, which without a doubt Boston needed. The group simply opposed not having a special solution as may be needed to account for the Island's situation.

- Table Top Exercise

Annually the Airport was required to review its Airport Emergency Plan which was commonly referred to as a table top exercise. About 25 agencies and 32 or 33 people attended the exercise last week during which Management created an actual Airport emergency scenario and walked through all the different steps as to who would do each step including police, fire, search and rescue, psychological assistance, etc. It was very well attended and went very smoothly. Management appreciated all the on-call departments and volunteers that gave up their time to participate. Once every three years the Airport had to do an actual live exercise in the field and that was performed last year. Mr. Perry confirmed that it had been done and completed. Mr. Weibrecht confirmed it was completed and the Airport had met the requirement.

Mr. Weibrecht reported one other bit of news on the airline side. PanAm just announced last week that they will no longer serve Martha's Vineyard effective this week, and did not inform management as to why. This was a loss of service to White Plains and Baltimore. It was not, to Management's knowledge, anything to do with the market, but probably more that they might have had other choices.

The Airport was seeing an increase in traffic. The month of March was within 2% of the year over year rate and Boston's traffic increased 20% for the same month. Over the past year the MVAC has heard Mr. Weibrecht talk about the entrance of low cost, low fare carriers to Boston and the effects of that were starting to be seen, in that the Airport flew 20% more people to Boston. The Airport did not have Providence service this year so this was another reason why Logan peak pricing was so important.

Mr. Perry asked if there were new carriers coming in.

- Mr. Weibrecht replied that USAir was coming in on June 6th. They were a return carrier and actually operated three different airlines under the USAir colors. There will be service to LaGuardia, Washington D.C., and again this year there would be Philadelphia service.
- Although White Plains and Baltimore service was now lost, Mr. Weibrecht would not be surprised if some other airline took a look at the Baltimore route since it had turned out to be a pleasant surprise; although not planned in advance but it had turned out to be very successful. Ironically PanAm loads had been increasing comparatively well—but there may have been other agendas there.

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- In answer to a question Mr. Weibrecht reported that Cape Air would return to Providence and if things worked out fairly well they would stay there year round if it was feasible. Of course everything Cape Air did now depended on the outcome of peak period pricing. Mr. Leland suggested this might be a good alternative to Boston if peak pricing could not be alleviated. Mr. Weibrecht agreed but noted that Providence did not have the same depth of service that was available in Boston, such as SouthWest, and international flights.

5. New Business / Old Business

Returning to the D/EIR (see above p. 1-3) Mr. Daly had questions about the Fire Fight Facility. He noted that showers and other amenities that Mr. Daly considered necessary to make the facility first class were listed under long term development. He felt that a building that was too cold in the winter or too hot in the summertime, made it difficult for a firefighter in training to absorb the material to the best of his capability; also when the firefighters finished their activities they should be able to take a shower, so rather than having such things be long term he would like to see them moved up to initial installation when the building was fabricated. To put them in after the building had aged or was finished increased the cost; it was cheaper to do it in the beginning. Mr. Daly would like to say the Airport had a first class facility rather than just some cleared trees in the woods and asked what could the Airport do to increase the objectives to include these amenities. Chair Law explained that Mr. Daly had brought this up to him earlier and he had directed him to bring it up under New Business. Mr. Flynn responded that it really all came down to infrastructure and continued that the utilities in question would involve large dollars.

*Mr. John Alley entered the meeting at 6:05PM.

The cost might not be available when the site was first built to run fresh potable water, rather than fire training water and drafting pits, and to provide actual electricity for air conditioning and heat. The development of project phasing allowed it to be accounted for in the future. It might not be the first thing that got put in because of the dollar amounts associated with running utilities out to that location and it was felt to be more appropriate to build the training facility first and allow the amenities to be added. Mr. Weibrecht stated he would re-address the issue with the Working Group which will meet again very shortly. The Working Group felt it was a matter of priorities with the burn facility issue taking precedence. Mr. Weibrecht reminded the MVAC that it would not always be a classroom and then a live exercise or a live exercise and then a classroom but that trainings would also be on a rotating basis for example Saturday would be an all classroom training. The Working Group absolutely desired the utilities and there was not a problem that money could not solve. Mr. Weibrecht will address a way to move it up on the priority system. Mr. Flynn pointed out that there might be more than one way to skin the cat such as a generator, tank water and trucking septic.

Mr. Daly repeated that he would like to move the utilities up to the primary phase; it being best to build such a facility as first class from the start. Mr. Weibrecht pointed out to him that initially the Working Group had considered that trainings could happen at the same time as the central building was being constructed, i.e. the facility could operate without a central building which would be further down on the phasing or priority list whereas the ladder tower might go up first. Mr. Weibrecht repeated he would bring the matter up with the Working Group and address it directly. Chair Law confirmed that septic would be tanked and trucked. Mr. Daly at first noting this as expensive at 25¢ per gallon,

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was reminded and assented that the septic would be trucked to the Airport treatment plant and processed without additional cost.

Chair Law then confirmed that the utilities could be financed by the Towns. Mr. Weibrecht confirmed that the Working Group had to come up with a joint financing or capital improvement program mostly funded by the towns or grant funded. Chair Law then asked if the cost could be alleviated by volunteerism referring to trenches and excavation which might keep the electricity and water costs down, to which Mr. Weibrecht replied that it certainly could. The next step was to come up with the working arrangement that would actually manage the company as this was the most important part coming out of the D/EIR. Mr. Weibrecht had requested four or five different facilities to send their regional agreements to see what their paperwork looked like and how they handled the problems. He has received one example back so far. Mr. Flynn interjected this would mean more lawyers. Mr. Daly asked if there might be Federal moneys for this. Mr. Weibrecht yes there might be, but not from the FAA which had just built a regional facility (see 6/23/03 Minutes p.7 ¶5) however there might be other Homeland Securities moneys or such. Chair Law asked about Airport contribution and Mr. Weibrecht responded that the Airport could work towards the share and certain improvements at a given time. If for example Management was working on capital improvement projects where there were efficiencies or economies this project could certainly also be addressed. Mr. Flynn assured the MVAC that it would happen.

At the end of the meeting Mr. Daly asked if the new Terminal II (for General Aviation (GA) would include a sleeping area for pilots. Mr. Weibrecht replied that yes, it would. These would be day rooms, not to be used as hotel rooms. Frequently what would happen was something called 'stand up overnights' which were long periods of time between two fares. This was legal but the pilots needed a place to rest. The facilities provided would be crew bunks (small bunk rooms).

• Business Park Violation Notices

Chair Law asked for any further new business and there being none asked for any old business. Mr. Flynn reported on those Business Park issues that he was able to—Cottage City and Mobile could not be prepared in time.

- Mr. Flynn has been playing phone tag with Mr. Cazeault who was now on vacation. He was making a definite effort to come into compliance. Mr. Flynn did not expect him to present any problems and expected him to be in compliance shortly.

- Mr. Rosbeck had one outstanding issue of having clear cut the buffer in front of his building. He had submitted a plan with which Mr. Flynn had one or two generic issues. Mr. Flynn will be contacting him to go over these and clarify the plan which would then be brought back to the MVAC for their review.

- Mr. Flynn has issued another non-compliance letter, this one to Corporation 14, LLC on A Street opposite the Vineyard Transit Authority (VTA). It belonged to a gentleman named John Folino who owned Cape Building Systems. He built a building for rental purposes only, which currently had two sub-tenants who had not been brought before the MVAC for approval. One was Trip Barnes and the other was a State Highway contractor. There was a collection of old Island Transport buses and trailer rigs in the parking lot. Mr. Folino was sent a certified letter requesting that he remove the two tenants within 14 days. Mr. Flynn met with him on Friday, and Mr. Folino seemed to think Mr. Flynn could be swayed into not enforcing the letter. Mr. Flynn expressed to him that he was essentially attempting to run a storage facility outside of his storage facility by doing this. Mr. Weibrecht interjected that there

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were vehicles and storage in the trucks. One of Mr. Folino's other tenants was doing the same thing by parking a tractor trailer truck outside and packing it full instead of using the building for his business. Mr. Flynn therefore advised the MVAC that this issue might go the full distance.

° It was asked if Mr. Folino knew the MVAC had to approve all sub-tenants. Mr. Flynn responded that this was not the first time this had happened with Mr. Folino. When he first built the building he had three different tenants occupying it without coming to the MVAC. At that time Mr. Flynn warned him and Mr. Folino sent in the sublet paperwork quite quickly and the MVAC approved it at that point in time. Consequently Mr. Folino was well aware of the issue nor was he unaware of the MVAC's intention to enforce the regulation.

° Mr. Flynn repeated that he had sent the letter to enforce the lease within 14 days. Mr. Flynn might not object to one of these sub-tenants but would not know until he had seen the paperwork.

° Mr. Folino sent Mr. Flynn a copy of the one page Tenant-At-Will lease that he signed with the sub-tenants. Mr. Flynn was sure that when he sent it to Airport Counsel Marcia Cini that she would have issues with such an abbreviated lease which was unlikely to give the Airport the protection it needed. Mr. Flynn would be meeting with Mr. Folino again on Friday, but it was likely the MVAC would get a letter of request from him.

° Chair Law stated here and earlier and later in the discussion that he felt there should be a clean sweep and Mr. Folino should have to start again. Mr. Flynn noted that Mr. Folino had some approved sub-tenants but these last two out of the five were not approved. However he concurred with Chair Law who again repeated there should be a sweep of the two unapproved sub-tenants as Mr. Folino had been told of this requirement before.

° Mr. Leland confirmed that there were five tenants. Mr. Flynn affirmed this noting that Mr. Folino was allowed five sub-tenants only. Mr. Flynn would be inspecting the property on Friday as there was speculation that someone might be residing in the location as well (so if Mr. Flynn did not return they would know what happened — general laughter). Mr. Leland asked if Mr. Folino had come before the MVAC for the other three leases in the building.

Mr. Weibrecht replied that the first three eventually came before the MVAC and met the requirements leaving two that were not meeting the regulations. Mr. Flynn enlarged on this by repeating that the sub-tenants were placed in the building first and Mr. Flynn went to Mr. Folino and explained he needed *prior* permission, thus setting up a “beg forgiveness and ask permission” situation—in which philosophy Mr. Flynn was not a firm believer.

° Chair Law stated Mr. Folino was not going to get forgiveness from the MVAC in this position. Mr. Alley warned that once the MVAC started relaxing the policy it would spread and get worse.

° Mr. Weibrecht emphasized that it was not the sub-let's fault that they were not aware of all the Airport Business Park rules, which was one of the reasons why sublet approval was required; i.e. to insure that the sub-tenant was aware of the all the Airport requirements. It also allowed the Airport to look at what was rented to John versus what was rented to Les so that if John and Les were using the same parking spot then Management knew what the first issue was. Mr. Flynn further explained that if he took all Mr. Folino's subleases and correlated the Appendix A's he was likely to find that Mr. Folino had rented more square footage than the size of the lot. Mr. Weibrecht added that if four different businesses were using the same eight parking spots it presaged a parking problem and was likely to present issues with fire truck or emergency vehicle access to the road. Management would deal with the problem and bring it back to the MVAC.

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° Mr. Perry asked if this put Mr. Folino in violation of his own lease. Management confirmed it put him in violation of his master lease. Mr. Perry asked what the worst case scenario would be. Mr. Weibrecht replied that Mr. Folino had a certain period to correct the violation within the terms of the lease and then the Airport could go over to the lot to enforce. Or as Mr. Flynn added it might be, as in this case, cause for eviction. If this had become a non-compliance issue and Mr. Folino had allowed his building to be in disarray or his buffer to be destroyed, the Airport could replace it and charge him back for the cost. Chair Law noted that if the non-compliance was consistent the MVAC might have to take some action. Mr. Flynn repeated that Mr. Folino would try to push it and that in addition he felt that one of the two sub-tenants in question was not appropriate for the lot, it was too much. Chair Law again suggested that the matter could be taken care of by removing both the sub-tenants and starting from zero with prior permission.

Mr. Weibrecht brought to the attention of the MVAC Ms. Cini's response to the MVAC 'potential conflict of interest' concerns (see documents on file), which showed the issue had been dealt with and would be handled appropriately. For the information of the Commissioners, as soon as the MVAC letter was sent Mr. Weibrecht did call and explain that neither Management nor the MVAC were questioning her abilities.

Mr. Weibrecht presented a proposal for an Airport Family and Medical Leave Policy for the MVAC's consideration and vote (see documents on file). Federal Law required the Airport to offer family and medical leave to those that requested it and this policy simply laid out how this would work, i.e. the specific process, what forms had to be filed, how employees would be required to request it, etc. In essence an employee was allowed to take 12 weeks off without compensation and might be entitled to use other accrued time for that period. The policy was developed with Ms. Sally Adams with Seyfarth Shaw who was the Airport's labor counsel. Mr. Weibrecht apologized for the short notice but requested that they consider the policy this evening, and suggested a break for a few minutes as well as a brief executive session on another issue.

Mr. Leland stressing that he was new to the MVAC felt that if Airport employees were County employees then would this not be addressed under County policy, and asked Mr. Davis for confirmation. Mr. Davis responded that he thought it would be so addressed. Mr. Leland stressed that he had not even read the policy and would not vote on it tonight without going through it and repeated that as County employees there was process already in place. Mr. Alley asked if they were contract employees. Management replied that they were both contract and non-contract. Mr. Flynn asked if the County had anything in place yet. Mr. Davis said that briefly yes, in scanning the proposed policy he understood that it was basically mimicking the law. He did not know whether the County policy left as it was, would cover the Airport or whether a separate policy was needed. Mr. Perry had a copy of the County By-Laws from 1998 which had since been revised. Chair Law asked if there was any urgency on the matter. Mr. Weibrecht stated he was just trying to get it into place but the matter could be delayed. Mr. Davis said he preferred to wait one meeting in order to evaluate whether or not it was redundant or necessary. Mr. Leland preferred to have Mr. Davis look it over. Mr. Davis noted the proposed Airport policy might be better than the County's policy.

Mr. Weibrecht stated for the record that this policy was not put forward to subvert any other policy on the books. Mr. Leland understood this but there was a redundancy factor if the County had a set of rules on the books and sometimes it got to be too much. Mr. Perry noted that the current proposal was

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exactly how the law was written. Mr. Weibrecht so confirmed. Mr. Alley's only comment was to confirm what everyone said, that the Family Leave Act should be for everyone that worked for the County. Mr. Weibrecht noted that the Family Leave Act was the law, and the policy delineated the limitation and implementation of that law: about requesting it, what conditions as far as return to work, etc. Mr. Alley understood that but his point was to make it the same thing for everybody. Mr. Daly asked if there was some urgency to this. Mr. Weibrecht replied the sooner the better. Mr. Perry suggested an extra meeting next week, but Mr. Weibrecht stated it would be fine to consider the matter at the next meeting.

6. Executive Session

MR. LAW MOVED TO CONVENE EXECUTIVE SESSION AT 6:22PM (NOT TO RETURN TO REGULAR SESSION) UNDER MASS. GENERAL LAW CHAPTER 39 SECTION 23 NO. (3), -- I.E. FOR THE PURPOSE OF DISCUSSING STRATEGY WITH RESPECT TO LITIGATION; AND TO INVITE AIRPORT MANAGER MR. BILL WEIBRECHT, AIRPORT ASSISTANT MANAGER MR. SEAN FLYNN AND RECORDER MS. MARNI LIPKE TO BE PRESENT; MR. ALLEY SECONDED; MR. LELAND AYE; MR. ALLEY AYE, MR. DALY AYE, MR. PERRY AYE, MR. LAW AYE.

7. Adjournment

MR. LELAND MOVED TO ADJOURN EXECUTIVE SESSION AT 6:43PM; MR. PERRY SECONDED; MR. LELAND AYE, MR. ALLEY AYE, MR. DALY AYE, MR. PERRY AYE, MR. LAW AYE.

Documents on file:

Agenda 4/7/04

Sign in sheet 4/7/04

CapePorts letter to Mass. Port Authority 3/29/04

Cape Cod Commission letter to Gov. Romney and Mass. Port Authority 3/18/04

MV Airport letter to Counsel Marcia Cini 3/18/04

Counsel Marci Cini letter to Mr. Weibrecht Airport Manager 3/19/04

Dukes County Sheriff Statement

MV Airport Commission Family and Medical Leave Policy Draft

MV Airport Budget Transfer FY04 Memo to:

County Manager, Treasurer, Financial Board 4/7/04