



Meeting Minutes
September 12, 2016 – 12:00 Noon

Commission Members in attendance

James Christopher, Chairman
Stuart Hope, Treasurer
Peter Mayers, Secretary
Tally Casey, Esquire
Bruce Cole, CPA
Cecil Hannibal
Joel McCreary, AIA

Richland County Staff in attendance

Greg Pearce, Richland County Councilman
Warren Harley, Assistant County Administrator
Chris Eversmann, PE, AAE, Airport Director

Visitors in attendance

Joseph Barkevich, AICP, WK Dickson
Mac Burton, Hangar Tenant
Robert Cutter, Hangar Tenant
Pat Gilmartin, Neighborhood Association
Ken Harrill, Hangar Tenant
Melinda Harrill, Hangar Tenant
Ken Hawk, PE, WK Dickson
Daniel Heath, Hangar Tenant
John Hodge, Esquire, John Adams Hodge and Associates
Ken Holt, PE, Holt Consulting Company
Ryan Hounshell, PE, Holt Consulting Company
Eduardo Irizarry, Hangar Tenant
Ron Johnson, Hangar Tenant
Scott Linaberry, Hangar Tenant / Hangar Owner, LLC
Dave Lipski, Eagle Aviation
Daryl Nations, Hangar Tenant

Richland County Airport Commission
Jim Hamilton – LB Owens Airport (CUB)
Columbia, South Carolina

Lee Ann Nations, Hangar Tenant
Eddie Owen, EIT, Talbert & Bright
Peggy Roberson, Eagle Aviation
Tom Roberts, Hangar Tenant
David Sheridan, Hangar Tenant
Laura Stevens, Parish & Partners
George Walters, Hangar Tenant
Lucy Walters, Hangar Tenant

Encl: (1) Proposed program of Lease Relief for not-for-profit Aviation Organizations leasing space at the airport
(2) John Adams Hodge and Associates, LLC letter of September 12, 2016
(3) Airport Director's Report PowerPoint Presentation

Call to Order and Welcome – **Chairman Christopher** called the meeting to order at 12:05 p.m. and announced a quorum in attendance. He welcomed everyone and guest introductions followed. The invocation was also delivered by him.

Approval of Agenda – **Chairman Christopher** presented the agenda as distributed. **Councilman Pearce** suggested modifying the agenda to allow **Attorney Hodge**, on behalf of his clients, to present their concerns early in the meeting. All concurred. With this change, **Commissioner Hope** made a motion to approve the agenda as presented. **Commissioner Casey** seconded the motion, and all voted for approval.

Approval of Minutes – **Chairman Christopher** presented the minutes of the May 9, 2016 Airport Commission meeting for approval. **Commissioner Cole** made a motion to approve the minutes as presented, **Commissioner Hannibal** seconded the motion, and all voted for approval.

Report of Items for Executive Session – **Mr Eversmann** reported that there were no items for discussion in executive session.

Chairman's Report / Executive Committee Report – **Commissioner Christopher** deferred to the **Airport Director's** report.

Committee Reports

Economic Development Committee – In **Commissioner Dean's** absence, **Commissioner Hannibal** provided a brief update on the initiative with the Richland School District One and the Heyward Career Center.

Operations & Facilities Committee – **Commissioner Hope** briefed the Commission on the Operations and Facilities Committee meeting of the previous month. One of the agenda items was a request from EAA-242 President **Jim Herpst** for a reduced lease rate for the rental of the Sport Aviation Center (SAC). As a means of providing some lease relief while not adversely impacting airport revenue, at the direction of the Committee, **Mr Eversmann** developed a proposal for not-for-profit aviation organizations to receive quarterly lease credits in exchange for performing voluntary FOD Walks. A copy of the proposal is contained in enclosure (1). A motion was made and seconded to favorably endorse this proposal and forward to County Council for approval. **Commissioner Mayers** objected and the motion was deferred until the next meeting.

Presentation – **Attorney Hodge** has been engaged by a group of 14 Airport Hangar Tenants who have concerns about some of the items included in the lease template document which has been in use since early 2015. Their objections are elaborated in his letter to **Commission Chairman Christopher** of September 12, 2016. All Commissioners are copied on this letter as well; a copy of which is included in enclosure (2) to these minutes. In summary, their concerns fall into the following areas:

- Right of Entry
- Indemnification
- Airport Security
- Attorney's Fees
- Insurance
- Compliance

Chairman Christopher suggested that a six-month extension of “old” hangar leases be offered to those who have objections to the “new” hangar lease in order to allow for a re-review of the “new” hangar lease and consider the concerns / suggestions offered by **Attorney Hodge**. **Mr Eversmann** said that he would work with the staff of Eagle Aviation in order to develop an appropriate form to affect these extensions. They would, however, reflect the FY-17 Master Lease schedule rates and that security deposits and Capital Development Fees would be collected at the time of the extension. All agreed to this and the re-review task was assigned to the Operations & Facilities Committee.

Airport Director's Report – A copy of **Mr Eversmann** PowerPoint presentation is contained in enclosure (3).

County Liaison's Report – **Councilman Pearce** asked **Mr Eversmann** to keep him apprised of the legal review of the hangar lease document so that he can assist in ensuring timely review and approval.

Richland County Airport Commission
Jim Hamilton – LB Owens Airport (CUB)
Columbia, South Carolina

Unfinished Business – There was no unfinished business.

New Business – **Commissioner Cole** asked for any suggestions regarding the retrieval of a Tuskegee Airman aircraft of unknown model (assumed to be a P-51 Mustang or P-40 Warhawk) which is submerged off of the Lowcountry coast. Several Commissioners suggested contacting the staff of the HL Hunley submarine exhibit as well as the University of South Carolina Archeological staff for guidance and suggestions.

Adjournment – The meeting adjourned at 1:34 p.m.

Next Meeting – The next meeting of the Airport Commission will occur on Monday, November 14, 2016 at 12:00 Noon in the large conference room of the airport terminal building.



Proposed Program of Lease Relief for not-for-profit Aviation Organizations leasing space at the

Jim Hamilton – LB Owens Airport (CUB)

As a means of offering a mutually-beneficial program that will provide a degree of financial relief to not-for-profit Aviation Organizations based at the Jim Hamilton – LB Owens Airport (CUB), the following program is proposed:

1. Eligible Organizations – Palmetto Sport Aviation / Experimental Aircraft Association – 242 and South Carolina Historic Aviation Foundation
2. Eligible activity – Foreign Object Debris (FOD) walk / pickup in specified airport pavement areas.
3. Frequency – Once during each quarterly period; up to four times annually.
4. Credit – \$100 credit per quarter
5. Minimum standards:
 - a. Notify Airport Director no later than 1600 on the business day prior to the pickup of the event by the supervisor.
 - b. Pickups will not be conducted during USC Home football game weekends.
 - c. Notify on-duty FBO staff of start and finish of event by the event supervisor.
 - d. Pickup will be within airport paved taxilanes and apron only; access to taxiways and runway is prohibited.
 - e. Pickup will be conducted under the supervision of an adult pilot (current or former).
 - f. Pickups will be a minimum of four (04) man-hours and will be conducted over a single day.
 - g. FOD will be saved in a plastic bag and turned in to the Airport Director on the next business day.
 - h. An event report (e-mail message preferred) will be submitted to the Airport Director within 24-hours following the finish of the event reporting: Date / time of start, Date / time of finish, Names of participants, and a Group picture of participants.

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September 12, 2016

Via Email and Hand Delivery

The Honorable James E. Christopher, Jr., Chairman
Richland County Airport Commission
15 Dennis Lane
Blythewood, SC 29016

Re: Review and Suggested Changes to CUB Standard Hangar Lease Agreement

Dear Chairman Christopher and Members of the Commission:

Thank you for your service in making the Hamilton-Owens Airport a first-class general aviation airport that speaks well for our community. The Commission, Manager Eversmann, and Eagle Aviation are to be commended for their dedication and commitment to excellence. In spite of the aforementioned, we appreciate the opportunity to address issues that have affected hangar tenants who are regular users of the Airport.

Our firm has been engaged by fourteen tenants at the Airport who have expressed objections to specific terms that are contained in the standard Hangar Lease Agreement (the Lease) that is currently required for existing tenants at the Airport. Most of these persons have been long-term tenants of the Airport, and they are concerned about potential unintended consequences of the Lease. While we understand that the Airport Commission and its Management have invested time and energy in the creation of the current Lease, such momentum should not be a barrier to taking another look at the document and making revisions based upon the suggestions provided herein. We are providing comments and suggested changes to the Lease below with the recommendation that the Airport Commission revise the Lease in a manner that is fair and equitable to the tenants, the Airport, and the County.

In discussion with our clients, there is a commonality of concern and objection to a number of the Lease terms. We are hopeful that this correspondence can begin a dialogue between the tenants and the Commission and Management which will lead to a revised Lease

that is fair and balanced as discussed herein. For the sake of efficiency, we are setting forth our clients' concerns below in general form as follows:

1. **Right of Entry:** There is a universal concern expressed by our clients that Section 4.d. of the Lease that provides for "unlimited right of entry, without notice, to enter upon the premises..." is wholly inappropriate in all but emergency situations. The tenants are entitled to use and enjoyment of the premises, and we believe that the County's interest could be properly addressed by providing a right of entry upon reasonable notice of not less than forty-eight (48) hours.

There may be times in which the tenant may have to move the airplane should work be needed on the hangar, or when work is being done on an airplane where entry by third parties could result in action that renders the aircraft unairworthy. An unlimited right of entry clearly compromises the concept of "use and enjoyment" of one's leased premises, and it has the potential to affect aviation safety. In addition, allowing for the entry by parties without notice has the potential to affect the security of the premises and the Airport as a whole. As will be demonstrated in the section on indemnity below, should an aircraft be damaged or components removed as a result of such entry without notice, the Lease leaves our clients without any remedy.

We agree that in emergency situations, there may be times when entry without notice is allowed where an imminent and substantial danger to life or property might exist, but otherwise, the unlimited right of entry is an inappropriate invasion of our clients' rights as tenants. In addition, after consultation with staff at the Aircraft Owners and Pilots Association, we have been advised that unlimited entry is not in step with the custom and trade regarding small general aviation hangar leases.

The simple solution to this issue is to modify the agreement to allow a right of entry on not less than forty-eight hours notice, except in situations where an imminent and substantial endangerment to life and property exists.

2. **Indemnification:** Section 7.a. provides that the "*Lessee shall indemnify and save harmless Lessor, the Richland County Airport Commission, the County of Richland, and the FBO from and against any and all claims, demands, loss or liability of any kind or nature which parties may sustain or incur, or which may be imposed upon them or any of them for injury to or death of persons, or damage to property arising out of or in any manner connected with the intentional conduct or breach, negligence or lack of case of Lessee or above-named parties in the use of the leased premises or in the use of the airport or its facilities.*" This section provides a broad unlimited waiver of liability that potentially deprives the tenants of their basic rights. We can suggest numerous examples in which these sections leave the tenants without any recourse when they have been victimized by negligence by the "above-named parties." For example,

- If, during an "unannounced inspection," an aircraft is damaged or rendered unairworthy. The persons intended to inspect the hangar, and even if they did not intend to damage the airplane, they may have been negligent and lacked due care.

- In an actual case at CUB, the FBO damaged a tenant's aircraft while putting it in the hangar. The wing crashed into the side of the hangar. Under this provision, the tenant would have no recourse against the FBO.
- If, due to a failure to maintain the premises in good condition, a hangar door fell off its tracks and struck a tenant or invitee, the tenant would have no recourse against the Lessor or others.
- Should the FBO misfuel a tenant's aircraft that later crashes due to such error, the tenant would have no recourse against the FBO for bodily injury and property damage.

Clearly, the Lease is heavily balanced in favor of the Lessor, the Commission, and others. The tenants have no right of recourse for the intentional or negligent acts of the Lessor, Commission, County, FBO, and their agents. The Tenants should not have to hold harmless the Lessor, the Airport Commission, the County, and the FBO for their intentional conduct and negligence.¹

As a solution, we propose the following language or language substantially similar to it:

Lessee covenants and agrees to indemnify, defend, and hold Lessor, the Richland County Airport Commission, the County of Richland, and the FBO harmless from and against any and all fines, suits, claims, demands, actions, and causes of action for personal injury, death, or property damage arising out of or in connection with any intentional or negligent act or omission of the Lessee, its agents, employees, invitees or guests, on or in connection with its use of the leased premises, except where such event or occurrence arises out of intentional acts, omissions, or gross negligence of the Lessor, its agents, employees, or assigns

3. **Airport Security.** While we acknowledge the reality that today, all parties bear some responsibility toward maintaining the security of general aviation, the tenants do not control airport security. Section 3.f. states, "*The Tenant shall not compromise airport security or in any other manner in Lessor's sole judgment by unauthorized access, or potential unauthorized access, to the airport perimeter or his hangar.*" This section is vague in that it does not define airport security nor does it make reference to any standard, except whatever is in the discretion of the Lessor. This section is arbitrary and capricious, as it is incapable of being determined to a reasonable certainty what the proper standard of conduct between the parties is required. The phrase, "potential unauthorized access" is so vague as to be similarly situated. How can the Airport enforce a potential act that remains undefined and incapable of being devined from the Lease? It would appear that "anything" is potentially possible, even if there is little risk or reasonable certainty that such undefined act might occur.

¹ Even a transient pilot using the Airport or tying down for the night would have greater rights than tenants whose aircraft are based at KCUB. Here, the Lessees are being asked to hold the FBO harmless for death, injury, or property damage, even though such conditions are inapplicable to other users of the facility. In addition, the Tort Claims Act has provisions that limit both the Commission and County's liability.

We understand that there may be some legacy “master keys” to hangars in possession of unauthorized persons. This condition poses a security risk to the tenants as well as the Airport. We suggest that the Commission take action to either change the hangar locks or come up with a common sense system to provide a more modern hangar locking mechanism that is reasonable in cost and in use.

We suggest that the Commission delete this section and address specific security requirements in the Minimum Standards contained in the Airport Operations Manual. Such rules should be simple, practical, and well defined.

4. **Attorney’s Fees.** Section 10 of the Lease provides that the Lessor and FBO shall be entitled to attorney’s fees and costs in any action to enforce the Lease. This section is well meaning, but it could result in an award of such costs and fees even when the Lessor and FBO are not reasonable in their position or when a court has ruled that their actions are unwarranted. I have had the experience of representing aeronautical clients who have been subject to such unreasonable actions, and I can attest that such situations have occurred in South Carolina in recent years.

As a solution, we suggest that Section 10 be written in a manner that does not chill the right of each party to protect their rights. We propose language such as:

“Lessor, FBO, and Lessee shall, at the discretion of a court of law, be entitled to recover a reasonable attorney’s fee and costs in connection with any action or proceeding to enforce a right under this lease, or to secure rights reserved under this lease, or as may be accorded by law to which the party seeking such enforcement or relief is successful or substantially successful.”

By making this requirement mutual, the parties will ensure that any litigation regarding the Lease will be instituted only where good grounds exist without a windfall to a party who may choose to bring an action for which there is little or no basis.

5. **Insurance:** Section 15 of the Lease requires Aircraft and Premises liability insurance to be carried by the Lessee unless waived. While most aircraft owners carry hull and liability insurance for their aircraft, it is not standard to require additional Premises liability coverage for small general aviation hangars. We suggest eliminating the requirement for such Premises liability insurance. Presumably, the FBO or County should maintain such insurance rather than requiring several hundred individual policies that would cover liability if they believe that it is needed.

There are some aircraft owners of experimental aircraft who cannot obtain insurance until the aircraft has accumulated a specific amount of flight time such as 50 or 100 hours. The Lease does not recognize such circumstances. A waiver should be specifically allowable and given, subject to reasonable conditions, under such circumstances.

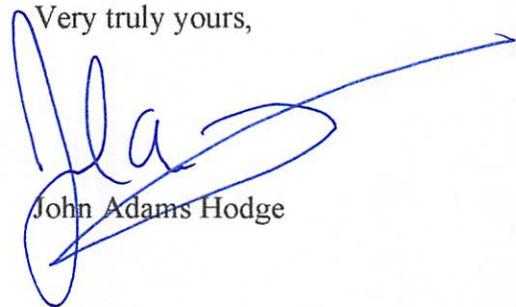
While Section 15 a. applies to waivers, the Lease is unclear that the remaining sections apply only to waivers or to all other tenants. To the extent that sections 15 b. - e. apply to all tenants, these sections are nonstandard for small general aviation hangar leases and should be eliminated or revised in a manner that is not unreasonable in their burden or application. We suggest working with the Commission or its designee to revise this section.

6. **Compliance.** While the requirement of compliance with relevant laws and regulations is a usual and customary section of most leases and contracts, Section 3.b. contains a vague statement also requiring compliance with “other requirements of the Federal, State, County, and Municipal governments.” This extra requirement is vague and unenforceable. It would appear to capture various nonregulatory guidance, policy statements, and informational publications. Unless the Commission is willing to specify what “other requirements” for which it is seeking enforcement, this language should not be included in the Lease.

On behalf of our clients, we respectfully request that the Commission seek to undertake an overhaul of the standard Hangar Lease Agreement to address the concerns addressed herein. While we have provided some suggestions to assist in resolution of these issues, we are willing to work with the Commission and the County to develop an agreement that is balanced and reasonably suited to the interests of all parties. In addition, we further recommend, should the Lease be revised in a manner acceptable to our clients, that all parties at the Airport have the opportunity to execute a revised Lease.

Thank you again for your service to the Hamilton-Owens Airport and to our community. Please let me know if you have any questions or request additional dialogue.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'John Adams Hodge', with a long horizontal flourish extending to the right.

John Adams Hodge

cc: Commissioners

Airport Director's Report

Richland County Airport
Commission Meeting

September 12, 2016



Overview



- Media coverage
- Meetings, Events, and Visits
- AIP Project Updates
- Budget and Finance
- Eagle Aviation Update
- Airport Metrics
- Other items
- Questions

Media Coverage

- "Getting there is half the fun: Today's growing trends in private aviation," by Melissa Andrews, September 2016, *Columbia Metropolitan*



Meetings, Events, and Visits



Meetings:

- Jul 19 – Proj Final Inspection
- Jul 21 – TF 2021 mtg
- Jul 21 – Stormwater Courtesy Inspection
- Jul 25 – Directors mtg
- Jul 26 – FOD photo shoot
- Jul 29 – WK Dickson
- Jul 29 – Gate / Lock inventory
- Aug 3 – WK Dickson
- Aug 4 – LJC Mitigation Proj site visit
- Aug 5 – *Columbia Metropolitan* magazine
- Aug 8 – Ops & Facs Comte mtg
- Aug 8 – Asst Administrator mtg

Meetings, Events, and Visits

Meetings (cont'd):

- Aug 11 – Fence inspection
- Aug 17 – National Aviation Week luncheon
- Aug 18 – FLSA briefing
- Aug 23 – UAV mtg
- Aug 24 – SCAA BoD mtg
- Aug 29 – WK Dickson
- Sep 6 – Directors mtg
- Sep 6 – WK Dickson
- Sep 7 – RSAT mtg
- Sep 7 – Finance Dept employee orientation
- Sep 8 – GCLC mtg



Meetings, Events, and Visits



Children group visits:

- Jul 20
- Aug 1

Adult group visits:

- None



AIP Project Updates

Southeast Airfield Clearing and Grading Improvements

LJC Mitigation (Wetlands Mitigation)

Lighted Airfield Signage Design



AIP Project Updates

Southeast Airfield Clearing and Grading Improvements:

- Final Completion
- Liquidated Damages (LDs)

LJC Mitigation:

- Joint effort (Q. Epps, Proj Manager)
- Under construction



Budget and Finance



Budget and Finance



- Jul Operational Revenue – \$19,842.62 (Jul 15 - \$20,437.52)
- Aug Operational Revenue – TBD (Aug 15 - \$20,133.58)
- Aug Operating Budget Status:
 - Category Balance / % Used
 - Personnel \$94,922.57 / 17%
 - Operations \$178,150.68 / 15%
 - Capital \$293,148.11 / 15%

Eagle Aviation Update

- Fuel Sales
- Ramp Fees collected
- Hangar occupancy



Airport Metrics



- Aircraft complaints
- Facilities & Grounds maintenance requests

Airport Metrics

→ Aircraft complaints:

There were five (5) aircraft complaints during the period of Jul 1 – Aug 31, 2016.

There were three (3) identification / Information letters sent (60%).

There were four (4) aircraft complaint during the same period in 2015.

→ Facilities & Grounds maintenance requests:

There were 19 maintenance requests during the period of Jul 1 – Aug 31, 2016.

Terminal – 26% / Airside – 68% / Landside – 06%

Hangar related – 26% / Electrical related – 42%

There were 23 Facilities & Grounds maintenance requests during the same period in 2015.

Other Items



Other Items



- CWH Restoration underway
- Rotating Beacon relocation underway
- October Committee meetings
- Emergency landing
- FY-16 AIP / SCAC Grants
- "Hawks & Hawgs" event, September 10, 2016
- Aircraft Static Display / Open Apron / EAA Ford Trimotor visit, October 15, 2016

CWH Restoration



FY-16 AIP / SCAC Grants

"Perfect Storm" of confusing events / Murphy's Law

- Land acquisition offer rejected
- "State Apportionment" funds previously identified
- Rapid backfill of a substitute project
- Outdated ACIP cost estimate
- SCAC Budget woes / Prioritization / LOI
- AIP - \$75,600
- Local - \$42,100
- Future FAA reimbursement to 90% level of funding
- Future availability of SCAC funding

Questions?

