

Lafayette Airport Commission Legal Committee Meeting December 19, 2017

Legal Committee:

Chairman:	Paul A. Guilbeau
Vice Chairman:	Timothy L. Skinner
Member:	Paul Segura
Member:	John E. Hebert (Alternate)
Ex-Officio Member:	Valerie C. Garrett

Absent:

John E. Hebert (Alternate Member)
Matt Cruse – Commissioner

Also Present:

Steven Picou – Executive Director
Todd Swartzendruber – Legal Counsel
Daniel Elsea – Deputy Director
Rene Cotton – Properties Administrator
Jennifer Comeaux – Asst. Property & Accounting
Catina Theriot – Secretary
Bryan Tabor – Commissioner
Robert Callahan – Sides and Associates
Joey Calandra – Avionics Solutions
Valerie Ponseti – KATC TV3

This meeting was recorded and is on file and available for review in the Lafayette Airport Commission office.

At 10:35 a.m., with all three (3) committee members in attendance. Chairman Guilbeau called the Lafayette Airport Commission Legal Committee to order.

Roll Call was taken.

Scheduled Business – Discussion Items

1. Review Lease Policy: To include at a minimum:
 - A. Discuss/Develop arbitration process for LAC tenants.
 - B. Develop appraisal guidelines, i.e. Uniform Standards of Professional Appraisal Practice (USPAP). These guidelines will be used by the LAC and tenant when hiring an appraisal.
2. Review and Discussion – Avionics' Solutions proposed Lease.
3. Review and Discussion – 114 Borman Leases (Air Med and John Fallis).

[Discussion]

Executive Director Picou stated the first item to review Lease Policy to include a discussion item from the committee; an arbitration process for LAC tenants in the event they have concerns with an appraisal and second item to develop appraisal guidelines. The airport did some research and found the Uniform Standards of Professional Appraisal Practice (USPAP). The airport is not recommending this group but looking to Commissioner Skinner and Commissioner Segura for their input on an appraisal group that has a standard that is widely accepted in the real estate industry.

Chairman Guilbeau asked Mr. Swartzendruber, Legal Counsel, to go over the Lease Policy. Commissioner Skinner asked if he could go over the details on the lease policy. Commissioner Garrett stated Mr. Swartzendruber has been part of the airport during the years the lease policy was put in place and that is why Chairman Guilbeau wanted him to lead off on the lease policy. Chairman Guilbeau stated at one time the lease policy was included in the tenant's lease and the Commission took action as per Commissioner Segura's recommendation with Chairman Guilbeau's support the lease not be included due to being incomplete. Chairman Guilbeau stated the Legal Committee was supposed to go back and address the incomplete lease policy and it was never done so the lease policy was taken out of the lease documents for tenants. Commissioner Segura stated the airport should possibly incorporate a new lease policy that should incorporate FAA requirements, state laws that need to be abided by. Chairman Guilbeau stated the airport needs to come up with a new lease policy and legal counsel can come up with a document that can be approved at the January/February meeting. Mr. Swartzendruber, Legal Counsel, stated he would first start at looking at the state statute for the length of leases etc., and FAA guidelines. Mr. Swartzendruber stated the last amendment had appraisal language the Commission did not want to continue which included an exhibit to lease with the lease policy and mandating an appraisal. Mr. Swartzendruber stated arbitration process is lengthy and not best practice for the airport. Commissioner Skinner read from the current lease policy about the properties being appraised at the fair market value. The discussion back and forth between committee members, Legal Counsel, and Commissioner Garrett included whether or not the airport should have appraisal done on properties using the fair market value to determine monthly lease costs. Mr. Swartzendruber stated the benefit of having a lease policy is to have all tenants treated fairly and consistently and having an appraisal is a good starting point for the airport to use. Commissioner Segura stated there are many buildings on airport property that don't necessarily have aeronautical use and they may not be appealing to renters. Commissioner Segura stated the policy should be looked at for what is required of the airport and use that as a starting point to know what can and cannot be done. Commissioner Segura made a point to have an appraisal done with some guidelines or set of requirements to discuss with an appraiser to get a fair value for the property a lessee or lessor is interested in. Chairman Guilbeau asked what are the requirements needed from an appraiser to get a fair market value. Commissioner Segura stated it needs to be researched what requirements are needed to get a fair market value for each appraised property. Commissioner Skinner stated the airport should get a fair market rent value using an appraisal. Chairman Guilbeau asked who would be a fit for this fair market rent value. Commissioner Skinner stated the appraiser should have qualifications in aviation experience and non-aeronautical use. Commissioner Garrett stated the airport cannot go beyond the state with the civil statute in place for the requirements of an appraiser for airport property. Chairman Guilbeau stated the requirements of an appraiser needs to be given to Mr. Swartzendruber to be included in the lease policy. Commissioner Segura and Commissioner Skinner both mentioned MAI as a creditable standard used in the practice of appraising properties. Executive Director Picou mentioned MAI appraisers are the standard used in the aviation industry. Commissioner Skinner stated MAI appraisers are more expensive and Chairman Guilbeau agreed on trying to stay in the local area for knowledgeable appraisers.

Chairman Guilbeau stated with the Commission's help and Mr. Swartzendruber's help the airport should be able to accomplish this task of finding knowledgeable appraisers. Chairman Guilbeau then gave permission for Executive Director Picou and Deputy Director Elsea permission to leave for another meeting. Chairman Guilbeau asked Mrs. Cotton to take the place of Executive Director Picou at the Commission table. Mr. Swartzendruber stated he needs to get all the legal requirements, talk to Commissioners about their input about the technical aspects of appraisals and how the Commission wants it done, and possible bringing it back to the Legal Committee. Chairman Guilbeau stated he would want the policy to come back to the Legal Committee after the research for approval to go the full Commission. Chairman Guilbeau stated when the policy comes back it needs to be in final draft form and have the Commissioners work direct with him, and when the committee acknowledges the policy then it can be sent to all the Commissioners and have them look at it before the final Legal Committee meeting. Commissioner Garrett stated Mrs. Cotton should be included in the meeting since she has the knowledge of leases etc. Chairman Guilbeau stated whomever has input from staff on leases should be included in the meeting. Mr. Swartzendruber stated from a practical standpoint he doesn't think a January meeting deadline can be met. Chairman Guilbeau stated to Mr. Swartzendruber to try and have the policy ready for the February meeting for the full Commission. Chairman Guilbeau stated at the beginning of February have a Legal Committee meeting.

Chairman Guilbeau addressed Mrs. Cotton for comments and she stated there were a few comments made about the information that is provided to the appraiser and she does work with that information. Mrs. Cotton stated the airport does provide what type of appraisals and the type of information that is in the lease is all given to the appraisers. The airport doesn't call upon an appraiser and not provide them with any information on the lease or building. Commissioner Skinner and Commissioner Garrett had a discussion about the appraisal document being a part of the lease policy or not. Commissioner Segura stated to let Mr. Swartzendruber come up with the guidelines and then the decision could be made for the appraisal information to be included or not included with the lease policy.

Chairman Guilbeau stated the Committee would move on to items 2 and 3 and take public comments after. Mrs. Cotton read the items:

2. Review and Discussion – Avionics' Solutions proposed Lease.
3. Review and Discussion – 114 Borman Leases (Air Med and John Fallis)

Chairman Guilbeau stated the Chair would accept a motion to delay those two leases and keep them on month to month through June 30, 2018, pending the approval of the new lease policy.

MOTION: Commissioner Skinner made a motion to accept delaying the two lease policies and keep them on month to month through June 30, 2018, pending the approval of the new lease policy. Commissioner Segura seconded the motion and the vote was as follows:

AYES: Skinner, Segura, Guilbeau

NAYS: None

ABSENT: None

MOTION CARRIES

Commissioner Garrett asked Chairman Guilbeau with this motion it will be a recommendation to the full Commission in January. Chairman Guilbeau stated it would be a recommendation.

Other Business- None

Public Comments - Mr. Calandra, Avionics Solutions, stated the state requirements do separate non-movement and movement areas. It does call out the appraiser take into consideration of non-movement areas because it devalues the property and makes it not as secure property because of the airfield restrictions. Mr. Calandra also stated it stated you do have the latitude to charge from cost to fair market value on non-movement areas as required for movement areas. Mr. Calandra states to put out a policy stating what the appraisal comes back with is what should be charged on non-movement areas is inaccurate.

Chairman Guilbeau stated for him to take a document from a professional and try to change it he does not have the capacity to do that. Trying to get a document staff can work with it and it be consistent to all on the airfield. Commissioner Garrett stated with the appraisal that Mr. Calandra had is an older document and if the Commission waits a few months without an updated appraisal would this be a recommendation for the full Commission? Chairman Guilbeau stated his intent on the recommendation of going month to month until June 2018 will include the new lease policy and that will govern how the Commission will move forward.

MOTION: Adjourn

Commissioner Segura moved to adjourn the Legal Committee Meeting of December 19, 2017. Commissioner Skinner seconded the motion.

AYES: Skinner, Segura, Guilbeau

NAYS: None

ABSENT: None

MOTION CARRIES

The meeting Adjourned at 11:38 a.m.