

# Lafayette Airport Commission Legal Committee Meeting April 9, 2018

**Legal Committee:**

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

**Absent:**  
**Valerie C. Garrett - Ex-Officio Member**

**Also Present:**

Steven Picou – Executive Director  
Todd Swartzendruber – Legal Counsel  
Daniel Elsea – Deputy Director  
Rene Cotton – Properties Administrator  
Catina Theriot – Secretary  
Robert Callahan – Sides and Associates  
Joey Calandra – Avionics Solutions  
Terry Crownover–MSTC  
Pearly Lemaire – MSTC

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

At 4:05 p.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. Lease Policy – Review and Discussion

[Discussion]

Executive Director Picou stated the meeting was regarding the Lease Policy. Many lease policies are up for renewal and it is in the best interest of the airport to have a policy to help and guide with the process. The airport has been working with Legal Counsel to develop a lease policy for consideration and there has been some communication with some members of the Legal committee. Chairman Guilbeau asked Mr. Swartzendruber, Legal Counsel, if there was anything besides the lease policy he wanted to address. Mr. Swartzendruber, stated he brought revisions to a section of the lease policy for all to review. After conversations with Commissioners Skinner and Segura about the appraisal section of the lease policy, some revisions were made for the committee's review and consideration. Mr.

Swartzendruber, Legal Counsel, stated some of the policy should stay the same due to laws and statute. This policy is a draft that can be changed and the final version will go to the full Commission.

Chairman Guilbeau asked why the number of days for the tenant to accept the appraisal change from thirty (30) to forty-five (45) Commissioner Skinner and Segura stated the tenant is given ninety (90) days prior to lease expiring to receive the appraisal. The LAC will be giving fifteen (15) days for the tenant to be notified and accept the appraisal or not; then the tenant will be given thirty (30) days from receipt of LAC's appraisal to either accept or disagree.

Mr. Swartzendruber, Legal Counsel, started at the top explaining his revisions. Under appraisals item number one revision added the word LAC to identify the type of appraisal since other appraisals are mentioned in the document.

Item number two had a capitalization change on the word lessee and it states the LAC shall submit the appraisal to the lessee not less than ninety (90) days prior to the date the lease will terminate. Commissioner Skinner stated if the appraisal is accepted prior to the ninety (90) days it needs to be shared with the tenant. Commissioner Segura asked if the item is approved like it is or if it changed. Commissioner Skinner stated it should read; LAC shall submit the appraisal to the lessee upon receipt and review but not less than ninety (90) days prior to the date the lease will terminate.

Item number three discussed the forty-five (45) days but the rest of the item was discussed. Commissioner Segura asked what was changed from Mr. Swartzendruber, Legal Counsel's revision. Commissioner Skinner stated it will be fifteen (15) days to notify and accept or not then thirty (30) days to receive and mail the appraisal. After a brief discussion of how to handle the appraisal it was decided the fifteen (15) days would be given to tenants for them to decide if they accept or not and this would be outside of the forty-five (45) days to get the appraisal done. This now gives sixty (60) days from receipt of the LAC's appraisal to either accept or notify LAC in writing of its disagreement with the appraisal. Lessee/applicant may but will not be required to submit its own appraisal to LAC, at lessee's/applicant's cost. Commissioner Segura stated Mr. Swartzendruber, Legal Counsel, needs to word the item to make it stated the fifteen (15) days are outside of the forty-five (45) which makes it a total of sixty (60) calendar days to make it clear for everyone.

Item number four stated: If lessee/applicant fails to submit its own appraisal or written notice of disagreement with LAC's appraisal within the time allowed. LAC's appraisal shall serve as the basis for the rental amount. There was some discussion between all members that this item or part of this item is not needed. Commissioner Segura stated some of the wording could be incorporated into item three.

Item five Mr. Swartzendruber, Legal Counsel, stated the item states the LAC may negotiate with the lessee/applicant to attempt to reach a fair market rental amount agreeable to both parties. This can be either an appraisal or a comparison of fair market rental amounts. Commissioner Segura mentioned in the past if the airport had an appraisal done and the tenant didn't agree upon that one, he/she could go out and get their own appraisal and if the tenant didn't agree upon that one, another would be ordered and that amount would determine the rate no questions asked. Commissioner Segura is asking what happens then if this will not take place any longer. The findings are to rent out the property and negotiate a rate that is agreeable to both the LAC and the tenant/lessee/applicant. Executive Director Picou asked under rental section of the lease policy what is referenced to fair market value being determined by rentals charged for similar airport properties or by appraisal of comparable properties. Is this comparable to other properties on Lafayette Regional Airport's grounds or to other airport properties around the state? Commissioner Skinner states she

has this item flagged as well. Mr. Swartzendruber, Legal Counsel, stated this came from the FAA and he will have to see how they can clarify this language.

Item five was asked by Executive Director Picou if the statement; LAC may negotiate with the lessee/applicant to attempt to reach a fair market rental amount agreeable to both parties should be in this policy. Commissioner Segura stated this is stating the LAC is trying to reach a fair market rental amount that is agreeable. Mr. Swartzendruber, Legal Counsel, stated this is a chronological process and it needs to be stated about fair market value otherwise the lessee/applicant will not know what to do next with more than one appraisal amount. Executive Director Picou stated it should be listed somewhere that the steps need to be followed chronologically and Deputy Director Elsea stated under the title Appraisals state follow these steps in order for appraisals. Commissioner Skinner stated the lessee/applicant has fifteen (15) days and if they do not agree the lessee can present the reasons why they do not agree. The decision for calendar days was agreed upon by all.

Item six discussed Member of the Appraisal Institute (MAI) appraisers. Commissioners Skinner and Segura stated the appraiser needs to have knowledge/experience of airports and the LAC shouldn't limit the airport to just one type of appraiser. The discussion went back and forth on MAI appraisers and the cost. Mrs. Cotton, Properties Administrator, stated the lowest appraisal cost was about \$3K. Commissioner Hebert stated it wouldn't make sense to get a MAI appraisal on a property that would not cover the cost of the appraisal. This is a discussion that needs to happen outside of this meeting to further discuss appraisals. Chairman Guilbeau stated the committee has until April 20, 2018 to get with Mr. Swartzendruber, Legal Counsel, and each other to come up with a standard for appraisers.

Item 7 Commissioner Skinner asked how to inform the appraiser of special use off the airport property, but this could be discussed later.

The rental section of the policy was discussed. Commissioner Skinner stated item 3 discussed fair market value will be determined by similar airport properties or comparable properties. Commissioner Skinner asked how is the airport going to determine the fair market value on properties and get consistent appraisals done with similar comps? Commissioner Segura stated the comparable prices should be related to the same type of property and the issue is with non-aeronautical property/buildings. Commissioner Segura stated the appraisals should be reviewed and if a previous one was done look at why there is such a difference if there is one. Commissioner Skinner stated the comparable properties needs to be determined as to what is relatable. Commissioner Segura stated the comparable properties could mean different things and the appraiser should adjust the appraisal.

Item 7 discusses the Consumer Price Index (CPI) used for annual rental increases. Commissioner Skinner asked if there is another way of determining rental increases. Mr. Swartzendruber, Legal Counsel, stated there is another index that could be used that states periodical increase but the airport performs annual increases per appraisals.

Executive Director Picou stated item 4 should be taken out of the policy. This item refers to a minimum rental amount for a property would require an appraisal and for any property less than that amount, fair market value will be by reference to negotiated rentals.

Executive Director Picou stated the committee will summarize what the airport is practicing now for appraisals and what was discussed at this Legal Committee meeting.

Chairman Guilbeau stated the Lease Policy will not be completed for the April Regular meeting but hopefully it will be on the May 2018 Regular meeting agenda. Chairman Guilbeau stated the committee will see if another meeting is needed after Mr. Swartzendruber, Legal Counsel, puts the policy together. The recommendation is once Mr. Swartzendruber has the policy put together to disseminate the policy to the committee

members and the alternate. This will give the committee members the time to look at the policy and ask questions before the policy is sent to all the Commissioners.  
Commissioner Segura asked if the airport had a policy in place for people to fill out an application and pay a fee if they are interested in airport property. Mrs. Cotton stated this is still in place. There was a discussion about this being part of the Internal policy for the airport instead of being part of the lease policy.

**Other Business**- None

**Public Comments** - None

**MOTION: Adjourn**

Commissioner Skinner moved to adjourn the Legal Committee Meeting of April 9, 2018.  
Commissioner Segura seconded the motion.

**AYES:** Skinner, Segura, Guilbeau

**NAYS:** None

**ABSENT:** None

**MOTION CARRIES**

The meeting Adjourned at 5:35 p.m.