

**TITUSVILLE – COCOA AIRPORT AUTHORITY**

The regular meeting of the Titusville - Cocoa Airport Authority was held on November 17, 2005, at 8:00 a.m., at the Titusville - Cocoa Airport Authority Office at 355 Golden Knights Boulevard, Titusville, FL. The following members were present: Jay G. M. Schenck, Chairman; Larry Runyon, Vice Chairman; Patricia Patch, Treasurer; Veronica Clifford; Philip Napolitano; Ken Rivard; Scott C. Carr, C.M., Executive Director; and Timothy F. Pickles, Esquire, Legal Counsel. Dr. Matthew Boucher, Secretary was absent.

**Roll Call**

Mr. Jay Schenck requested the roll be called and determined a quorum was present.

**Approval of Minutes**

Mr. Jay Schenck noted that there were some minor errors to the minutes. Mr. Scott Carr stated that they would be corrected by Staff. He also asked the Board if they would like to approve the various meeting, workshop, and public budget hearing minutes as a whole or each separately.

Mr. Ken Rivard stated that he had some questions about the minutes for the September 8, 2005 workshop. Mr. Schenck stated that he could raise his questions when they got to the approval of the minutes for that meeting.

Mr. Schenck called for the approval of the Titusville - Cocoa Airport Authority August 18, 2005 regular meeting minutes. Ms. Patricia Patch made a motion to approve. Ms. Veronica Clifford seconded the motion for discussion. Ms. Clifford inquired about a comment that she had made and requested that it be changed. Mr. Carr provided a suggestive wording change to which Ms. Clifford agreed. Mr. Schenck called for the approval of the minutes as corrected. All voted aye. Motion passed.

Mr. Schenck acknowledged Mr. Rivard regarding his question about the September 8, 2005 workshop meeting and called for the approval of the September 8, 2005 workshop meeting minutes. In addition, he requested approval of the public budget meeting minutes on September 8, 2005. Ms. Patch made a motion to approve. Mr. Rivard seconded the motion. Mr. Schenck acknowledged Mr. Rivard regarding his question.

Mr. Rivard stated that he had a question from page number 9 about a request from Mr. Schenck to Mr. Carr regarding obtaining a quote for a mowing service for the Merritt Island Airport. Mr. Carr stated that this topic was discussed at the September 15, 2005 Board meeting. Mr. Schenck asked Mr. Rivard if he could

wait until later in the meeting to discuss that issue under Airport Authority Member Reports. Mr. Rivard agreed. Mr. Schenck called for approval of the motion. All voted aye. Motion passed.

Mr. Jay Schenck called for approval of the Titusville-Cocoa Airport Authority's September 15, 2005 regular meeting and public budget meeting minutes. Mr. Larry Runyon made a motion to approve the minutes. Ms. Patch seconded the motion. Mr. Rivard commented on a statement made by Ms. Clifford and stated that he had another question. Mr. Schenck stated that the minutes needed to be approved, and asked if there were any changes to be made. Mr. Schenck called for the approval of the September 15, 2005 regular meeting minutes as well as the public budget meeting minutes. All voted aye. Motion passed.

**Appearances** – None

**Presentations** – None

**Consent Agenda** – None

### **Old Business**

Mr. Schenck acknowledged Mr. Rivard in regards to his earlier question. Mr. Rivard asked about the Projects and Administration Report that Mr. Carr had agreed to provide at the last meeting. Mr. Carr stated that he had prepared the reports and planned to distribute them under the Information Section of the meeting as outlined on the Board Agenda Summary.

Mr. Schenck asked if anyone from the public had anything to say at the beginning of the meeting, rather than wait until the end under the Public Comment Section of the meeting. Ms. Bobbie Lasher announced that the Fly-In Pancake Breakfast, Toys for Tots Benefit would be held on December 3, 2005 at the Merritt Island Airport.

### **New Business**

#### **Item A - Approval of a Florida State Infrastructure Bank (SIB) Loan for Hurricane Damage Repairs**

Mr. Schenck recognized Mr. Carr who presented Item A. Mr. Carr explained that not only the tenants and the Board, but also Staff, have been extremely frustrated with unacceptable amount of time it was taking to obtain insurance claim funds from Brevard County for hurricane damage from 2004. He stated that Staff has been working diligently on the issue, but that the Authority has only received a little over \$163,000 to date toward its three hurricane damage claims that occurred a little over a year ago. He added that Staff has been trying to find other alternatives to get the facilities back into revenue producing status. Mr. Carr

stated that he had been exploring a State Infrastructure Bank Loan, which is typically not used for airport facilities but due to the situation it was being considered. Mr. Carr stated that the chances of receiving the same were similar to that of the USDA Rural Development Grant and that he wasn't sure if he would be successful in obtaining it. However, he added that he had received a call stating that the chances were favorable based on the information he had submitted. He explained that it was a two year interest free loan, and that he had requested up to \$1 million dollars. Mr. Carr added that once the reimbursement checks were received from the insurance carrier, that money would then be directly submitted back to the State Infrastructure Bank to pay off the principle of the loan.

Ms. Patch asked Mr. Carr how confident he was that the Authority would get the full amount of the insurance claim money. Mr. Carr stated that he was confident the Authority would get the full amount, but the question was when it would be received. He stated that Staff had been contacting Brevard County on a regular basis, and that he recently had Ms. Debbie Jimenez, Finance & Administration Manager, send an e-mail to Mr. Jerry Visco, Director of Insurance for Brevard County, regarding this issue. Mr. Carr stated that Mr. Visco had attended the Authority's Board meeting on July 14, 2005. Mr. Carr also stated that Mr. Visco sent an email back indicating that unfortunately, he did not have any good news at the time as to when there would be a second installment check available based upon the insurance claim submitted. Mr. Carr stated that this information was different then what Mr. Visco had previously shared with the Board. Mr. Carr stated that Mr. Visco had originally believed that there would be a second payment forthcoming within a few weeks and no later than a month based on his presentation at the July 14, 2005 Board meeting.

Mr. Schenck asked if the State of Florida didn't have the money. Mr. Carr responded that he felt it wasn't a question of the State of Florida but rather the insurance carriers as to whether reimbursement funding was available. He remarked that the State of Florida had the State Infrastructure Bank (SIB) which was based on his understanding typically used for highway transportation projects. Mr. Carr reminded the Board that Staff was previously able to secure FDOT grants for anything that wasn't covered by the insurance carrier. Also, he stated that the SIB Loan would allow the Authority to make all the necessary building repairs immediately and then provide a 2 year window to pay off the loan interest free.

Mr. Schenck stated that the only danger to the Authority would be if the insurance carriers were to declare bankruptcy. He further stated that in that circumstance, the Authority would increase their debt by another \$1 million.

Mr. Phil Napolitano commented that the last figure he had seen for the total sum of insurance claims for the Merritt Island Airport was \$529,403.71. Mr. Carr agreed with that number based on all of the repairs that were put out to bid

separate of the Island Aviation hangar door repairs which were bid separately. Mr. Carr also stated that due to the cost increase in materials and labor, he now believed it to be in the \$700,000.00 range without the Island Aviation hangar door repairs. Mr. Napolitano asked if the Authority was covered for that amount or was it at Brevard County's discretion to provide a lower amount of reimbursement. Mr. Carr responded that all of the hurricane damage was well documented and that the initial insurance claim was based on that initial damage assessment that had been submitted to Brevard County. He stated that as the necessary repair work is completed and as the actual costs are received, that supplemental insurance claims would be submitted to Brevard County. Mr. Napolitano asked if Brevard County had an obligation to pay supplemental insurance claims. Mr. Carr stated that Brevard County had already requested the Authority to submit supplemental claims whenever they are ready for processing.

Mr. Napolitano asked how much more grant funding that FDOT would give the Authority. Mr. Carr replied that the Authority shouldn't rely on FDOT to give any additional grant funds based on last year's hurricanes. He added that anything the insurance company wouldn't cover could be covered by the FDOT grant on an 80/20 basis, but it couldn't be tapped into until the Authority actually received the full insurance carrier proceeds.

Mr. Jay Schenck called the question. Mr. Larry Runyon made a motion to approve the action of pursuing the SIB loan. Ms. Patricia Patch seconded the motion. Mr. Schenck opened the motion for discussion.

Mr. Ken Rivard asked if anyone had researched this program, and stated that he had looked into it. He stated that he had similar questions to Mr. Napolitano's, and asked what the total insurance claim amount was that was submitted to Brevard County. He added that his concern was that the Authority was asking for \$1 million and that he believed the insurance claims would be much less than that amount. Mr. Carr stated that there wasn't an exact number as there were several factors involved including escalating materials and labor costs. Mr. Carr further stated that the new damage from Hurricane Wilma needed to be taken into account, which there were no estimates for as of yet. Mr. Rivard stated that he really would like to have real numbers before he committed himself to a \$1 million loan. Several board members discussed the fact that the \$1 million dollars is virtually a two year interest free line of credit, and the Authority would only use what was needed. Discussion ensued.

Ms. Veronica Clifford stated that she was concerned the Authority wouldn't have the insurance carrier reimbursement funding once the two year deadline came due. Discussion ensued.

Mr. Schenck stated that the Board is only to approve the pursuit of the loan, and stated to Ms. Clifford that she was speaking as though the loan has already been approved. Ms. Clifford stated that she just wanted it to be on record if the

Authority took this course of action, because the Board would ultimately be responsible for the balance of the loan if the full insurance reimbursement funding amount wasn't received within the allotted two year timeframe.

Mr. Schenck asked Mr. Carr to please explain what would happen once the loan was received. Mr. Carr explained that he was asked to give a budgetary figure for the maximum loan amount to be requested on Monday, November 14, 2005. He added that Staff attempted to derive a number that would be all inclusive and that would cover all of the necessary building repairs. Mr. Carr stated that Staff was concerned about the on-going negative impact to the tenants by not having the facilities repaired. In addition, Mr. Carr stated that this was the primary reason that he had presented this potential funding opportunity to the Board as it could facilitate all of the necessary building repairs. He also stated that he would caution the Board on approving a budgetary figure below \$1 million, because there weren't any estimates for the damages caused by Hurricane Wilma yet. He stated that if the Board wished, Staff could come back to the Board for approval each time they wanted to take a draw on the loan to facilitate building repairs.

Mr. Schenck acknowledged Mr. Runyon. Mr. Runyon stated that for future meetings, he believed it wouldn't be a great burden on Staff to provide an accurate accounting of the amount of both the total initial and supplemental claims that had been submitted to Brevard County for insurance reimbursement, and the amount that had been received based on those claims.

Mr. Runyon added a revision to his motion that Mr. Carr pursue the SIB loan, which was that Staff provide documented accountability of expenditures made of the loan amount against specific insurance claims. He stated that he didn't think the Board needed to approve every single draw from the loan but that there should be an audit trail with the associated expenditures. Ms. Patricia Patch accepted the revision and seconded the motion. Discussion ensued among the Board. Mr. Schenck called the question. All voted aye. Motion passed.

### **Item B – Consideration of the River Fly-In Condos – Brevard County Rezoning Application & Binding Development Plan Agreement**

Mr. Carr gave a brief history of the River Fly-In Condos project proposed by Dr. Wasim Niazi. He explained that the Board had previously given Staff direction to oppose the project. He stated that Dr. Niazi and him had spoken at the October 10, 2005, Brevard County Planning and Zoning meeting, and that with consent of the Chairman, Dr. Niazi and him had come to an agreement that they would try to work out a binding development agreement that would meet the intent of the representations that were made at the two presentations Dr. Niazi had made to the Authority Board. He added that the major issues that concerned Staff were that all the units in the development would have to be owned by licensed pilots and that the Board should have unilateral authority to approve or disapprove any

changes to the condo association's by-laws or the binding development agreement. Mr. Carr stated that should anything want to be changed by the condo association once it was actually formed it should require unilateral consent by the Authority Board.

Ms. Clifford stated that she didn't have proper time to go through the new information provided by Staff. She also stated that the Board didn't request for this to be approved and that she was unaware of a proposed binding development plan agreement until they received the packet. She made a motion that the Board should take no action on the issue. Mr. Schenck stated that the Board had previously taken action to disapprove the project and that Dr. Niazi had gone to Brevard County and asked for a land use and zoning change which was approved by the Brevard County Planning and Zoning Board. He added that Dr. Niazi is getting ready to go in front of the Brevard County Commission at an upcoming meeting in December. Mr. Schenck stated that the real question was does the Authority want to allow a condominium this close to the Airport, and how would it affect the Authority with Florida Statute Chapter 333 requirements. Discussion ensued.

Mr. Schenck stated that if the Authority stayed opposed to the project that it will probably end up in a very costly lawsuit should the Brevard County Commission ultimately approve the project. Mr. Carr commented that Staff was directed by the Board to request a comprehensive plan amendment change to bring the future land use designation in line with the existing zoning and that the Brevard County Planning and Zoning Department had been petitioned to facilitate that request by Staff. However, Mr. Carr stated that he received word back that the request should be made to make a change at the time the Brevard County Commission considers the project application for a land use change and associated rezoning.

Mr. Carr explained that if the Authority opposed the project, it could still be approved by the Brevard County Commission and the project then could move forward without any of the protective items that were being offered in the binding development plan. Mr. Pickles discussed the legal consequences if the Authority should oppose the project, giving the pros and cons of such action. He stated that his recommendation for the Board was to hear the matter and give the applicant an opportunity to present his case. Mr. Pickles also recommended that when it came back to the Board for discussion that it either agree not to change its previous position or to decide to approve the project.

Mr. Schenck called the question. Mr. Rivard made a motion to approve the project. Mr. Phil Napolitano seconded the motion for discussion purposes. Mr. Schenck opened the floor for discussion. Mr. Carr reviewed a letter that was sent to the Brevard County - Director of Planning and Zoning, Ms. Robin Sabrina, dated October 6, 2005. He highlighted that it was FDOT's position

that the existing Brevard County Ordinance falls short of meeting the requirements of Florida Statute 333.02.

Mr. John Evans, legal counsel for Dr. Wasim Niazi, gave a presentation outlining Dr. Niazi's position on the proposed project. He discussed several issues such as the Courtenay Springs Condominiums, benefits that the proposed project would have to the Merritt Island Airport, and the binding development agreement that Dr. Niazi and Mr. Carr had negotiated. Discussion ensued.

Dr. Niazi addressed some of the concerns of the Board members.

Mr. Carr added that some issues that the Board should consider before making a final decision were his concern over the issue of recreational pilots qualifying as licensed pilots and the availability of t-hangars and apron space to accommodate additional aircraft at the Merritt Island Airport. Mr. Carr reminded the Board of the resolution they had adopted at the June 23, 2005 Board meeting, and also expressed his concern of other future residential development surrounding the airport. Mr. Carr discussed advantages vs. disadvantages related to moving forward with the binding development agreement, as well as future grant funding related issues.

Ms. Clifford spoke briefly on the Board's relationship with the Brevard County Commissioners, stating that the Board members should put their trust in the commissioners and also that the Authority Board members should attend more county commission meetings. She also stated that she didn't believe that the proposed project was truly a "fly-in" community because it would not have direct access to the Merritt Island Airport.

Mr. Schenck initiated a brief discussion with the Board members. Mr. Runyon expressed his concerns about the Board deciding one way or the other, and the consequences of either outcome.

Mr. Phil Napolitano expressed his concerns, and stated that he was up in the air with his decision. Discussion ensued amongst the Board.

Mr. Schenck opened the floor to the public.

Dr. Niazi addressed the Board, stating that he believed if the Authority's grant funding was not in jeopardy after the Courtenay Springs project was completed, why would it be in jeopardy now? He also stated he felt there wouldn't be an issue with a lack of future t-hangar space. Mr. Evans made a statement along the same lines as Dr. Niazi concerning the Courtenay Springs project. Discussion ensued.

Mr. Schenck brought the discussion back to the Board. Ms. Clifford made some additional comments. Ms. Patch addressed Dr. Niazi on the subject of current

hangar tenants and their interest in buying the condo units. Mr. Niazi stated that there were approximately 60 tenants who had signed a petition that was sent to the Brevard County Commissioners. Ms. Patch asked if these tenants were interested in buying the condos. Mr. Niazi replied that most of them were. Discussion ensued.

Mr. Jay Schenck called the question. Mr. Tim Pickles stated that the current motion on the table was to solely approve the binding development agreement as presented. All voted nay, with the exception of Mr. Ken Rivard who voted aye. Motion failed.

Mr. Jay Schenck made a motion for a short recess. Mr. Larry Runyon seconded the motion. All voted aye.

Mr. Schenck called the meeting back to order.

### **Item C – Discussion of the Airport Authority’s Special District Status**

Mr. Schenck called on Mr. Carr to present Item C. Mr. Carr gave a brief history of the Authority and how it was created as a dependent taxing district in 1963. He stated that the Authority was dependent on Brevard County for ad valorem taxing authority as well as budget approval. He added that up until 2003 there were two criteria prohibiting the Authority from becoming an independent special district. One was that all of the appointments were made by a sole governing body. The other was that the Authority’s budget and annual ad valorem taxing authority was approved by Brevard County.

Mr. Carr explained that if Brevard County would allow the Authority to use its full maximum taxing authority it would generate roughly \$6.5 million dollars annually. He added that he wasn’t suggesting that the Authority actually request the \$6.5 million in taxing authority, but that he believed that any recommendations to the Board would have to be tied to actual projects to show that it was being used in a fiscally responsible manner.

Mr. Carr stated that Staff and the Chairman had met with members of the Brevard County Legislation Delegation. He explained that if it was the wish of the Board for Staff to move forward with attempting to create an independent special district, they would have to move quickly to get it on the November 30, 2005 Legislative Delegation Meeting agenda. However, Mr. Carr recommended that the Authority not move forward at this time. Instead Mr. Carr suggested that for the upcoming legislation session in 2006 that they further discuss the issue with the Brevard County Legislative Delegation, if that was the direction that the Board wished to go. Mr. Schenck opened that item to the Board for discussion.

Mr. Schenck stated that if the Authority were to move in this direction, the time was now as he felt that the Authority had the most favorable delegation to do that. He added that he had met with several Brevard County Commissioners, State representatives, and senators. He stated that the feedback he had received was neutral, but they asked if the Authority knew what they were asking for in moving forward. Mr. Schenck added that it would be a fight, and he felt that the only reason the Authority should move to an independent special district status was if the Brevard County Commission and the City of Titusville wanted them to go independent. Mr. Schenck stated that he felt it would be beneficial to both the Authority and the surrounding communities, but he was wary of the battle.

Ms. Clifford commented that she was concerned about how this item was put on the agenda with such short notice, leaving no time for anyone to review it. Mr. Runyon discussed his concerns about the short period of time as this was the first time it had been presented to the Board for discussion purposes but added that he appreciated the Staff's hard work and research.

Mr. Schenck acknowledged Mr. Rivard, who asked why this item was put on the agenda and who put it on the agenda. Mr. Schenck stated that he was the one who had put it on the agenda. Mr. Rivard added that he had asked for things to be put on the agenda in the past and he couldn't get them on, and that he felt the time and effort that was put into this project should have been utilized for closure on other issues. Discussion ensued among the Board.

There was no recommended action on this issue by the Board.

**Item D – Approval of a Space Use Permit with the Gryphon Group for Security Training at Space Coast Regional Airport.**

Mr. Schenck asked Mr. Carr to present Item D. Mr. Carr gave an overview of the item. He stated that the Gryphon Group currently had a space use permit that is set to expire on March 31, 2006. He added that they had been looking to find a new site off of the Space Coast Regional Airport that would be more suited to their needs. Mr. Carr stated that Gryphon Group had initially requested a four year long term lease agreement, but Staff had negotiated a three year space use permit with a 90 day termination provision by either party. Mr. Carr stated that the annual rate would be \$29,883.10 and would take effect on December 1, 2005. He added that Staff had put into the permit that it would not be renewable after three years term expired.

Mr. Carr explained that Staff also had additional concerns that were addressed under the new permit. Mr. Carr explained that in the existing permit, Gryphon is required to vacate the site annually for the Valiant Air Command Show, and also should it be needed for natural disaster relief. He stated that those provisions would remain the same. He added that a new provision was added that required the Gryphon Group to install a six foot high chain link with

privacy slats to mitigate the visual impacts that are presently affecting the Space Coast Jet Center. This agreement also gives the Airport, if they so choose, the right to ask the Gryphon Group to remove the fence at the end of the three year term or earlier if the permit is terminated by either party. Mr. Carr added that the issue related to environmental concerns was addressed in the new permit.

Mr. Carr stated that Staff had requested and Gryphon Group agreed to a fuel farm liability insurance policy in the amount of \$1 million dollars per occurrence. In addition, Staff has agreed to conduct a Phase 1 environmental audit at the beginning of the leasehold to set an environmental base line and had agreed to conduct another environmental audit at the end of the space use permit term. Mr. Carr stated that the Authority would pay for the audits, because the land is also used by the Valiant Air Command once a year for their annual air show. Thus, it was a joint use site by two Authority tenants.

Mr. Carr introduced Mr. Frank Kinney, who was there on behalf of the Gryphon Group to address any concerns. Mr. Rivard addressed the issue of last minute items being added to the agenda. He asked who negotiated the contract, and stated he didn't know why it was being rushed at the last minute onto the agenda. Mr. Runyon stated that the reason it needed to be addressed now was that the Brevard County Commission was pushing hard to accommodate the Gryphon Group. Discussion ensued.

Mr. Kinney gave a brief overview of the issue and his involvement in it. He stated that Gryphon Group provides special training for soldiers who are about to go to Iraq, and that the Brevard County Commissioners were very supportive of this commercial operation. He stated that timing was critical because the issue had been in the works for a while, and it was on the radar screen for several commissioners. Therefore, it would better serve the business, and will help the Authority politically, to get the issue resolved. He also mentioned that there was a request by Gryphon Group to modify the amount of fencing from 350 linear feet to 300 linear feet. Mr. Kinney opened the floor to questions. Discussion ensued.

The Board discussed the issue of who would be responsible for a Phase 2 environmental audit if it was required after the Phase 1 environmental audit was received. Extensive discussion ensued

Mr. Schenck entertained a motion. Mr. Runyon made the motion to approve the Space Use Permit. Ms. Patricia Patch seconded the motion. Discussion ensued again on the subject of a Phase 2 environmental audit and who would pay for the clean up if there was contamination found at the site.

Ms. Clifford recommended that the Board move forward with the motion, but asked Staff to share the results of the Phase 1 environmental audit with the Board once the information was received. Further discussion ensued.

Mr. Pickles addressed the Board on the implications of Phase 2 environmental testing if it would be required. He recommended the Authority do the testing now, so that the Authority knows where they stand for the future. He stated that the standard was if the Authority paid for Phase 1 environmental audit that they would also pay for a follow up Phase 2 audit if needed.

Mr. Larry Runyon added to the motion to give Mr. Carr discretion whether to approve the permit or not but in the meantime have Mr. Carr go to Brevard County and obtain a letter that if the site does have any environmental issues that they commit to work with the Authority on any remediation. Ms. Clifford asked Mr. Carr what he felt on the issue. Mr. Carr stated he believed it was in the Authority's best interest to set a Phase 1 environmental baseline. He stated that if there was contamination, and it was determined that it was contaminated by the tenant, the tenant would be held responsible for remediation of that contamination. Discussion continued amongst the Board.

Mr. Larry Runyon called the question. All voted aye. Motion passed.

### **Information Section**

#### **Executive Director Report**

Mr. Carr briefly discussed the insurance claim discrepancy issue raised by Mr. Rivard during discussion of Agenda Item A. He also stated that Staff would verify the insurance claim information with Brevard County and put together an informational package for the Board. Mr. Carr stated that he had been the speaker at several community organizations recently. Mr. Carr introduced the new Executive Secretary, Ms. Kim Paschke. Mr. Carr also provided the Board with a copy of a positive email he had received from Mr. Don Stivers, who was one of the t-hangar tenants whose hangar had been damaged in last year's hurricane. Mr. Carr reminded the Board that Staff had been working diligently on solving the issues Mr. Stivers raised in a past email. He added that his most recent email demonstrated that Staff was making progress. Mr. Carr addressed an issue Mr. Rivard had mentioned about the north apron security light poles at the Merritt Island Airport, and discussed how that issue was being handled, as well as the new t-hangar damage that is being repaired on Building #50.

Mr. Carr made a request on behalf of the Space Port Commerce Park Board. He stated that the Authority currently had an appointment to that Board and Mr. Schenck was presently the Chairman. Mr. Carr stated that Mr. Schenck had served several years on the Board on behalf of the Authority. Mr. Carr added that the Space Port Commerce Board had requested that Mr. Schenck be reappointed for the upcoming year. Mr. Schenck asked if anyone else wanted to serve on the Board. All stated that they did not. Mr. Runyon made a motion to

reappoint Mr. Schenck to the Space Port Commerce Park Board. Ms. Patch seconded the motion. All voted aye. Motion passed.

Mr. Carr mentioned that the Authority partnered with the Florida Space Authority and will have 50 students at the Space Coast Regional Airport for Careers in Aerospace and Aviation Day. He stated that this was just another way for the Authority to outreach to the community. With that Mr. Carr concluded his report.

### **Check Register & Budget to Actual**

Mr. Carr gave an overview of the financial statements and reported that the annual audit was scheduled to begin the next day. He also reviewed the budget to actual and stated that everything is in line starting off with the new fiscal year. Mr. Carr asked the Board if there were any questions.

Mr. Schenck gave accolades to Mr. Carr on the percentage of revenues to expenses. He also asked if some of the remaining 15% of revenues couldn't be used to make some of the repairs on hurricane damaged buildings. Mr. Carr stated that some of the money had already been set aside for that purpose. Mr. Rivard mentioned a problem with the new hangar doors at Island Aviation that had been causing problems. Mr. Carr stated that the new doors were of a heavier gauge metal than they originally were due to the new wind load requirements, making them harder to move. He added that Staff was working on alleviating the issue. Discussion ensued. Mr. Schenck requested to move into the Attorney Report.

### **Attorney Report**

Mr. Pickles gave his Attorney Report. He discussed an issue with the Valiant Air Command concerning the interpretation of their lease agreement. He stated that they were seeking an automatic lease renewal for another 20 years based upon past completed capital improvements. He stated that the Authority had denied their lease extension request and that the Valiant Air Command had filed a lawsuit for a declaratory judgment on the issue. He added that the Authority is currently scheduling a date, hopefully in January, for a summary judgment motion on the issue. Mr. Pickles added that he was confident in the Authority's legal position based upon the lease language.

Mr. Pickles also discussed a separate litigation matter. He stated that the Sculptor School and City of Titusville issue that was resolved approximately 6 months ago had requirements for the school to provide notices of disclosure and have them executed by each of the parents. He stated that the school had not provided any of the executed forms to date. He added that the school's legal counsel had assured him that they were forthcoming, but he stated that he had scheduled a hearing for December 9, 2005 in case that did not transpire. He

added that he would report back to the Board on the issue at the meeting on December 15, 2005. Discussion ensued amongst the Board.

Mr. Schenck asked Mr. Pickles for his legal advice on the River Fly-In Condo issue. Mr. Pickles discussed the issue, and said it could go several ways at the upcoming Brevard County Commissioners meeting. He also discussed some of the possible political implications.

### **Administration & Project Reports**

Mr. Carr provided the Board with both Administration and Projects reports to update them on the progress of individual construction projects and administrative issues. Mr. Runyon explained that the object of the reports was simply to keep the Board updated without the Board micro-managing the Executive Director. Mr. Carr stated that the reports would be archived with the monthly Board meetings packages. Ms. Clifford stated that the reports would be very beneficial and that she appreciated Staff's effort in providing them.

### **Authority Member Reports**

Mr. Rivard asked how the Board members could bring issues up at a meeting. He stated that he would like to have a policy developed as to who can place items on an agenda without having to sit at a Board meeting and request for an item to be put on for the next month. Mr. Schenck explained that the Executive Director sets the agenda with input from the Chairman. He further stated that as discussed at several previous Board meetings, if any Board member wanted an item on the agenda and the majority of the Board also wanted to see the issue placed on a future Board agenda, Staff would be requested to do so. Mr. Rivard requested if he could forward requested agenda items to the Chairman to then have Staff poll the various Board members to see if they were in agreement to have that item placed on the upcoming Board agenda. Ms. Clifford asked if the attorney could help to explain this issue.

Mr. Tim Pickles explained that the legal issue that was being raised concerning Staff polling Board members would be the creation of a Sunshine violation. He further stated that it would be a violation because Staff would be acting as a conduit to discuss various issues. He stated that if you just talk about an agenda item there's enough gray area, you could probably get around it, but he would never suggest doing that because there were just too many issues that could arise. He suggested to Mr. Rivard that if he has a big issue, if Staff doesn't believe it warrants an agenda item for whatever reason, he could request at the next Board meeting that the Staff put on as an agenda item for action or discussion for a future meeting. He also stated that then if four Board members agree that it needs to be an agenda item, Staff would be directed to present it as an agenda item. He added that if that motion were made, he recommended that Mr. Rivard ask for the agenda item and a specific action or whether it's just for

discussion, so that Staff is given that direction. For small or routine items, Mr. Pickles stated that it's basically at the Executive Director's discretion. Some things do pop up late, to where deadlines come and you have to put on an agenda item to get action at a certain time. He stated that the Sunshine Law does create some hurdles, and it would be simple for Board members to just call up and have it put on the agenda, but the Authority just can't go down that road. Discussion ensued among the Board.

Mr. Rivard brought up the issue of frequency congestion at the Merritt Island Airport. Discussion ensued. Mr. Carr stated that Staff had been working on that issue but there weren't many less congested frequencies available in the radio spectrum in the Central Florida region. He stated that it's a challenging but common issue that many non-towered airports are dealing with. Mr. Carr stated that he and Mr. Rivard did have dialogue about this issue. Staff had not submitted an application yet to the Federal Communications Commission to facilitate changing the frequency; however, he had conversation related to that for the Federal Aviation Administration. Ms. Clifford suggested that Mr. Rivard could assist Mr. Carr in applying for a new frequency. Mr. Schenck stated that the Board should be careful about contacting FAA and FDOT, because it gives them mixed signals on various issues and there have been reports that if this continues that it could hamper future Authority grant funding. Mr. Schenck suggested that this issue be put on the administrative projects list and suggested that a projected completion date of two years.

Mr. Rivard brought up the issue of getting a self-service fuel farm at the Merritt Island Airport. Mr. Carr stated that this issue was on the projects list, and stated that Staff is currently in the process of discussing the issue with Island Aviation. He recommended that the Authority not compete with their tenants on fuel prices and providing services by opening up its own fuel farm as suggested by Mr. Rivard. Mr. Carr added that the Board had adopted minimum standards which clearly define several other service areas that need to be provided in addition to selling fuel as a FBO. Mr. Carr stated that if the Authority were to uphold those standards they would have to develop an FBO. Mr. Carr stated that he would caution the Board in doing that, because Island Aviation may be able to file an objection with the FAA in that the Authority was violating its own minimum standards in order to compete with them. He also offered another option to potentially buy Island Aviation out of their existing lease agreement, and have the Authority provide FBO services at Merritt Island Airport. Discussion ensued amongst the Board.

Mr. Schenck acknowledged Mr. Bill Baer from Island Aviation. Mr. Baer commented in reference to providing a self-service fuel farm. He discussed different options, and also stated that Mr. Carr had asked him for his fuel numbers, and Mr. Carr at that time realized that there isn't enough business to have a competing business at the Airport. He added that if there is going to be a

self-service fuel farm, that he would like to be the one to put it in. Discussion ensued.

Mr. Schenck asked if the Board members had any additional comments. Mr. Rivard raised the Space Coast Regional Airport NDB issue. Mr. Schenck suggested that it be discussed at a future meeting. Mr. Schenck acknowledged Ms. Clifford who stated that she was very pleased with the projects and administration reports, and again thanked Staff for them. She also discussed the setting of the agenda issue. She also brought up the topic of Board members attending Brevard County and City of Titusville meetings when there are Authority issues on the agenda. The Board discussed the issue.

Mr. Rivard and Mr. Runyon had a discussion about the projects and administration lists. Mr. Rivard stated that that he believed that the River Fly-In Condo project should go on the administrative list. Mr. Schenck asked if there were any objections from the Board to put that on the list. There were no objections.

Ms. Veronica Clifford repeated her concerns about last minute agenda items. She also discussed a problem with security lights that were not working at the Space Coast Regional Airport. Mr. Carr stated that FPL had been contacted several times about this but due to hurricane damage across the state, FPL has stated that they don't have crews available. Mr. Schenck suggested that Ms. Clifford contact FPL in reference to this issue. She agreed to do so.


Ms. Clifford mentioned that the agenda packages had been received somewhat late and she would like to get them sooner in the future. Mr. Carr stated that this was due to ongoing problems with the copier. He added that he had attempted to send the package out via email on Monday morning; however, some Board members didn't receive it because the file was so large and their server wouldn't accept it. He added that this was not the typical procedure, and he appreciated the Board's patience.

Mr. Phil Napolitano stated that sitting on the Board has been a great learning experience for him. Mr. Schenck made some closing comments in reference to the River Fly-In Condo project and the Board working together as a team. There was some discussion by Mr. Rivard on this topic, as well as on the county commissioners and their potential approval of the development.

Mr. Schenck asked if there were any comments from the public. Ms. Bobbi Lasher made a statement that the Brevard County Commissioners were looking at dollars in the issue of the River Fly-In Condo project. Mr. Yon spoke about some property that was for sale adjacent to the Merritt Island Airport. The Board instructed Staff to move forward with the purchasing the property if funds were available.

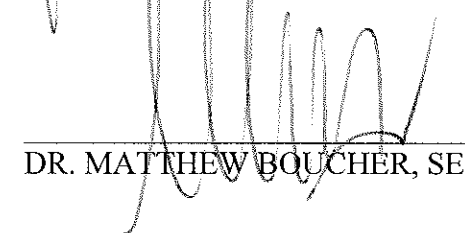
**Adjournment**

Mr. Schenck called the question. Mr. Runyon made the motion to adjourn the meeting. All voted aye. Mr. Schenck adjourned meeting.



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JAY G. M. SCHENCK, CHAIRMAN



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DR. MATTHEW BOUCHER, SECRETARY