

## SPECIAL MEETING

TITUSVILLE-COCOA AIRPORT AUTHORITY

APRIL 2, 2003

The special meeting of the Titusville-Cocoa Airport Authority was held on April 2, 2003, at 1:35 p.m., at the Titusville-Cocoa Airport Authority office, 355 Golden Knights Boulevard, Titusville, Florida. The following members were present: Joel H. Taft, Chairman; R. Craig Rastello, Treasurer; Jay G. M. Schenck; Russell Alarie; Philip R. Thompson; David N. Edwards, Jr., A.A.E., Executive Director; and Timothy F. Pickles, Esq.; Airport Attorney. Frank Kinney, Vice Chairman and Brian M. Lally, P.E., Secretary were absent.

Mr. Taft addressed the public and advised that if they had a desire to speak on a specific item to fill out a card provided on the wall and turn them in to the Executive Secretary.

### **Roll Call**

Mr. Taft requested roll call and determined a quorum was present. All Authority members were present with the exception of Frank Kinney and Brian Lally.

### **Business To Be Discussed**

**Item A** – Discussion of Requested Lease by Cape Kennedy Communications, Inc.

Mr. Edwards reviewed the background on this item and explained that due to a large rent increase Mr. Birch, Cape Kennedy Communications, expressed that he may not be able to support his business at Space Coast Regional Airport. Mr. Edwards agreed to extend the rent increase to become effective in October 2003, due to the possible hardship he may experience from this increase. Mr. Edwards explained that this lease had commenced in 1976 and is now on a month-to-month basis, which came into effect in 1992 per the previous lease agreement.

Mr. Edwards advised that he has recently been approached with the following two propositions:

Mr. Edwards advised the Board of a confidential business proposition, Project Hawk, which could result in a possible 2½ million dollar facility at Space Coast Regional Airport providing 30 - 40 new job opportunities.

Mr. Edwards also advised that Annette Benson, Debenair, approached him to request that she buy out Mr. Birch and lease the existing hangar to maintain the radio avionics shop, and also move her flight school to that location.

Upon presentation of a proposal from Staff, Ms. Benson rejected the proposal stating that she could not afford the cost.

Mr. Edwards stated that since the rejected proposal, he conducted further discussions with Project Hawk at which time they indicated they would like to move forward and identify Space Coast Regional Airport potentially as their location site for their project. Project Hawk advised that in order to move forward, they would need a commitment for an interim facility. Mr. Edwards stated that they discussed the Cape Kennedy Communications hangar as being a potential location. In order for Project Hawk to move forward, they are asking for a commitment for that facility.

Mr. Edwards stated that subsequent to those discussions, Mr. Birch approached Staff and indicated the he would like to move forward and execute a 3-year lease for the facility.

Mr. Edwards recommended that the Authority not execute a lease with Cape Kennedy Communications until we get a firm commitment from Project Hawk. If Project Hawk makes a commitment to the airport, he recommended that the Authority provide them with that particular hangar and at that point, Staff would work with Mr. Birch to find another interim facility in order to house his business and identify a long-term solution. He reiterated his reasoning for this recommendation as being the best interest to the airport, due to the large amount of potential business Project Hawk could bring. He anticipated an answer from Project Hawk within the next 30 days.

Mr. Edwards recommended that if Project Hawk did not make a commitment to the Airport Authority, the Authority should consider Mr. Birch's request to execute a 3-year lease.

Mr. Birch stated that he would like to have a lease in place with the new rental rate, and reiterated that he has never been late with his rent over the past 7 years.

Mr. Taft agreed with Mr. Edwards' recommendation and stated that it is important to the Airport Authority and Project Hawk that this project move forward for the benefit of a large amount of growth to the airport.

Discussion ensued regarding possible alternatives for interim facilities for Mr. Birch.

Mr. Edwards recommended drafting a letter to Mr. Birch stating that pending a commitment from Project Hawk, Staff would work with him to provide an interim facility and work toward a permanent solution. If Project Hawk does not commit, the Authority will provide a 3-year or longer lease to the facility for Cape Kennedy Communications.

Discussion continued.

Mr. Birch stated his concerns of the possible closure of his business should the operation be interrupted due to the moving of his facility. He requested a commitment for a 3-year lease.

Mr. Pickles stated that the Board could commit that they would use reasonable efforts in order to accommodate his request. He stated that it is not possible to guarantee a lease without having seen what the potential is for a substitute premises.

Discussion continued.

Mr. Rastello motioned to authorize the Executive Director to commit the property to Project Hawk and request that a commitment be forthcoming back from Project Hawk within a period of 30 days. Also, authorize the Executive Director to issue a letter of intent to Cape Kennedy Communications agreeing that if Project Hawk does not commit, the Authority would agree to execute a 3-year lease for the subject property under substantial similar terms to what is currently being occupied. Should Project Hawk commit to the property, the Authority will use reasonable efforts to find an interim facility under mutually agreeable terms, and also use reasonable efforts to commit to a 3-year lease for a substitute facility under substantially similar terms. The motion was seconded by Mr. Thompson.

Mr. Taft called the question. All voted Aye. Motion passed unanimously.

Mr. Edwards reassured Mr. Birch that he would draft a letter over the next few days outlining what the Board had approved. He stated that he would also like to schedule a meeting to discuss the minimum requirements for an interim facility should the Authority need to relocate his business.

**Item B** – Executive Session to discuss Potential Litigation Concerning RKT, Inc.

Mr. Pickles explained that this discussion does not need to take place in an Executive Session, and explained his reasoning for this decision.

Mr. Pickles reviewed the background of this item, which was presented to the Board at the last Regular Meeting. Mr. Pickles stated that correspondence was sent to RKT's legal counsel based on the action of the Board, and he received a response dated March 26, 2003. According to this letter, RKT has waived their claim for additional damages of \$37,000.00, but have denied paying any liquidated damages to the Authority. The letter stated that should the Authority not accept this offer, RKT could file suit after April 4, 2003.

Mr. Pickles stated that the Authority has three options for a response to this letter. The Authority could accept the letter as written, which would end the matter. The Authority could reject the letter and stick with either the \$19,000.00 in liquidated damages, or go back to claiming \$50,000.00. The Authority could also counter the claim and accept a lesser amount of liquidated damages.

Mr. Pickles reviewed his opinions on each option.

Discussion ensued among the Board regarding the background of the situation leading up to the present time.

Mr. Pickles advised that the Authority should try to resolve the case and settle it before litigation by countering the \$19,000.00 with a reasonable figure. Mr. Pickles stated his opinion that the cost would not be worth litigating this issue.

Discussion continued.

Mr. Edwards recommended presenting a counter-offer that is less than the \$19,000.00, but a substantial amount.

Discussion continued regarding the reasoning for the Authority to pursue this issue.

Mr. Pickles reviewed the potential costs for both parties should this issue result in litigation.

Discussion continued regarding the potential amounts for a settlement.

Mr. Taft suggested sending a letter stating that their initial claims were invalid due to unsigned change orders, and stating that they did sign a contract with certain stipulations including the liquidated damages clause and a fixed schedule. Mr. Taft suggested the letter also states that however, in an effort to eliminate this issue, we are willing to compromise to the level of \$9500.00.

Discussion continued.

Mr. Schenck motioned that the Authority reimburse RKT the retainer fee less the \$9500.00 and authorize Staff to send the letter directly to RKT asking them to abide by their contract and accept the check as final payment.

Mr. Pickles stated that he would not advise going directly to the client instead of legal counsel, as this could be perceived as being underhanded.

Mr. Schenck withdrew his motion after further discussion.

Mr. Alarie motioned to approve the Chairman's suggested letter and offer a settlement of \$9500.00, seconded by Mr. Thompson.

Mr. Taft called the question. All voted Aye. Motion passed unanimously.

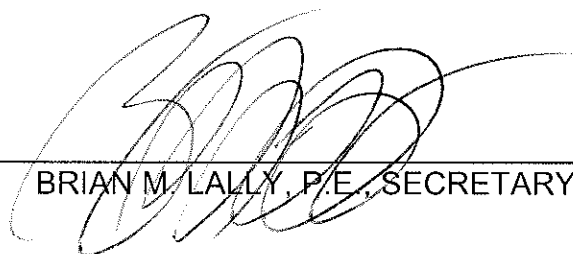
Mr. Thompson motioned to adjourn, seconded by Mr. Schenck.

The special meeting was adjourned at 3:50 PM.



---

JOEL H. TAFT, CHAIRMAN



---

BRIAN M. LALLY, P.E., SECRETARY