

Walker Field Airport Authority

Minutes of the Special Board Meeting

December 21, 2004

BOARD COMMISSIONERS PRESENT: Miles McCormack Craig Springer
Roger Little Karen Berryman
Robert McCormick Dan Lacy
Gregg Palmer

AIRPORT STAFF PRESENT: Corinne Nystrom Charlie Novinskie
David Anderson Gary Mancuso
Ed Storer

ALSO PRESENT: Bob Kretschman of The Daily Sentinel; Josh Nichols of The Free Press; Leona Aka of the Transportation Security Administration; Louis Buescher, Robert Barry, and William Kane of Buescher Family Limited Partnership and West Star Aviation; P.J. McGovern of P & L Properties, LLC; and Bob Rasberry of Premier Air Center.

I. CALL TO ORDER

The meeting was called to order at 1:35 p.m.

II. APPROVAL OF AGENDA

Commissioner Palmer moved to approve the agenda. Commissioner Little seconded. Voice vote: all ayes. Motion carried.

III. REQUEST BY BUESCHER FAMILY LIMITED PARTNERSHIP (BFLP) TO TERMINATE GROUND LEASE AGREEMENT

This agenda item was considered in conjunction with agenda item IV- "Ground Lease Agreement with P & L Properties, LLC."

IV. GROUND LEASE AGREEMENT WITH P & L PROPERTIES, LLC

Buescher Family Limited Partnership (BFLP) entered into the most recent Ground Lease Agreement with the Airport Authority effective October 1, 1993. The existing lease term is twenty (20) years plus an option for an additional ten (10) year extension. BFLP's leasehold consists of approximately 32 acres which it has subleased to West Star Aviation, Inc. for the purpose of providing fixed base operator (FBO) services. BFLP has reached an agreement to sell its assets to P & L Properties, LLC. Consequently, BFLP has requested to terminate its Ground

Lease Agreement contingent upon the Authority entering into a new Ground Lease Agreement with P & L Properties, LLC.

To ensure that the best interests of the Authority are met and the needs of BFLP and P & L Properties, LLC are accommodated, Authority Staff met with representatives from both entities to discuss the structure of the proposed transaction. Based on the discussions, Staff initially proposed the following components be incorporated into the new Ground Lease Agreement with P & L Properties, LLC:

- Effective date of December 31, 2004 through December 30, 2024 plus an option of an additional ten (10) year extension;
- The current lease rate for a new tenant in the Runway 11/29 cost center is \$.1023/sq.ft./yr (versus a blended rate of \$.0837 currently paid by BFLP). In exchange for an easement or right-of-way to parcels south of the existing T-hangars and the main West Star hangars that would be granted to the Authority, a portion of the \$.1023/sq.ft./yr. initial rental rate charged to P & L Properties, LLC would be offset by the value of the easement or right-of-way from P & L Properties, LLC to the southern parcels. This easement would allow the Authority to lease the vacant parcels of land to the south of its main leasehold and also a vacant parcel of land along Taxiway C-1A that was being held in reserve in the event access from the parcels south of West Star needed to be made available via Taxiway C-1A to the runways and taxiways;
- Annual CPI-U adjustments (to be paid initially by P & L Properties, LLC by the granting of the easement/right-of-way through the former West Star T-hangars);
- Discretionary adjustments every five (5) years;
- Affirmation that P & L Properties, LLC would be solely responsible for maintaining, repairing, and replacing, as needed, all of its leasehold ramp areas; and
- Additional ramp areas surrounding the CO Division of Wildlife hangar that are not currently leased by BFLP would be incorporated into P & L Properties, LLC's leasehold.

The closing date for the sale is projected to be December 31, 2004.

Commissioner Palmer inquired whether the proposed Termination Agreement with BFLP would be similar to the document utilized in prior transactions. Staff responded that the proposed Termination Agreement, is similar to the Termination Agreement used for the Timberline Aviation/Twin Otter International Limited (TOIL) transaction. Staff also noted that the Termination Agreement (on its own) neither creates nor eliminates any obligations of BFLP. Instead, it merely emphasizes that most of the provisions of the underlying Ground Lease Agreement will survive the termination, including the environmental covenants. Manager Nystrom stated that the Authority Attorney has reviewed the proposed Termination Agreement, which has been forwarded to BFLP for its review.

Vice Chairman Springer asked if the Authority would incur additional operating expenses as a result of this transaction. Staff commented that all expenses incurred by the Authority that are associated with the BFLP leasehold or the proposed P & L Properties, LLC leasehold will be allocated to the Runway 11/29 leases cost center. It is projected that the Authority will not incur any additional expenses as a result of this transaction. However, ground rental revenues allocated to this cost center will increase approximately \$1,400 per month (net).

Vice Chairman Springer inquired whether or not it was normal for the Board to approve a termination of a lease without the Board actually seeing the documents associated with the transaction. Manager Nystrom responded that as long as the Board was comfortable with all

documents being reviewed and approved by the Authority Attorney, Staff would recommend approval of this transaction since the Termination Agreement is very similar to the one approved by the Board for Timberline Aviation.

Regarding the proposed Ground Lease Agreement with P & L Properties, LLC, Manager Nystrom noted that the Ground Lease Agreement would incorporate virtually all of the property currently leased by BFLP, excluding the Daly Hangar (existing West Star Aviation, Inc. Sublease Agreement) and the aircraft ramp area west of the U.S. Department of Energy calibration pads (existing Ground Lease Agreement with West Star Aviation, Inc.). She also stated that P & L Properties, LLC is proposing to lease approximately 6,000 square feet of additional aircraft ramp space located near the Colorado Division of Wildlife hangar.

Commissioner McCormick expressed concerns regarding leasing the areas to P & L Properties, LLC that would be used by the Authority to access the parcels south of the existing West Star T-hangars. He recommended that the Authority not include those access ways within the leasehold. Mr. McGovern indicated that he would be amenable to that option. In exchange for P & L Properties, LLC performing cleaning of the access ways that would not be a part of its leasehold, Commissioner Palmer suggested the waiver of annual CPI-U adjustments to P & L Properties, LLC's rent for the first five (5) years.

Staff recommended and Commissioner McCormick moved that the Board approve BFLP's request to terminate its Ground Lease Agreement dated October 1, 1993 (as amended), approve a new Ground Lease Agreement with P & L Properties, LLC, and authorize the Chairman to: 1) sign a corresponding Ground Lease Termination Agreement with BFLP; 2) acknowledge (by signature) a Sublease Termination Agreement for the existing Sublease Agreements between BFLP and any applicable subtenants (including West Star Aviation, Inc.) on behalf of the Authority; 3) sign a corresponding Ground Lease Agreement with P & L Properties, LLC; and 4) approve any corresponding Sublease Agreements between P & L Properties, LLC and West Star Aviation, Inc., contingent upon:

- BFLP being current on all amounts owing the Authority;
- Execution of a Ground Lease Agreement with P & L Properties, LLC (a condition subsequent to the execution of the termination process);
- Effective date of the Termination Agreement to be the same as the date of execution of the Ground Lease Agreement with P & L Properties, LLC;
- Authority Attorney review and approval of applicable documents and agreements, as needed;
- Final sale and closing between BFLP and P & L Properties, LLC (including the majority purchase of West Star Aviation, Inc. stock shares); and
- Board approval and execution of the Consent to Ground Lease Assignment for Collateral Security from P & L Properties, LLC to Alpine Bank

Commissioner Palmer seconded. Voice vote: all ayes. Motion carried.

V. CONSENT TO GROUND LEASE ASSIGNMENT FOR COLLATERAL SECURITY FROM P & L PROPERTIES, LLC TO ALPINE BANK

P & L Properties, LLC requested that the Authority approve a Landlord's Consent Agreement for its leasehold for the benefit of Alpine Bank so that P & L Properties, LLC can obtain financing secured by the value of its improvements.

If P & L Properties, LLC defaults on its loan obligation, the Consent would give Alpine Bank the right to acquire P & L Properties, LLC's interest in the leasehold (including all personal property) in addition to the ability to assign the lease to a third party. However, such assignment would be subject to review and approval (in advance) by the Authority. The proposed Landlord's Consent Agreement form for this transaction is similar to what was approved by the Board for prior tenant transactions.

Staff recommended that the Board approve and authorize the Chairman to sign the Landlord's Consent to Ground Lease Assignment, contingent upon:

- Execution of the Ground Lease Agreement with P & L Properties, LLC (as effected in the previous agenda item); and
- Authority Attorney review and approval of the applicable documents

Commissioner Little moved to approve the Landlord's Consent Agreement and authorize the Chairman to sign the Agreement on behalf of the Authority, contingent upon execution of the Ground Lease Agreement with P & L Properties, LLC (as effected in the separate agenda item); and Airport Authority Attorney review and approval of the applicable documents. Commissioner McCormick seconded. Voice vote: all ayes. Motion carried.

VI. ADJOURNMENT

Commissioner McCormick moved to adjourn the meeting. Commissioner Palmer seconded. Voice vote: all ayes. Motion carried.

The meeting adjourned at 3:02 p.m.

APPROVED AND ADOPTED THE _____ DAY OF _____, 2005.

Miles C. McCormack, Chairman

ATTEST:

David J. Anderson, Clerk