

Walker Field Airport Authority

Minutes of the Special Board Meeting

March 24, 1998

BOARD COMMISSIONERS PRESENT: Martin O'Boyle Robert McCormick
 David Graham Jim Richards
 Charles Gillett Gary Morris

AIRPORT STAFF PRESENT: Corinne Nystrom Ted Balbier
 John Thomas Dennis Wiss
 Dan Reynolds David Anderson

ALSO PRESENT: Rosie Sams and Frances Orman of Hertz Rent-A-Car; Marty Dana and Ron Zotto of National Car Rental; John Pabst, Bill Miears, and Dave Nability of Thrifty Car Rental; Phillip Smith of Avis Rent-A-Car; Peter Finn and David Lopez of Enterprise Rent-A-Car; Richard Farabee and Randall Farabee of Budget Rent-A-Car; Al Acker- President of Alaska Software, Inc.; Larry Kempton of Kempton Air; and Doug Briggs- Authority Attorney.

I. CALL TO ORDER

Chairman O'Boyle called the meeting to order at 5:20pm.

II. APPROVAL OF AGENDA

Chairman O'Boyle asked for additions or changes to the published agenda. Commissioner Graham requested the addition of "V.A.- Land Lease Negotiations Update (Executive Session)."

Commissioner McCormick moved to modify the Agenda to include "V.A.- Land Lease Negotiations Update (Executive Session)." Commissioner Graham seconded. Voice vote: all ayes. Motion carried.

Commissioner Gillett moved to approve the Agenda as modified. Commissioner Richards seconded. Voice vote: all ayes. Motion carried.

III. PUBLIC COMMENTS AND COMMUNICATIONS

There were no public comments or communications.

IV. ON-AIRPORT RENTAL CAR AGREEMENT PROVISIONS

Staff presented the Board with a request by Thrifty Car Rental to delete the "two-mile radius provision" from the proposed On-Airport Rental Car Agreement. In 1982, the attorney for the Authority revised the language in the On-Airport Rental Car Agreement regarding the definition of "Gross Revenues" which included adding a two-mile radius surrounding the terminal building in which any on-airport operator would owe fees to the Authority for all rentals from the on-airport location as well as any off-airport locations within said radius. The intent of the language addition was to allow the Authority to minimize the possibility of an on-airport operator setting-up a second location and diverting revenue to the second location. The car rental operators during the 1982, 1987, and 1992 contract periods agreed to said terms and have continued to abide by the language.

During the current bid process, Thrifty Car Rental requested that the Authority delete the two-mile radius under the pretext that the language precludes them from the bid process. Thrifty is the only prospective bidder that has a location within the two-mile radius, and it stated that it would not be financially feasible for them to bid on-airport and abide by the current language that requires them to pay 10% on all transactions at the on-airport and off-airport locations.

Staff provided the Board with the results of research which they conducted regarding on-airport rental car agreement provisions addressing the issue of revenue diversion to off-airport facilities. The airports selected were similar in size (based on enplanements) to Walker Field. Additionally, Denver International Airport was surveyed. Staff noted that Durango, Colorado did have a radius provisions in its on-airport agreement. Montrose did not have a radius provision in its existing agreement, but it plans on revising its contract prior to the next bid process. The radius provision is one of the ideas it will be considering to address the issue of revenue diversion.

The airport in Casper, Wyoming is approximately eight miles from town. The airport operator feels comfortable working with its current on-airport rental car companies and with the one rental car provider that is located in-town. The off-airport rental car provider does pay fees to the airport for airport-derived business. However, the airport has not been approached by a car rental company to come on-airport and fill the vacant rental position located at the airport, so the radius provision has not been an issue.

Rapid City, South Dakota indicated that its geographical location makes it unnecessary to address the radius issue. The five rental companies located at the airport are the only operators in town, so revenue diversion is not an issue. However, Reno, Nevada does have a radius provision. The airport operator recently went through a bid process, and revised its agreement to include a five-mile radius provision and a twenty-four hour arrival check-box requirement.

There is no radius provision per se in Fort Smith, Arkansas. Instead, on-airport operators are charged a flat monthly fee for the leased space. Off-airport operators who access the airport (including those off-airport operators with counters in the terminal), are charged 10% of gross revenue, regardless of the number of local rentals. There has been little controversy with the off-

airport percentage of gross revenue provision because most of the revenues at the off-airport locations are derived from customers flying in and out of the airport.

In Long Beach, California, on-airport operators are charged 10% of gross revenue for all rentals, regardless of whether a rental is derived from an airport passenger or local resident. There is no radius provision per se. If the operator maintains an "office or station" in the terminal (thus classified as an on-airport operation), that operator is subject to the 10% of gross revenue requirement, even if the operator's lot is located 20 miles from the airport.

Bill Miers of Thrifty Car Rental inquired whether there were any exclusions for local rentals in Long Beach. Staff answered that if a rental car operator maintains any type of presence within the terminal building, it is considered to be an on-airport operator. Mr. Miers stated that many airports in this region provide local rental exclusions in the off-airport agreements. Staff responded that the issue being addressed is the on-airport agreements, not the off-airport agreements. Staff noted that several of the airports which did not have a radius provision commented that they felt the radius provision was a good idea, and that they would probably consider including such a provision during the next bid process as a way to address the revenue diversion issue.

Authority Attorney Doug Briggs presented information to the Board regarding Denver International Airport's (DIA) on-airport rental car agreement. He noted that DIA and Walker Field are distinguishable from each other. First, DIA encompasses fifty-two square miles, and the on-airport agreement at DIA includes a twenty-mile radius provision. Second, the on-airport rental car companies at DIA have a vested interest in the airport bonds. Third, 95% of DIA rental car operators' business is derived from on-airport customers. Local customers are determined by zip codes. DIA has found it difficult to audit the rental car revenues even though it has an entire department which only audits the rental car concessions.

Commissioner Graham inquired whether the current Thrifty Car Rental off-airport agreement or the proposed on-airport agreement provisions would be considered to be a diversion of revenues by the FAA because of different price structures. Attorney Briggs stated he did not believe either of the agreements would be viewed by the FAA as being diversionary in nature.

John Pabst of Thrifty Car Rental stated he still believed it would be better to have a check-box requirement for determining local rentals instead of having a radius provision. In addition to having the check-box language, he suggested including language in the rental agreement to have the renter affirm "under penalty of perjury" the answers to the check-box questions. Mr. Miers noted that there is nothing in the proposed on-airport agreement to exclude local rentals from gross revenues.

Commissioner Richards asked why Thrifty had not discussed this issue during past bids. Mr. Miers responded that Thrifty did not want to bid on a counter until this year. Commissioner Richards asked how Thrifty would propose the Authority audit the rentals. Mr. Pabst answered that the Authority could perform standard audits and review how the questions on the rental contract are answered by the renters. Additionally, the Authority could have a "secret shopper." Commissioner Graham commented, in response to the suggestion that a "perjury" clause be included in the rental contracts, that perjury cannot occur unless there is an associated sworn statement. Mr. Pabst withdrew the perjury clause suggestion, and added that there used to be a good way to audit the rentals because the shuttle vans had to go through the parking gates to exit the airport.

Commissioner Graham asked Mr. Pabst to look at this issue from the Authority's perspective that if the Authority abolished the two-mile radius provision, wouldn't the deletion of that provision encourage existing on-airport operators to establish an off-airport rental lot. Mr. Pabst answered that if an on-airport operator is not making the gross sales necessary to pay more than the minimum amount to the Authority, then there is no incentive to go off-airport to save money. Commissioner Richards asked what the advantages to the Authority would be if the two-mile radius provision were deleted. Mr. Pabst responded that with five bidders for four spaces, there's an incentive to bid higher.

Chairman O'Boyle asked for Staff's critique of Mr. Pabst's presentation. Staff responded that the two-mile radius provision was incorporated into the on-airport agreements in 1982 to tighten-up the agreements and prevent on-airport rental car operators from setting-up across the street from the airport.

Manager Nystrom commented that in 1992, the rental car bids came in lower than in 1987, even though there were five prospective bidders in 1992. From a financial perspective, bids do not necessarily increase because there are five bidders. Staff also noted that there is a cap on what the rental car operators will bid. The operators are not going to bid higher than what they can afford to bid. Commissioner Gillett stated that if the Authority eliminated the two-mile radius, then the on-airport operators could go across the street from the airport. Manager Nystrom noted that Thrifty has given the Authority a lot of food for thought, and several points brought up by Thrifty are not to be underestimated. Although Staff respects Thrifty's position, Staff felt Thrifty's position was not strong enough to warrant eliminating the radius provision. Thus Staff recommended leaving the radius provision in the on-airport agreement.

Marty Dana of National Car Rental stated he did not concur with Thrifty's position. He noted that National's revenues to the Authority are almost always higher than National's minimum. Only a small portion of National's revenues are derived from local rentals. According to Mr. Dana, local rentals are only 10% of National's gross revenues. Frances Orman of Hertz Rent-A-Car and Phillip Smith of Avis Rent-A-Car indicated they would both be opposed to eliminating the radius provision. Additionally, Mr. Smith expressed concern as to how the Authority would conduct the audits to determine local versus airport-derived rentals.

Peter Finn of Enterprise Car Rental indicated that the two-mile radius provision was of some concern to Enterprise. For example, if a hotel patron on Horizon Drive called Enterprise for a rental, then Enterprise would be required to pay the Authority 10% of the rental. Thus a potential customer would think twice before renting from Enterprise. Currently, Enterprise stamps the rental contracts of on-airport customers to indicate that those rentals are airport-derived. Mr. Finn stated he did not believe the Authority should penalize any operator for local rentals.

Richard Farabee of Budget Car Rental noted that he could see the point of view for both the Authority and Thrifty Car Rental. He commented he would definitely be supportive of exempting local rentals from the percentage of gross owing to the Authority. Commissioner Richards stated that if the rental car operator bids were high, but the revenues were not there, it would not be good for the Authority. Staff noted that a local renter at DIA does not utilize DIA's roads because the City of Denver pays for their landside access. On the other hand, the City of Grand Junction does not pay for landside access at Walker Field. The Authority is responsible for maintaining all of the roads and infrastructure on the airport premises.

Mr. Finn of Enterprise commented that if Montrose implemented a radius provision in its on-airport agreement, Enterprise would probably move its operations to a different location. Because most of Enterprise's operations consist of local rentals, Mr. Finn stated that Enterprise could not afford to pay 10% of all its operations. Commissioner Morris stated that the Authority is not subsidized by other entities. Thus the Authority has to maximize its revenues. He commented he is sensitive to charging a tax or a penalty. However, he did not feel this provision is unwarranted.

Commissioner McCormick stated that if someone could come up with a reasonable solution to prevent revenue diversions, he would definitely consider that option. Commissioner Graham commented that the radius provision would not require time-consuming audits, and that the Authority should stay with the provision. Additionally, local renters have an advantage over itinerant renters because the local renters are able to shop-around for the better prices. Commissioner Richards agreed, and added he did not see a compelling reason to change the two-mile radius provision.

Commissioner McCormick moved to maintain the two-mile radius provision in the on-airport rental car agreement. Commissioner Gillett seconded. Roll call: all ayes. Motion carried.

V. RUNWAY LITIGATION (EXECUTIVE SESSION)

Commissioner Gillett moved to enter into executive session. Commissioner Morris seconded. Voice vote: all ayes. Motion carried.

The Board entered into executive session at 6:24pm to discuss the applicable items on the agenda.

VA. LAND LEASE NEGOTIATIONS (EXECUTIVE SESSION)

Chairman O'Boyle unilaterally withdrew from any discussions or voting regarding Kempton's lease or other applicable land lease matters.

Commissioner McCormick moved to exit executive session. Commissioner Gillett seconded. Voice vote: all ayes. Motion carried.

The Board exited executive session at 7:21pm.

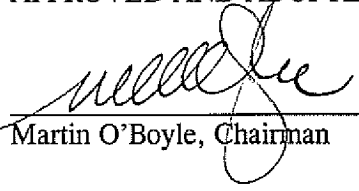
VI. OTHER ITEMS

There were no Other Items presented or discussed.

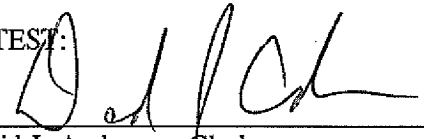
VII. ADJOURNMENT

There being no further business to come before the Board, Commissioner Gillett moved to adjourn the meeting. Commissioner Morris seconded the motion. Unanimously carried. The meeting was adjourned at 7:21pm.

APPROVED AND ADOPTED THIS 21 DAY OF April, 1998.



Martin O'Boyle, Chairman

ATTEST:


David J. Anderson, Clerk