

## CHARLOTTE COUNTY AIRPORT AUTHORITY

### MINUTES OF EMERGENCY MEETING – MARCH 26, 2013 – 9:00 A.M.

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#### **1. Call to order**

Chair Herston read the meeting notice into the record (copy attached).

#### **2. Invocation**

10 Commissioner Andrews gave the invocation.

#### **3. Pledge of Allegiance**

#### **4. Roll Call**

15 **Present:** Chair Herston; Commissioners Andrews, Coppola, Lee and Seay; Assistant Director Parish and Attorney Garrard. **Others present:** Councilman Cavanaugh, Lionel Schuman, David Jones and Jim Kaletta.

#### **5. Air Traffic Control Tower Closure**

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Mr. Parish explained that the FAA has published their final ruling to close 149 contact towers in three to four weeks. The Punta Gorda Airport tower is scheduled for closure on the 21<sup>st</sup> of April. There are fourteen airports in Florida, which is the largest affected state in the nation. He commented that the Authority has been working, to no avail, with Senior Senator Nelson whose Washington office will not return phone calls. He explained that the Authority was hoping that, because he is the Senior Senator he would have some influence with Mr. Reid. He explained that there was an amendment on the floor that would have funded contract towers through the end of the fiscal year as part of the Continuing Resolution and that failed even though it had support, it was not voted on.

25 He commented that yesterday he and Mr. Quill had a conference call with the fourteen airports in Florida and the Florida Airports Council. He commented that because the Punta Gorda Airport, Ft. Myers, Naples and Page Field are all under the approach and departure control out of RSW, all of them feel the workload will be affected at RSW that will slow down IFR operations out of Punta Gorda and the other two airports that are affected. He explained that Naples is going to file a lawsuit for a Temporary Stay and they have been very successful with the law firm they have selected in the past against the FAA. He explained that what he is asking today is to become a party to that lawsuit and they are looking at six to ten airports to become a party to the lawsuit. He commented that there is a western airports group that is filing a lawsuit. He explained that the lawyer does not think they will be successful in arguing the merits of the case but it will give the airports time if the court does decide to a Temporary Stay, so they can argue and would give them time to go the political route, which is the only route that has been established. It is going to be either Congress or the President that comes out and has a last minute solution to this. He explained that the problem is the reopening of the tower if it closes. If

35 the tower closes for more than fourteen days, the tower has to be recertified. The FAA says it could become a non-federal tower. Unfortunately, it is a six to nine month process through the FAA. He explained that turning the tower into a non-federal tower, which the Authority would have to fund 100%, is not a short term option because it could not

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5 happen in the short term and the Authority would have to go out to bid. He commented  
that the airports that have asked RVA, who is the Authority's tower operator, is  
somewhere around \$65,000 to \$70,000 a month. He commented that he is asking the  
Board to approve the Authority enter into the lawsuit and spending \$25,000. He  
commented that Naples is paying a higher share. He stated one of the concerns is if the  
Authority is not involved and the stay does go into effect. He commented that the FAA  
has stated that this is not going to affect safety and the Punta Gorda Airport is a hard case  
to argue because they didn't have a tower two years ago but the fact is, the airport has a  
different mix of aircraft with the MD 80's down to light sports. Commissioner Seay  
commented that looking at what's been done by Mr. Parish and Mr. Quill and the rest of  
the staff and the local legislative body and the work that has been attempted, the  
Authority has run out of time. She commented that the one thing this does is buy the  
Authority additional time to create a political solution. She thinks it is possible to get a  
stay but, if the Authority does nothing, it will cost the Authority a lot more than \$25,000.  
15 Mr. Parish read a statement that the Attorney wrote stating that, "It is important to  
distinguish between short-term and long-term success. While there is a low probability of  
prevailing on the merits of a challenge, the situation is different for short-term success.  
Litigation could help delay closure and help convince the FAA (or Congress) to  
reconsider its decision, on either an airport-specific or national basis." He commented  
20 that what the Authority is trying to do is delay the decision to argue with the  
Congressmen and Senators. He commented on the petition that is on the Whitehouse.org  
website and that though it is very important to everyone sitting in this room, he opined it  
is not on the minds of the public until there is an incident. He stated that he does not think  
it will affect the safe operation of aircraft at this airport but it creates a less than optimal  
25 situation. He commented that there is a formula to get into the tower program so their  
decision to shut down the towers is counter to their own process. By not having the  
towers, they will save \$35 million in this years' budget. He commented that the benefit  
cost analysis that has been run by an independent group is about \$1.4 billion in risk. He  
commented that the gentleman that ran that is trying to get that out to the public. He  
30 commented until the public gets involved, he does not know how much help they will get  
from Congress or the White House. **Commissioner Seay made the motion to authorize  
the use of legal counsel, as needed, to participate in a lawsuit begun by Naples  
seeking a temporary stay in the closure of contract towers as a result of  
sequestration not to exceed \$25,000. Commissioner Lee seconded.** Commissioner  
35 Coppola asked who is responsible for the risk if an accident should happen.  
Commissioner Seay opined, the FAA. She commented if there is an accident that would  
have been prevented by the tower and the FAA is the one who closed the tower and they  
were aware there were safety issues, a lawsuit against the FAA would be reasonable.  
40 **Motion passed unanimously.**

6. **Adjournment** - Meeting adjourned at 9:15 a.m.

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James W. Herston, Chair

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Kathleen Coppola, Secretary/Treasurer