

**ORMOND BEACH
AIRCRAFT NOISE ABATEMENT TASK FORCE
WORKSHOP**

October 3, 2009

8:30 a.m.

**South Ormond Neighborhood Center
176 Division Avenue
Ormond Beach, Florida**

I. Call to Order/Roll Call

The meeting was called to order at 8:37 a.m. Lee Fannell, Vince Kinsler, Kim Nichols, Terry Perkins, Trish Sundblad, Ty Wilson and Larry Volenec were present. Ken Byrnes and Joe Wisniewski were excused. Staff members present were Joyce Shanahan City Manager, Joe Mannarino Economic Development Director, Steven Lichliter Airport Manager, Ann-Margret Emery Deputy City Attorney, and Terri Hamsher Secretary. Also present was Ted Baldwin, of Harris Miller Miller & Hanson, Inc.

II. Introductions of Task Force Members and Mr. Baldwin

The task force members introduced themselves and explained which subdivisions they represented. A brief history was provided on the task force.

Mr. Baldwin introduced himself, provided his work history, experience, and information on the firm he is employed with, Harris Miller Miller & Hanson, Inc.

III. Discussion of Workshop format, agenda, purpose

Mr. Lichliter reviewed the workshop agenda, explained the purpose of the workshop, and what information would be discussed.

IV. Presentation by Ted Baldwin

Mr. Baldwin reviewed a Powerpoint presentation with the task force. He discussed his experience in working with 70 airports, he knew what was legal or illegal as regards noise abatement, what was feasible or not feasible, and what methods other airports used. He commended the task force on their progress.

Mr. Baldwin explained that the City had to follow the rules set by the FAA. He discussed land use compatibility guidelines and explained noise terminology, and federal noise regulation basics. Mr. Baldwin listed the general aviation airports in Florida that he had worked with on noise abatement. He reviewed FAR Parts 36 and 91 and gave a brief explanation of the Ormond Beach airport as a Federal government surplus property, and that the City as the proprietor had a special obligation; as with many airports on the east coast of Florida, it was built by the U.S. Navy during World War II, and was turned over to local jurisdictions to use for aviation purposes and the City was obligated to use the land for aviation purposes and needed to get permission from the FAA if they wanted to stop using the property or a portion of the property for non-aviation purposes. The airport had to operate under FAA regulations, and FAA grants the City acquired further obligated the City to use the airport under FAA regulations.

A question arose as regards state laws usurping federal laws. Mr. Baldwin explained that federal regulations, FAA specifically, always trumped local laws. He then cited the

example of the Naples airport that challenged the FAA regulations; it was very costly and went to court in Washington, D.C. After five years Naples won and received a check for grants.

A question arose on limits of volume of noise and constant low grade sound. Mr. Baldwin discussed Part 36 and how it dealt with noise limits. He explained how jets were categorized as regards noise and explained how FAR Parts 36, 91, and 150 applied to noise limits. He explained the Florida Statutes, Chapter 333, which required local communities to adopt compatible land use plans. He added that the State piggybacked on the federal regulations, but did not overrule it.

Mr. Baldwin spoke on Part 150, it was a costly process, FAA grants were available for it and the Orlando office would help in obtaining the grant. He added that the 150 was a voluntary process, it would set out a process to work within federal guidelines and would get them more recognition from the federal government, and there might be an advantage to undertake it. There were approximately 250 airports in the country that went through this process, the firm he worked for handled about one-third of them, and many of the airports were in Florida, such as Vero Beach, Ft. Pierce, Boca Raton, Naples, and one was being started in Stuart.

Mr. Baldwin discussed FAR Part 161 and the Airport Noise Capacity Act (ANCA). He added that ANCA and Part 161 grandfathered all noise abatement rules and regulations that were in place when ANCA was adopted in 1990. Also exempted were use restriction rules which were proposed but not yet adopted at the end of 1990. A discussion ensued regarding Part 161, what was considered stage two and three aircraft and how it applied to these aircrafts. Also discussed were the Naples airport lawsuit, and the San Jose airport which had a successful 161 process.

A discussion arose as regards Naples' lawsuit, the consequences if an airport challenged FAA regulations because it affected the community, whether the FAA would pull the funding and the airport would be in disrepair and close. Mr. Baldwin explained that if this happened they would be in violation of the grant funding, and there would be personal responsibility, such as fines. He could not recommend the City violate federal law or their contract with the federal government. He explained that Part 161 was complicated, and Naples was the only airport in the last 20 years that had gone fully through the process. He explained there were other Part 161 processes at air carrier airports, such as San Jose in California, which was a successful process because they were able to demonstrate to the community and City Council that the use restriction rule did not make sense from a cost benefit. The rule would cost the local economy more than the benefit of less noise. The Council and local community agreed, and the community dropped their lawsuit against the airport.

Mr. Baldwin related the situation with the San Francisco airport, which submitted a Part 161 to extend the night time curfew, which affected large cargo operations. The cargo operators agreed to comply with the rule and sign a legal agreement if the airport would withdraw the Part 161 application. The airport agreed.

Mr. Baldwin spoke on the Naples airport which received the FAA's response as regards Part 161 and the Stage 2 ban. He explained how the Part 161 was considered a safe harbor in relation to the grant assurances, that the 161 was a federal process to go through if they wanted to do something that the grant assurances would not allow. The FAA disagreed and replied that it was not demonstrated that there would be a noise benefit. The attorneys for the airport authority challenged this, which cost several million dollars. This went to the U.S. Court of Appeals in Washington, D.C., circuit, which ruled in favor of the FAA that 161 was not a safe harbor, and ruled in favor of Naples Airport Authority that they demonstrated on a factual basis the benefits were greater than the costs and ruled that Naples was not in violation of their grant assurances and they could implement the rule.

Mr. Baldwin explained the Part 150 process; he added that it was a voluntary process and a complex one and would take approximately 18 months of work that would include technical work, an advisory committee, and public meetings. He added that in the 150 study airport operations would be reviewed, such as, types of aircraft operating, the time of day they would be operating, flight tracks being used, runways used, and as much factual information that could be collected. The best way to collect this information was from radar data. The cost for this study would be approximately \$250,000. Mr. Baldwin added that there might be faster and more effective processes the task force might want to consider. A discussion arose as regards radar capability, the Naples airport 150 study, monitoring planes, low flying planes and airplane transponders. Mr. Baldwin explained that Part 150 studies helped make things better. A discussion arose on implementing noise abatement actions prior to or during the 150 study.

Mr. Baldwin explained how noise exposure maps described noise problems, such as noise contours, runways used and height of planes flying, how the consultant collected noise measurements and the different phases of collecting information. A discussion arose as regards requiring pilots to do touch and go's at another airport which would be in violation of FAA grants.

Mr. Baldwin discussed airports with preferential runways for touch and go's and how the tower would direct pilots to use that runway, that pilots could request to use another runway and what would happen if they did. He spoke on the flight training schools at Ft. Pierce and Vero Beach airports where he did a Part 150 study and the decline in flight training. He explained how the FAA made flights safer which could make it noisier.

Mr. Baldwin provided the example of Ft. Pierce's Airport Manager in the 1970's/1980's who started to expand the airport and built a new runway which was later used for noise abatement, and mentioned that this was rare. He added that airports extended runways to move the traffic pattern around and reduce noise and how it affected neighborhoods near the airport for take-offs and landings. A discussion ensued regarding runway lengths. Mr. Baldwin advised that to shorten a runway would be considered discriminatory as it would prevent certain aircraft from landing.

Mr. Baldwin spoke on noise abatement flight tracks to minimize noise over communities and raising the traffic pattern to alter noise, which would have pilots use a higher power

setting longer, and that the cost/benefits of any measure should be looked at. He added that what he found helpful was doing a second round of measurements and cockpit measurements which would include task force members riding in the cockpit when this was done and it was critical to have participation from pilots and the flight schools. A discussion ensued on Naples flight schools signing documents, and airports that charged landing fees. Mr. Baldwin spoke on Ft. Lauderdale part 150 studies, Ft. Lauderdale Executive website, and advertising of noise abatement procedures.

A discussion arose on foreign student pilots, flight training overseas, the decrease of flight training in other areas, the need for pilots of small aircraft in other countries, and the increased flight training in Ormond Beach.

Pat Murphy, Sunrise Aviation, spoke on Pan Am flight training moving to Arizona and the downturn of the flight safety industry.

Mike Prater, 38 Pebble Beach, commented on overseas students training in this country.

Lou Lumaghi, 1 Cliffside Drive, spoke on runway extensions and increased noise with jets.

Mr. Mannarino discussed a letter that was sent to the FAA that the runway would not be extended and the long range plan in 2010 would remove the runway extension.

Mr. Baldwin explained that usually FAA's approval or commitment to support was needed for changes at the airport, and if the runway extension was on the long range plan, it was not a commitment to build it. He added that before an airport operator implemented changes, there must first be an environmental assessment process.

Charles Russell, 14 Cotton Mill Court, spoke on citizens financially supporting the Ormond Beach airport and pilots not following procedures.

Mr. Baldwin explained that it was about training and communication and cited the Groton/New London, Connecticut, airport Part 150 study and extending the runway; he added that it was rare that general aviation airports generate revenue on their own.

Mr. Baldwin discussed the presentation he did recently on the Naples' Part 150 update, which included the 2008 Presidents' Day weekend flight tracking he conducted as regards jet flight traffic and noise abatement procedures and compared it to the flight tracking he conducted there earlier this year.

The task force asked if a 150 was done what the advantage would be with the FAA cooperating with implementing the noise abatement procedure. Mr. Baldwin explained depending on the procedure, such as designating a runway as a calm wind runway, the tower more likely would go with the calm wind designation. If a 150 process was done, it would be more of a basis for getting the FAA to participate.

Mr. Baldwin discussed that once a 150 process was done it should reduce the noise and move the noise to places where it should be, and explained what would happen if the noise was not reduced. He added that did not apply to a general aviation airport, and cited the example of Palm Beach International that still had significant noise over residential communities, and how it handled sound mitigation. He discussed other airports that had avocation easements. He explained the FAR Part 150 process, FAA possible funding, and costs of the study and listed the benefits of considering one and why it would not work for the Ormond Beach airport.

Linda Wilson, 7 Circle Oaks Trail, asked for a list of the 15 airports in Florida that Mr. Baldwin did the 150 studies. Mr. Baldwin provided this information.

Mr. Baldwin discussed that noise abatement measures required funds and that it was critical to get the aviation community and the tower involved with a 150 study. He then cited the two examples of mandatory rules, the Naples Stage 2 restriction and their lawsuit with the FAA and Boston airport's mandatory rule that was done in 1978.

Mr. Baldwin reviewed the Powerpoint slide listing the noise terminology and explained that the Ormond airport had single event metrics and the FAA would not base Part 150 approvals on single event metrics. He explained the different decibel levels, sound exposure levels, FAA guidelines, FAA day/night sound levels (DNL) and EPA noise levels. He shared the experience of the City of Naples and Collier County, the db level they adopted, FAA guidelines and FAA's response to the noise issues.

Mr. Baldwin reviewed the slides for noise contours for Ft. Lauderdale Executive Airport and Naples, explained how the contours were determined, and the FAA's response, and compared them with Ormond Beach. A discussion arose as regards the noise contour map for Ormond. Mr. Baldwin spoke on the 150 study, running different contours and obtaining examples of planes not flying properly.

Mike Prater, 38 Pebble Beach, commented on the noise contour map and planes not flying the contours.

Mr. Baldwin spoke on the FAA Perspective and Policies in Practice slide and indicated that the FAA almost always used voluntary measures. He discussed airports with rules that were adopted in the 1970's and 1980's and others that advertised that they had rules but did not enforce them. He explained when Part 161 could be triggered regarding potential restrictions, such as curfews, noise limits, and activity limits.

Sean Daly, Northbrook, asked about Part 161, litigation and fees and shared information on Ormond Beach ordinance restricting banner planes.

Mr. Baldwin discussed how Naples restricted for noise and explained how an FBO could file a Part 16. He talked on how airport funds could not be used to subsidize non-aviation uses. He spoke on the agreement the City signed with the Navy at the end of World War II and if the City wanted to sell part of the property it needed to get FAA approval and must get market rate rent. He shared the experience of Stuart airport that

had owned the airport property, leased it to the FAA and after the lease terminated, Stuart had sold large amounts of property which was developed. The FAA had used the surplus properties language but it did not apply as Stuart had owned the airport property. A discussion ensued on land deeded by the FAA and used for purposes other than aviation and reasonable terms, and the Part 16 process.

Mr. Baldwin discussed landing fees and what they could fund. He shared that landing fees for airport tenants would be a double whammy. He spoke on fees based on an aircraft's weight. He shared the experience of Naples airport putting a curfew on older/noisier jets, adopted a ban and then was sued.

V. Adjournment for Lunch

VI. Reconvene for Meeting

Mr. Baldwin reviewed the "Formal" Noise Abatement Procedure slide. He explained that when the FAA approved procedures, it was on a voluntary, informal basis. If the FAA had a formal procedure, it had specific meaning, it was an FAA order or law, and an order was how FAA implemented things. He spoke on Boston/Logan airport being a good example of non-conforming. He described the Ft. Lauderdale Executive problem with helicopters, different ingress and egress routes, and had the base pilots sign a letter of agreement on departures. He mentioned this may be what Ormond Beach might want to look at, but pilots from across the state might not want to do this.

Mr. Baldwin described the difference between landing fees and penalties. He added that if there was reasonable data, landing fees could be imposed. In order to do a noise based landing fee, they would need to be prepared for a Part 16 challenge. He explained that research was done on every airport in the country that advertised landing fees and found only two or three that did it. There was one in Florida that had an environmental impact fee structure for departures and arrivals, the fees were raised in the 1990's, and now almost no money is collected as no one wants to pay the fee. He explained there were a few airports in California that had single event noise limits, but those rules were adopted prior to Part 161 and ANCA.

Mr. Baldwin reviewed the Useful References slide with the task force members. He spoke on noise monitors and FAA advisory circulars. He commented on the Burbank, California, airport where pilots could not pay to come in but would pay a penalty if they did fly in. He shared the example of the Naples airport where pilots were given one warning on flying in. A charter plane flew in but did not pay the penalty. The next time the charter flew in, the passenger was not allowed to get back on the plane until the penalty was paid. The pilot was instructed to fly to Marco Island and the airport director drove the passenger to Marco Island after the penalty was paid. He did not know of a single operational measure that had been implemented with charges or penalties in the United States. There may be some who have it on their books, but none have collected on them.

Mr. Baldwin explained that fees to direct a pilot which runway to fly were dangerous and that a pilot might do something dangerous to avoid paying a fee. He added that the

FAA had in an advisory circular that procedures like that were dangerous. He added that if Ormond Beach charged fees for not flying runway heading, it would be the first airport in the country to do this and it would be in violation of grant assurances.

Mr. Baldwin spoke on the Florida G.A. Airport Precedents slide; he mentioned that Ft. Pierce and St. Lucie County International continued to have noise problems and that at Stuart training is down because of the jets. Ft. Lauderdale mixed in many types of traffic which could overwhelm student pilots. He shared that there were no airports he knew of that were surplus airports that received FAA permission to stop operating as an airport, there might be some, but not in recent times. Vero Beach and Ft. Pierce were good examples, and Boca Raton was a one-runway airport. He indicated that pilot training and awareness was where general aviation airports would solve the noise problem. He spoke on DNL contours, what the FAA approved, pattern altitudes, voluntary restriction of hours and right/left hand traffic. A discussion arose on formal/mandatory procedures, and the FAA not approving formal or mandatory procedures. Mr. Baldwin added that the FAA would support financial methods to educate and advertise procedures.

On the Useful References slide, Mr. Baldwin shared that the websites listed would provide information on what other airports had done or adopted and mentioned that all procedures were voluntary, with the exception of a few airports that established their procedures prior to the 1990's, and that charges were never collected. He spoke on HUG and Dept. of Defense, noise measure standards and appropriate land use compatibility. He explained the FAA noise website had a lot of information, including federal regulations, guidelines, policies, Part 150 studies and who did them, and what measures the FAA approved, which he recommended the task force members review.

VII. Discussion of Task Force Recommendation

Mr. Baldwin reviewed and discussed each recommendation the task force developed and noted which ones the FAA would or would not support. On recommendations that were not noise related, Mr. Baldwin did not provide an opinion as he did not deal with those types of issues. He added that the recommendations would have to be submitted by the City, not the task force, a consultant or third party, as the FAA would challenge that.

Norman Echelberry, 1032 Shockney Drive, spoke on the noise of ultra-lights.

A discussion arose on closing the airport, the cost to the City in legal fees, and repayment of grant funds. Also discussed were implementation of procedures, adopting 60 DNL and land use plans, flight schools, noise officers, radar, transponders, noise abatement education, and fees.

Mr. Baldwin discussed what next steps that could be taken, low cost activities such as inviting monitoring systems operators to do a presentation, contacting the ADO to visit or asking specific questions, collecting data without doing a 150 study and explained the benefits of doing a 150 study.

Mr. Baldwin commended the task force on their work and advised them to reach out to the aviation community. He thanked the task force for having him there.

Mr. Kinsler thanked Mr. Baldwin for his presentation and Sunrise Aviation for attending the workshop and encouraged Sunrise to attend the task force meetings as their counterparts did not. He also thanked the City for putting on the workshop.

VIII. Adjournment

The meeting adjourned at 2:55 p.m.

Respectfully Submitted:

Terri Hamsher, Recording Secretary

Attest:

Vince Kinsler, Chairman