

Minutes

Tempe Aviation Commission

May 17, 2022

Minutes of the Tempe Aviation Commission meeting - virtual Microsoft Teams meeting with call in +1 (480) 498-8745 United States, Phoenix (Toll) Conference ID: 243 160 897# held on May 17, 2022, 6:30 p.m.

(MEMBERS) Present:

W. David Doiron
Ellen Poole
Peter Schelstraete
Desiree Walker
Karen Apple (arrived late)
Stuart Mitnik
Ed Kucharski

Citizens Present:

Chad Makovsky , Director of Aviation Services, City of Phoenix
Jordan Feld, Deputy Aviation Director, City of Phoenix
Julie Rodriguez, Deputy Aviation Director over Public Relations
Matt Heil, Special Projects Administrator, Aviation Services at City of Phoenix

(MEMBERS) Absent:

John Lynch (excused)
Aaron McBride (excused)

City Staff Present:

Brianne Fisher, Sustainability and Resilience Office, City of Tempe

Agenda Item 1 – Call to Order

Mr. Doiron called the meeting to order at 6:32p.m.

Agenda Item 2 – Public Appearances

Mr. Doiron asks if there are any members in the audience that has been able to make Microsoft Teams work. Ms. Fisher confirms no members of the public in attendance.

Agenda Item 3 – Consideration of Meeting Minutes (April 12)

Mr. Doiron asked if anyone had considerations of minutes such as discrepancies or corrections.

Motion: Ed Kucharski moved to approve minutes. The motion was seconded by Chair Doiron.

Action: The motion to approve was passed by a unanimous vote.

Agenda Item 4 –Presentation from Phoenix Sky Harbor

Mr. Makovlsky introduces himself, Director position for about a year but with the City of Phoenix for about 16 years. He also explains that he wanted to give an update on the conversations Sky Harbor has been having with the proposed Tempe Entertainment District (TED) in Tempe at Rio Salado and Priest. Learned about it last July and working closely with Nick Wood, Land Use Attorney for the development. High level, long history including the IGA for compatible uses for both the airport and resident of City of Tempe. Talk a little bit more about what we see as a concern. We have been consistent that we are not opposed to TED but we have also been upfront that there are issues, with any kind of development like this, that we need to look at and address. Biggest concern is the proposed residential that is so close to the runway. TED and residential portions are closer to the runway than the runway is long. You can see how that is concerning to us and how this might be a violation of the IGA.

Jordan Feld begins by updating TAVCO on when they learned about the proposal of TED last summer. The project is 9800 feet from the airport. Mixed of residential, hotel, office and entertainment, with the arena.

We first engaged with the developer in September and laid out some of our initial concerns including: residential compatibility, building height, obstruction with lighting and assembly of people. Since September, we have had many meetings to discuss these with the Developer. A lot of the information on the Developer side is not ready yet. For instance, construction plans are still conceptual at this point. We at Sky Harbor have also taken the time to engage with stakeholders like airlines and the FAA.

In the slide being showed, we have overlaid the key departure safety surface (our main runway). The buildings are kept under that redline. One concern is the heights of the cranes during construction. As pilots and airlines look at this slide there is concerns with that. Any project with this magnitude and intensity, during construction, and our warm operating conditions, it is going to effect long haul flight operations.

IN addition to operational impacts, noise sensitivity and land use sensitive. Noise contours from part 150 study from 20 years ago. We know efficiency of aircraft has improved and our noise abatement procedures are effective, the 65 DNL has gotten smaller. The proposed site, still today is squarely in that 65DNL area. In the 1994 Tempe-Phx IGA talks about working with the FAA to ensure the 50-50 east/west flow and that the noise abatement procedures to the east are followed, including using the riverbed and 4DME gate, maintaining the expensive noise monitoring equipment, and the million dollar sound installation program that Phx and Tempe received. The IGA specifically states that for exchange of these things that Tempe will ensure that new noise sensitive land uses are not introduced to the thigh noise area. The Land use Noise Sensitively Matrix from FAA is the basic compatibility chart. The FAA has not officially updated those threshold since the 70s but they have done survey since then and anything in the residential would be in the red. They have found that residents at the 55 DNL get annoyed.

More recently, the FAA submitted a letter to the City of Tempe about operational issues. The letter points out that there isn't that big of a population left within the 65 DNL contour. The letter points out that if the Tempe Entertainment District (TED) was approved, it would actually increase that population by a full 1 percent. The Development team responded to the FAA letter that they included a map that shows the different residential projects that were approved in the general vicinity of the airport. What to be careful of is that the location of these projects, in their map, used the old 70 DNL contours, none of those are within the 65 DNL. It is really an apples and oranges comparison. The fact that there has been more residential projects closer to the 101, Tempe Marketplace or ASU, is a credit to Tempe and PHX working together, understanding that the 65 DNL has receded and that it can be appropriate, with conditions such as noise disclosures, navigation easements, things like that – it could be appropriate to develop inside the current 65 DNL.

More on the operational issues, pilots considered by TED. Given the choice to fly over the potential TED or not, they will choose not to. In the summer time, some of the long-haul flights won't have a choice because of heat conditions, OEI, cranes on what not. They will want to use the north runway. This would be changing the noise contour, it would change the downwind of the operations of the airport. Forecasted at our 2030 demand levels, the TED project was there, we would experience a per operational delay factor of half a minute. That would mean 6,000 operations would be taken out of the system and direct cost to airline and region. This delay could result in \$21 million annual airline cost and \$26 million regional economic cost. The livability of the 1700 units would be impacted, not just during construction.

Currently working with Ohio University on safety/risk analysis.

The project when under construction and operational could also lead to Phoenix deviating from the noise mitigation measures laid out in the IGA. A burden for the FAA to manage and the airlines to be compliant. Airspace management going forward will be more difficult, with an increase in noise complaints.

[Skyhabor.com/tempeentertainmentdistrict](https://skyhabor.com/tempeentertainmentdistrict).

TAVCO Member Kucharski asked that the information in the presentation had input from American Airlines referencing the safety factor, but my understanding is that American Airlines uses runway 8 for departures, do you have any representation from Southwest who uses runway 7 for departures.

Mr. Feld says for long haul trips in the summer time, American asks to use the north runway for some percentage, mostly due to FAA rules that force them, once the temperature reaches a certain point, they must request the longest runway for departures. It's not a true statement that American only departs using runway 8.

Chair Doiron asks, what strength does the word "incompatible" have in your discussion?

Mr. Feld responds, that it's a relatively black and white item for the FAA. We are required by grant insurance, with or without the IGA, to prevent incompatible land uses (referencing that chart). In this particular case, the proposed 1700 units in the center of the 65 DNL is clearly incompatible for our grant insurance. And more importantly, it is clearly defined in the IGA for Tempe to prevent incompatible uses. From our perspective, FAA, and Airlines, it's a pretty hard and fast word being used.

Chair Doiron responds by saying the next line in the letter says "Phoenix is obligated to challenging any incompatible land use" – Chair asks – does that mean a lawsuit?

Mr. Feld responds: The FAA requires us to make a reasonable effort. If a lawsuit is practical, then I suppose that is the expectation. However, it is case by case. Generally, they want to see that we are communicating as much information about the terrible effects. They want to see we are presenting the proposers with the information that would get them to alter their plans to make it more compatible. In some cases they want to see the airport acquire the land. In other cases, they want to see a purchase of air-rights. There are a range of things, depending on the case, of what the FAA expects our of the airport. We are not at that point with the FAA. All the information we have with them is that we know, from their letter, they believe the residential portion of TED is an incompatible use.

Chair Doiron asks: To take it to the next steps, the potential for a lawsuit, then that means TED would have a hard time getting financing under a cloud of a lawsuit. And if they did get financing, it might be less favorable, so the whole thing smells like limburger cheese.

Mr. Makovlsky adds: I had the chance to discuss this with the City of Phoenix City Council earlier today, they do not want to see a lawsuit happen. We are all hopeful that Mayor Woods and Council will seriously consider the importance of the IGA to the community and adhere to those terms. There are other remedies aside from a lawsuit that we could try to get to. I said at the beginning, if Tempe chooses to move forward with this project, mostly all the concerns we laid out can be mitigated, aside from the residential. It is what the FAA expects from us.

Chair Doiron says: There is a note on the 3rd paragraph of the letter, that talks about the average of departure altitudes. One thing not mentioned, sometimes arrivals can be lower than departures. The clearance of those buildings is a calculated minimum. There is a little bit of time for recognition and then decision making. IF you calculate 50 feet of clearance, you might not have it. I spent 40 years in the industry, Captain of Delta Airlines. I don't like this project at all. It is unnecessary risk. I have friends at the Fire Department within the Airport. They say if an airplane was to go into an arena, there is no way they could respond to an incident like that and would result in a large number of fatalities with people covered in fuel.

Mr. Makovlsky: we heard from the Airline Pilots Association and the Air Traffic Controllers Association, they have a host of their own concerns. I'm not here to convey those, they will

likely come and convey those on their own. We just want to make sure this is safe and in compliance with the IGA.

Member Kucharski says he feels the letter is totally one sided. Nothing in the document about modifying flights, buyout of land, etc., it is strictly “no” we don’t want you to do it. Back in 1988, we did a CFR drill in the riverbed, and it was a fiasco. The party that wrote the letter was told by the higher ups to give everything a thumbs down and there are in fact mitigating procedures that could be put in place. I agree with Chair Doiron that I’m not sure I’m in favor of TED. But from what Tempe can do and what Sky Harbor can do, what the FAA can do, we can work this out.

Member Schelstraete asks, is there any portion of TED that Sky Harbor finds acceptable now?

Mr. Feld responds, compatibility in respect to the IGA is exclusively about the residential. Proposed office, with hotel, and retail and dining amenities, would be encouraged by the Part 150. Now, let’s put noise capability and residential aside, the intensity of TED this close to the runway, outside of the IGA, is what causes these other problems and discussions we are having, and we all agree, those types of issues can be mitigated. We can work with the Developer on a construction plan that is less impactful in the summertime. We can ensure there is an operational plan in place for zones, fireworks, up lighting. Those are all things that don’t present this permanent problem that can be worked through.

Staff member Fisher asks: There is developments to the east of the property, TCA and IDEA Campus, was there concern voiced during the construction during that time.

Mr. Feld responds: IDEA Campus did receive an FAA no hazard determination for their construction and building height. IDEA Campus has no residential so we can rule out the one permanent problem we discussed. We are going back to see if the Airlines modified operations during the IDEA Campus construction phase. They certainly did not talk to the airport about any rezoning operation, but it’s a fair question if these non-residential projects create operational issues for the airport. And we are researching that.

Mr. Makovlsky mentioned that was a learning point for me as well. I believe there is an opportunity to work with the City of Tempe Planning Department to make sure we are all talking to each other to make sure as this development come up, there is mutual understanding.

Staff member Fisher mentioned that TAVCO’s last meeting had staff from the Planning Department come and provide an overview of upcoming projects along the riverbed, given some of the members expressed concern about residential projects being proposed along the river.

Fisher asks: Tempe City Council understands the land being discussed is high value property, and it being developed at some point is likely, regardless of if it is this project or not. On top of

that, the current Council is extraordinarily interested in increasing the amount of housing available in the city. Is there any residential, even if a more horizontal design, would that still be as large of a concern?

Mr. Makovlsky responds that it is residential period. The good news is that the contour lines have shrunk overtime and there have been several instances in that application for residential have been made that would have been in the old contour and is no longer. We have been very liberal in not opposing those developments. New opportunities have been granted given the shrinking of the contours.

Mr. Feld says that the noise contour is not likely to shrink anymore in our lifetimes. I think its fair to say that the TED site will be squarely within the high noise area for some time.

Mrs. Rodriguez says she shares her concern that we have a longstanding IGA and we know our expectations of using the specific gate and following down the riverbed, and its worked out very well.

Fisher reads a comment from the chat from Member Walker: I'm in planning, not in Tempe, how did the project get this far in planning without more discussion with Sky Harbor?

Chair Doiron responds by saying the main reason is because they kept it a secret.

Fisher responds to Member Walkers questions by saying conversations with the Planning Department have NOT yet taken place yet. This proposed development is still in the Request for Proposals (RFP) process. All the discussions have taken place at the Executive level in Executive Session, meaning it is confidently. My understanding is that a majority of TED's plans are conceptual at this time and that the Planning Department has not been introduce to the conversation yet. Only when or if Council approves moving forward to start the negotiation of a development agreement, will additional staff be brought in for their expertise.

Chair Doiron reminds TAVCO that the land that TED is being proposed to build on was an old landfill, so there is garbage down to the 65 feet level. That is a big factor that will have to be taken into account.

Chair Doiron asks if there are any other questions. There are none.

Agenda Item 5 – Rio Salado Upcoming Development presentation

Chair Doiron states that this item is repeatedly on the agenda to allow members to discuss and ask questions. We basically just did that with that last presentation so I'm going to move on, unless anyone objects.

No members object.

Agenda Item 6 – Commissioners Business

Chair Doiron brings up that next meeting there will be a presentation on "Aircraft Enforcement." That will be a handout and presentation by myself.

Member Mitnik, also has the Tempe Bulletin, we need to finish that up. Contact information, Member Lynch was going to write that up.

Last thing, I would like to see us plan for a public meeting like they had 4 years ago. We had one at City Hall but only three people came because we had no advanced advertisement about the opportunity. I think we have more advanced notice; residents would attend. The meeting would be about TAVCO business and things we can be and are engaged with. Gives them an outlet. Right now we are working in isolation.

Member Kucharski asks if we could have a regular meetings over at the Pyle Center. Fisher says she can look into if the room and technology is available for us. Fisher mentions that there would have to be a vote by the body to move the meeting location.

Agenda Item 7 – Schedule Next TAVCO Meeting

The next meeting is proposed for Tuesday June 14.

Agenda Item 8 – Adjournment

Member Mitnik moves to adjourn the meeting. Kucharski seconds. Ayes: Doiron, Mitnik, Poole, Walker, Apple and Schelstraete.

The meeting adjourned at 7:26 p.m.

Prepared by: Brianne Fisher