

**PAGE CITY COUNCIL
SPECIAL MEETING MINUTES
MARCH 13, 2015**

A Special Meeting of the Page City Council was held at 6:00 p.m. on March 13, 2015, in the Council Chambers at City Hall in Page, Arizona. Mayor Bill Diak presided. Vice Mayor John Kocjan, Councilors Mike Bryan, Scott Sadler, Levi Tappan, David Tennis (telephonic) and Dennis Warner were present. There was a moment of meditation. Mayor Diak led the Pledge of Allegiance.

Mayor Diak called the meeting to order.

Staff members present: City Magistrate, Rick Olson; City Manager, Crystal Prentice; and City Clerk, Kim Larson.

Discussion and possible action by the City Council pertaining to a reconsideration of the recommendation of Boutique Air for the Essential Air Service for Page

Members of the City Council had concerns regarding the ability to return to a twin engine turbine service after having a single engine for the Essential Air Service (EAS). After checking with the Department of Transportation, it was determined that "there is no guarantee of twin-engine, two-pilot aircraft after a community has been served for 60 consecutive days with an aircraft other than that."

At the March 11, 2015 City Council Meeting, the City Council voted 4 to 3 in favor of recommending Boutique Air for the Essential Air Service for Page. Councilors Tappan, Sadler, Bryan and Tennis voting in favor of Boutique Air and Mayor Diak, Vice Mayor Kocjan, and Councilor Warner voting against.

Mayor Diak stated that there are two items on the agenda, and that the first item would have to pass in order to move to the second item. The Special Meeting was called due to vetting and communications with the Department of Transportation (DOT), pertaining to twin turbine engines verses single engine aircrafts. Rick Olson, City Magistrate and previous Airport Director, had correspondence with Michael Gormas of the Department of Transportation.

E-mail sent by Mr. Olson as follows:

"Last evening, the Page City Council (by a vote of 4 to 3), elected to recommend Boutique Air as the EAS provider with direct service to Phoenix, Arizona. During the discussion, Boutique advised the City Council that Page could again return to twin engine turbine service if the City was dissatisfied with Boutique Air at the conclusion of its EAS contract term. Boutique further represented that TSA screening services would remain in Page and that passengers would be deplaned in a secure area at Sky Harbor Airport (terminal 2, 3, or 4). If any of the referenced representations cannot be accommodated, the Council may desire to review its recommendation. Thank you for extending the City an extension in which to make its recommendation."

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Reply e-mail from Keven Schlemmer, DOT, copied to Crystal Prentice, City Manager; Lona Shugart, Administrative Assistant; and Mayor Diak. The response read as follows:

"Boutique is incorrect about the twin-engine issue. They should not have told you that."

E-mail from Kevin Schlemmer read as follows:

"There is no 'guarantee' of twin-engine, two-pilot aircraft after a community has been served for 60 consecutive days with an aircraft other than that."

Mayor Diak stated that this raised concern that the City would never be able to go back to more than a nine-seat aircraft. He stated that a 19-seat airplane can be filled on most flights during the summer months.

Mayor Diak stated that he chose to follow the Open Meeting Law and talk to two Council Members. He reached out to Councilor Tappan, because he made the motion to recommend Boutique Air and Councilor Bryan, because he made the motion to second. Mayor Diak did not hear back from Councilor Tappan. He talked with Councilor Bryan regarding the e-mail correspondence between Rick Olson and the DOT. Mayor Diak asked Councilor Bryan if he shared some of the same concerns regarding the airlines, and would he be willing to make a motion to reconsider.

Councilor Bryan stated that his concern was whether or not the City would only be allowed to have a nine-seat plane versus a 19-seat plane and this warranted additional conversation. He stated that the seating was of primary concern.

Councilor Tennis requested a point of order. He stated that the Mayor used the term motion to reconsider and questioned if it should be a motion to rescind opposed to a motion to reconsider. His understanding is that a motion to reconsider has to be done at the same meeting.

Mayor Diak stated that the City Clerk received legal advice regarding that, and the next succeeding day meant the subsequent meeting, therefore a Special Meeting was called.

Councilor Tennis referenced Robert's Rules of Order and stated that if it is a convention or a multiday meeting then you can reconsider, but if it is at the next meeting you have to rescind.

There was discussion.

Mayor Diak stated that he had to read a script for a motion to reconsider. "The motion to reconsider can be made only by a member who voted on the prevailing side. That motion passed. Therefore, you needed to have voted in favor of the motion. Is that

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how you voted?”

Councilor Bryan stated to accept Boutique Air, yes he did.

Motion made by Councilor Bryan to reconsider the vote to recommend Boutique Air as the provider of Essential Air Service for the Page Municipal Airport. The motion was duly seconded. The motion passed 4 to 3 with Mayor Diak, Vice Mayor Kocjan, Councilors Warner and Bryan voting in favor, and Councilors Tappan, Sadler and Tennis voting against.

Councilor Bryan made the following statement:

He stated that since he is the one who made this motion, and since he is the one who voted to bring this up for reconsideration, he wanted to make it very clear what his purpose for this was. His duty as a Council Member is to make the best decision that he believes for the community, and he has to base that decision on information. If he gets bad information, then he is going to make bad decisions. The reason he agreed to bring this back up for discussion is not because he likes to have meetings, but because he thought there was a good chance that they had been, not lied to, but misrepresented on what was told to them. He said if they get bad information and make decisions on that, then that is not right, so he felt it warranted further discussion. He did not like the idea of having a Special Meeting as a mode; for those who did not vote for it, to put pressure on those who did. That is not the purpose of the meeting. In purview of this meeting, he wanted to address the information regarding the e-mails. He felt it was a bad precedent to have a special meeting just because maybe somebody did not get what they want, that was not the point of the meeting. It was simply to get as much correct information to make a proper decision, or at least an informed decision.

Mayor Diak stated that this is why he asked for a motion to reconsider.

Councilor Sadler asked the Mayor to read the e-mails prior to Councilor Bryan making his statement, starting with the e-mail from Kevin Schlemmer.

Mayor Diak read the e-mails as follows: e-mail continued

“There is no guarantee.”

Mayor read Rick Olson’s response:

“Thank you for your very prompt response!! I do not believe the City desires to preclude twin turbine pressurized service in the future if the current selection of a single engine pressurized turbine would have that effect. My City Council could hold a special session next week to review the implications, if necessary. Please advise if the City would permanently alter the type of equipment eligible to bid on future EAS proposals.”

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Response back from Mr. Schlemmer:

“There is no ‘guarantee’ of a twin-engine, two-pilot aircraft after a community has been served for 60 consecutive days with aircraft other than that. Of course, as we always do, we will work with the community in future years.”

Councilor Sadler requested the Mayor to read the remainder of the e-mails.

Mayor Diak continued. The next e-mail was from Rick Olson to Kevin Schlemmer and Michael Gormas, DOT, as follows:

“Thank you! Our City Council is having a Special Meeting tonight to reconsider the issues. I will e-mail this evening any change of preference.”

Response back from Mr. Schlemmer:

“Just to clarify. While there would be no guarantee of 2-engine aircraft after receiving service with a single-engine aircraft after 60 consecutive days, that does not preclude the community from having service again. We would examine all future proposals and work with the community to achieve the service that fits the needs of the community. The only change would be that the community couldn’t automatically veto a carrier’s proposal based on the fact that it contemplated service with single-engine aircraft.”

E-mail from Kevin Schlemmer, DOT, to Rick Olson:

“I wanted you to be aware of the legal issues about the twin-engine provisions, but we remain committed to being as flexible as we can be on our application of all of the EAS statutes that govern the program. I can’t think of an example where a community that went to single-engine aircraft has wanted to go back to twin-engine. Most like the service they’ve received from the carriers (SeaPort, Boutique, AirChoice One). Other than the Beech 1900s and Brasilias that Great Lakes has, there are basically no twin – engine aircraft left in the lower 48 (save for a very few Saab 340s at PenAir except CRJ200s which I understand can’t operate at PGA (currently, at least).”

Mayor Diak stated the City of Page is different than most EAS served airports, due to the high level and density of tourist traffic. The EAS service is designed primarily for getting citizens of the community from a remote location to its capital.

Councilor Bryan stated that the representatives of Boutique Air had told City Council that, after two-years, if we wanted to go to a 19-seater operation there would be no problem. The information received states that there is no guarantee that the City’s EAS will be able to go back to a 19-seater. He then stated that if we only had a nine-seater it would affect the City’s future growth and tourism.

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Councilor Bryan wanted to know, if the City chose the nine-seater, can they go back to a 19-seater, or is the City stuck indefinitely? He did not feel he was getting a clear answer with the e-mails.

Rick Olson, City Magistrate, previous Airport Director, stated that after he reviewed the statute that applies, and conferred with the City's legal counsel. Both, he and Joe Estes, City Attorney, concluded that the statute, on its face, states that once you go the 60 days without the twin engine service that that's a bar; but then, for every statute there are exceptions. Mr. Olson stated he wrote Mr. Schlemmer, and specifically asked him to advise the City if they would personally alter the type of equipment eligible here in Page. Mr. Schlemmer wrote back with softer language. Mr. Schlemmer was essentially saying that this is what it says. Mr. Olson and Mr. Estes conferred on what advice they should give the City Council, and decided to share the information just how they received it from the DOT.

Councilor Bryan stated that he was still cloudy on the answer.

Mayor Diak stated that there is no guarantee, they were open for negotiations.

Councilor Warner stated that regardless of twin engine, EAS, DOT coming back, unless some of the promises that Boutique Air gave the City of Page are imbedded in the contractual agreement, between them and the DOT, the City has no regulatory protection that any of the promises can be fulfilled. Under law, under Part 135 flight operations, they are not required to perform any of the things they said they were going to do.

Councilor Tennis stated that he did not see a safety issue between twin engines versus single engine. He then stated that the passenger load is probably the largest concern, nine verses 19 passengers. Then he stated that he talked with the City Manager in Clovis, New Mexico, looked at the statistics related to the passengers that are flying, that used to fly Great Lakes Aviation, Ltd., and the number of passengers that are currently being moved by Boutique Air. He stated that they are moving more people with Boutique Air in a 3-month period, than were transported by Great Lakes Aviation, Ltd. over an entire year.

Councilor Tennis stated, the question is the DOT said that they are working with communities to meet the community's needs. If the nine-passenger plane needs to be bumped up to more flights or the City needs to have a different airline, would they allow larger planes because of the volume? He said he would expect that the DOT would consider that when making decisions in the future. He referenced the e-mail that read there is no guarantee that we would be able to go back to a 19-passenger plane, but that they would not preclude the City from going back, if that was the need of the community.

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Councilor Tappan stated that there is no way to know the answer to that argument until two years from now.

There was discussion.

Councilor Warner stated that Great Lakes Aviation, Ltd. has put together a formula to bring new pilots into the system. Great Lakes Aviation, Ltd. trains their pilots in the real Part 121 environment with the same 19-seat aircraft. They have the only surviving opportunity to bring new pilots into the stream to become trained and qualified, so that those 10-seats can be put back into the airplanes. That procedure is in effect now, and it is not a quick fix. This is the only way we are going to get back to a 19-seat configuration in and out of Page. He stated that if it doesn't work we can always go back, and what he is hearing, if you go back you cannot go forward.

Councilor Tennis stated that the biggest consideration is how many people we can get to and from our community. In Clovis, New Mexico, with a population of about 35,000, Boutique Air has quadrupled the movement of people the first 3 months. It is not the size of the plane, but it is how many people we are going to move.

Mayor Diak stated that it is not only the size of the plane, nine-seats verses 19-seats, but that there are many other things involved, such as interlink to other airlines. The people that we fly, the majority of the seats are not going to Phoenix, they are going on to other areas of the country and world. This is something we cannot have with a Part 135 nine-seat carrier. It does not fit the modality in the City of Page. Great Lakes Aviation, Ltd. is still at nine-seats, but with Boutique Air they do not have the ability to move forward with anything greater than nine-seats.

Councilor Sadler stated that Boutique Air has the ability to do more flights.

There was discussion.

Mayor Diak had two questions to ask Rick Olson regarding what was said to the City Council at the March 11, 2015 Regular City Council Meeting. He asked if Boutique Air had a contract with Sky Harbor Airport to be at Terminal 2.

Rick Olson answered, not yet.

Mayor Diak asked if Boutique Air had a contract with Transportation Security Administration (TSA) to do business.

Rick Olson answered no, that he thought they said they were working with TSA. Mayor Diak asked if TSA did business with Part 135.

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Rick Olson stated that as a matter of law, he did not know if a Part 135 operator was precluded from utilizing TSA services. He did know that operators desiring to use TSA have to go through a certification process to be authorized to set up.

Councilor Warner stated that Boutique Air's scheduled routes from Clovis, New Mexico to Dallas/Fort Worth, Texas are deplaning in a private fixed based operation (FBO) with non-TSA screening; in Dallas/Fort Worth they are not going into the airport proper.

There was discussion.

Councilor Warner asked Rick Olson if it was feasible for the DOT to grant the City of Page a contractual requirement of Boutique Air to perform the things they promised they would perform.

Rick Olson stated that is why he put the information in his initial correspondence, to the extent that if these three things are a go to let us know. The DOT does not know about the terminal allocation and TSA authorization.

Councilor Sadler stated, remember we are only making a recommendation, that the FAA has the final say. If Boutique Air cannot meet the requirements, the FAA is the one who makes the final determination.

There was discussion regarding whether or not the City can have the DOT put conditions in the EAS contract. If conditions are allowed, then either airline would need to have conditions pertaining to what they said they would provide the City.

James Hunt, Page, stated concerns regarding what would happen if the EAS went without a code-share. His concerns were that everyone with a trip booked to Page on Great Lakes Aviation, Ltd., within the next 12 months, would receive a cancellation notice and lose everything, unless they had purchased travel insurance. He also stated concerns regarding if Boutique Air was not TSA ready, and the short length of time that Boutique Air has been operating under the EAS operation.

There was discussion.

Councilor Sadler addressed some of the concerns James Hunt had by reading an e-mail received from Shawn Simpson, Boutique Air. He stated that Sky Harbor had confirmed that their terminal would be Terminal #2, operating with TSA in a sterile environment.

Discussion continued.

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Discussion and possible action by the City Council pertaining to a recommendation to the Federal Aviation Administration (FAA) regarding Essential Air Service for Page

At the March 11, 2015 Regular City Council Meeting, the City Council voted 4 to 3, with Councilors Tappan, Sadler, Bryan and Tennis in favor, and Mayor Diak, Vice Mayor Kocjan, and Councilor Warner against, to recommend Boutique Air as the provider of Essential Air Service (EAS) for the Page Municipal Airport. The day after the meeting there was concern, and clarification was sought, regarding the City's ability to return to a two engine turbine after having a one engine turbine for the EAS. The response received from the Department of Transportation was "there is no guarantee of twin-engine, two-pilot aircraft after a community has been served for 60 consecutive days with an aircraft other than that".

Councilor Tennis stated concerns pertaining to rescinding the motion verses motion to reconsider and requested to speak to the City Attorney.

Rick Olson, City Magistrate, previous Airport Director and City Attorney, stated that Councilor Bryan could make the same motion, to make the recommendation for EAS that brought the 4-3 vote. With regard to the number of votes it would take, he did not know, but stated, to get yourself out of the fix you are in right now, Councilor Bryan could make the appropriate motion.

Councilor Tappan asked if they could make a motion with caveats to their contract.

Rick Olson stated that he preserved that right with the e-mail he sent to the DOT with Councils recommendation, and if Council voted to reaffirm with Boutique Air, he would reaffirm the criteria.

There was discussion.

Councilor Sadler stated that whoever made the motion, they would want to include TSA screening, and sterile environment in Phoenix Sky Harbor.

Councilor Warner stated that Boutique Air promised to have the following: added dual pilot configuration; fly into Sky Harbor in one of the secure terminals; maintain TSA Security in the Page terminal; and require their crew to have a Transport Pilot Certification (TPC).

Discussion continued.

Councilor Sadler reiterated the items to be included in the contract for the motion: dual pilot Airline Transport Pilot (ATP) Certified, secured terminal in Phoenix, TSA maintained in Page, and counter space in the Page Airport.

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Councilor Warner stated, for the record, that it is the DOT that we are dealing with and not the FAA.

Motion made by Councilor Bryan to recommend Great Lakes Aviation, Ltd. as the provider for Essential Air Service for the Page Municipal Airport. The motion was duly seconded. The motion passed 4-3 with Mayor Diak, Vice Mayor Kocjan, Councilors Warner and Bryan voting in favor, and Councilors Tappan, Sadler and Tennis voting against.

Councilor Tennis asked for a point of order. He stated that at this point the City Council had not rescinded the original action to recommend Boutique Air. Now we have an action to recommend both of them.

There was discussion.

City Attorney Joseph Estes entered the meeting via telephone at 7:05 p.m.

Councilor Tennis asked Mr. Estes if you are able to reconsider an item that was passed within the meeting or the session and not at the following meeting, that if you went to the next meeting you would have to do a motion to rescind, and a motion to rescind would take a 2/3 majority vote.

Joe Estes, City Attorney, stated that it has to be within that meeting or the very next meeting for a motion to reconsider. After that point, you are correct, it would have to be a motion to rescind, which would require the 2/3 majority.

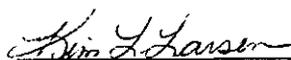
Mr. Estes further stated that the motion for reconsideration only requires the majority vote and must be made by one of the members who voted affirmative for the prevailing motion, and it can be seconded by anybody. He stated that once the motion to reconsider has passed, you are back to square one, as if the original motion had not been made, and now you need to make a motion with regards to the EAS.

Mayor Diak stated that the motion had already been made.

There was further discussion.

ADJOURN

The meeting was adjourned at 7:15 p.m.



Kim L. Larson
City Clerk

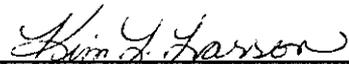


William R. Diak
Mayor

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the City Council Special Meeting, held on the 13th day of March, 2015. I further certify that the meeting was duly called and that a quorum was present.

Dated this 25th day of March, 2015



Kim L. Larson, City Clerk