

MINUTES OF CITY COMMISSION DISCUSSION  
REGARDING THE EXPANSION OF THE FORT LAUDERDALE-  
HOLLYWOOD INTERNATIONAL AIRPORT  
TUESDAY, AUGUST 4, 2009 – 7:00 P.M.

Mayor Castro called the meeting to order at 7:04 p.m.

Roll Call:

Present:	
Mayor:	Anne Castro
Commissioners:	Bob Anton Walter Duke Albert Jones
City Manager:	Robert Baldwin
City Clerk:	Louise Stilson
Absent:	
Vice-Mayor:	C.K. "Mac" McElyea

Mayor Castro excused the absence of Vice-Mayor McElyea.

Mayor Castro noted we are here tonight to hear our residents' comments on how we should approach the situation.

Commissioner Anton introduced Neal McAliley, White and Case, Special Counsel for Airport Matters; Angela Benjamin, White and Case; Bill Albee, Noise Mitigation Consultant; John Lukacs, Inverse Condemnation Attorney; and Brenda Chalifour, Special Counsel on Environmental issues. He recognized the Airport Advisory Board for their many contributions to the City and its residents.

Commissioner Anton presented the PowerPoint presentation that had been presented by the Broward County Aviation Department to the Broward County Commission in March, 2009, regarding the Early Voluntary Residential Sound Insulation Pilot Program. The presentation is available on the City Website. He noted that in addition to the opportunity to speak tonight, there were other options available to our residents to address their questions and concerns. Commissioner Anton clarified that the Purchase Assurance/Sales Guarantee listed under the FAA Approved Principles would not become effective until one year after the South Runway is opened, in approximately 2014.

Neal McAliley, White and Case, LLC, explained there are two tracks with regards to the Airport expansion: 1) our legal challenge to the decision to expand the Airport, which is moving slowly, but we keep pursuing it; and 2) what they are going to do to mitigate the effects of the expansion on the residents. He said Broward County should be talking to Dania Beach, according to the 1995 Interlocal Agreement. They have the first phase of the Pilot Program for 50 homes,

consisting of doing work in the house to reduce the amount of noise you hear inside the house. In exchange, residents will have to sign an Avigation Easement that gives up their rights to the airspace over their house as well as giving up the ability to complain about the noise. The County would pay up to \$60,000 per house. Attorney McAliley noted there is a broader issue once the first 50 homes are completed: what are they going to do with the other houses?

Bill Albee, Noise Mitigation Consultant, noted he worked for the Federal Aviation Administration (FAA) during the 90's. He further advised that his company wrote the book on home sound insulation. Mr. Albee described the meaning of DNL contours. He advised that easements will be a concern and that the purpose is to get a minimum of five decibel noise reduction inside the structure. Mr. Albee indicated there were some programs that offer cash, as opposed to sound insulation, but he does not know if that would be offered here. He noted that the benefit the Airport would get from those who sign the Avigation Easement is that when the house is sold, the new owner would receive a notification advising them that the house is located in a noise impact area. Mr. Albee said that in some communities, only 15% of the population is affected by high levels of noise. He provided an overview of some of the options that may be available in the City's counterproposal.

John Lukacs, Inverse Condemnation Attorney, explained inverse condemnation is when property owners sue the government for interfering with their property rights. He encouraged everyone to come forward and give the Commission their comments to negotiate the best possible alternatives.

Brenda Chalifour, Environmental and Land Use Attorney, noted she is speaking for herself, and not on behalf of the City. She noted she is upset that Broward County did not have the decency to walk in and tell us what they are going to do to us. This is our opportunity to tell the County, through our local elected officials, what we think of their proposal. She indicated her environment is her most valued asset.

Ted Testerman, 3371 SW 44<sup>th</sup> Street, indicated the contours do not match. He indicated there would also be pollution associated with it. Mr. Testerman asked the Commission to fight for our residents.

Mark LaRocca, 4511 SW 34<sup>th</sup> Avenue, questioned who would oversee the results of the mitigation program.

Mayor Castro responded that Broward County Aviation Department would oversee the agreement; however, Broward County would not be responsible for the work done by the vendor they hire to do the noise mitigation.

Attorney McAliley explained that if the property owner feels that the work done by the contractor is not up to standards, he would need to present a claim to the contractor, not to the County.

Mr. Albee noted his company has a quality assurance program, and the County should have one also.

Mr. LaRocca noted he just expanded his home and questioned if he would be reimbursed for some of the soundproofing he installed. He stated he would not give up his Avigation rights. Mr. LaRocca asked if the citizens need to be concerned with eminent domain or condemnation.

Attorney Lukacs responded in the affirmative and remarked that the air rights are your property rights. He indicated there appear to be significant impacts to the airways. Attorney Lukacs noted the County has the right to take the Avigation Easement.

Linda Sacco, 4481 SW 38<sup>th</sup> Terrace, is bothered by the noise parameters, and said the Pilot Noise Mitigation Program is bogus. She questioned where the mitigation money would go. Ms. Sacco indicated they are impacted 20% of the year. She noted there are a lot of environmental issues which have not been addressed. Ms. Sacco stated she does not want to be part of the Airport Runway expansion, or a victim of a poorly planned boondoggle. She remarked she wants the money to buy comparable property, or double the money so that she can move out of here.

Mayor Castro referred to the purchase assurance program which calls for a fair market value of a similar property outside the affected area.

Attorney McAliley advised that this is included in the Interlocal Agreement and the City should ask the County to abide by this clause.

Jared Schultz, 4417 SW 38<sup>th</sup> Terrace, indicated that he planted a garden that is considered a “preserve” and now the County is going to destroy it. He said that from the onset, it was the intent to remove residential residences from Dania Beach. He is tired of being defensive and questioned when we would be on the aggressive and take some action. Mr. Schultz questioned why the neighborhoods do not hire Brenda Chalifour to represent them in this fight. He remarked that our County has turned against us and we cannot let it happen. We are not receiving any money, only more traffic, pollution and crazed people. Furthermore, we are being robbed of our right to quiet enjoyment. Mr. Schultz asked what steps we are taking to get this matter resolved.

Mayor Castro noted a lot of people have been working on this issue for many years. She reassured Mr. Schultz that we are trying to find a solution to the problem, however, it is a long term process.

Gary Luedtke, 4461 SW 34<sup>th</sup> Drive, reminded everyone that the runway will be 25% shorter than the current runway and will be sloped. He said pilots are not experienced on taking off or landing on a sloped runway, and if they use it, they could be sued for jostling passengers. Mr. Luedtke noted he moved to Florida to enjoy the outdoors. He noted that the 1995 Interlocal Agreement states that the County will relocate homesteads to a like property elsewhere, at their cost. Mr. Luedtke thought that we should make it expensive for the County to relocate everyone. He further said that the City should try to maintain the property taken from the property owners. Lastly, Mr. Luedtke noted that the Interlocal Agreement does not provide for the property in exchange to have the same taxable value as the current property, therefore this should be one of our requirements.

Billy Collins, 2756 SW 46<sup>th</sup> Place, noted he has enjoyed living in the City of Dania Beach for the last 20 years, however, sooner or later the Airport Expansion will happen, and we need to hit the County in the pocket. We need to respond that the residents are willing to give up for a price, as opposed to some noise mitigation program.

Bob Mikes, 601 NW 7<sup>th</sup> Street, noted he has fought this issue for a long time. He said we have hired some of the best representatives to help us with this battle. Mr. Mikes stated that the FAA has approved the worst option for the residents of Dania Beach. He indicated that waterfront property owners will lose a couple of hundred thousand dollars if they sign the Avigation Easement. The County has selected the worst runway configuration for us, but the best one for themselves to select property. Mr. Mikes remarked we should not underestimate the County because eventually they want the land that is extremely valuable for the Airport. He thought the Interlocal Agreement still gives us some options and we need to plan for both eventualities.

Commissioner Anton noted the Interlocal Agreement and the Avigation Easement are “one sided documents”. He asked those in the audience how many were thinking to relocate or get a fair market value for their homes. It was a vast majority. Commissioner Anton said that Mr. Lukacs is here to help our residents sue Broward County. He clarified that the Interlocal Agreement precludes the City from suing the County. Commissioner Anton stressed the importance of the Purchase Assurance/Sales Guarantee and suggested our residents get the advice of an attorney before signing any type of noise mitigation document.

Mayor Castro noted that some important points to be included in our response to the County are: we want to ask for a like property fair market value; or a replacement home value outside the affected area; as well as a similar tax value for our properties.

Larry Sloan, 945 South Federal Highway, clarified that people do not own the airspace above their homes. He advised he has been a flight instructor for many years and confirmed that pilots are taught to land on sloped runways. Mr. Sloan added that the County may not even build the South Runway anyway.

Discussion followed among Mayor Castro, Commissioner Anton and Mr. Sloan regarding the risk of signing a document that would take away any future mitigation the property owner would like to pursue.

Jay Field, 4501 SW 30<sup>th</sup> Way, noted he was here to express his personal opinion, not as the Chairperson to the Airport Advisory Board. He stated that the Airport Board tried to warn people years ago not to sign the Easements. Mr. Field said the Board will be meeting with Kent George on Thursday night. He clarified the Avigation Easement is a Broward County requirement, not the FAA. Mr. Field questioned the DNL reduction and added that the Commission should insist that the contours go out to the 60 DNL. He noted that in Pittsburg people sued and demanded a cash payment and the FAA agreed to that; this is something the City should consider.

Michael Nelson, 106 S. Federal Highway, noted the houses are termite infested therefore they cannot match the 70 DNL vibration. He thought this item should be integrated into the document being submitted to the County.

Ian Richter, 906 Nautilus Isles, noted Section 11.13 of the Avigation Easement states that you give up the right to a trial by your peers if you sign the Agreement. He remarked that the Agreement is a deed restriction and cautioned everyone not to give up their rights to reverse condemnation. Mr. Richter stated that he has been fighting this issue for over 20 years.

George Jason, 4549 SW 37<sup>th</sup> Avenue, Davis Isles, noted the studies have been faulted and nobody knows what kind of echoes they will get from the sound of the planes. He remarked that the Interlocal Agreement is our strongest weapon.

Margaret Grate-Becker, 4721 SW 25<sup>th</sup> Terrace, flight attendant, indicated she purchased her house in 2007; she questioned if the appraised value would be what she paid or something else. She also questioned if the residents could sue for pain and suffering. Ms. Grate-Becker asked why there is no time restriction on the proposed South Runway.

Mayor Castro responded there are several options and the attorneys are taking notes to be included in the document to be sent to the County.

Mike McKeever, 705 NW 7<sup>th</sup> Street, pilot, noted we have been damaged therefore we should demand the absolute maximum. He noted the Airport is extending its boundaries hence affecting our parks and our quality of life. Mr. McKeever would like the Commission to recommend that nobody volunteer for the Pilot Program. He suggested we fight for the maximum benefit of this imposition. Lastly, Mr. McKeever pointed out that if a property owner signs the Avigation Easement and they find a code problem while working in their house, the owner is responsible for any costs involved in bringing the property into compliance.

Attorney McAliley noted the comparable is in the eye of the beholder. He further indicated that there is an Interlocal Agreement between Broward County and the City of Dania Beach, and the County needs to live up to this Agreement. If they don't we would have to take legal action.

Ellie Richenbach, 4465 SW 37<sup>th</sup> Avenue, noted she is a retired private pilot and would not want to use the elevated runway unless it was an emergency. She said that her house has several windows that rattle now when the planes take off. Ms. Richenbach stated that we need to fight for our rights.

Lennie Mujica, 610 NW 7<sup>th</sup> Street, suggested different options to give to the County: he would like the Pilot Program to be the full replacement value for those who want to be relocated; or sound mitigation for those who do not want to move, plus some cash payment. He questioned if the payment could be made yearly. Mr. Mujica also asked if it would be possible to separate the rights to sue if there are health impacts.

Mayor Castro noted this is possible however, we are trying to avoid including this clause in the Agreement.

Jeff Maharsky, 4632 SW 34<sup>th</sup> Terrace, pilot and aircraft mechanic, said he does not want to move. He thought the Airport did not need to expand. Mr. Maharsky would like the Commission to talk common sense to the County Commissioners. He would like everyone in Broward County to know what is going on.

Elizabeth Jeffries, 722 NW 8<sup>th</sup> Street, stated she does not want to leave her home or sell her easement rights. She questioned if the North Runway alternative was not being considered anymore. Ms. Jeffries wondered if her options are to live in a blighted area.

Commissioner Anton noted that the North Runway alternative is one of the issues included in the lawsuit in progress. He remarked that if we are not successful, much to our regret, our neighborhoods will change and we will have to face major issues. Commissioner Anton further reassured everyone that the current documents would not be approved by the Dania Beach Commission.

Mayor Castro noted that Kent George, Broward County Aviation Director was originally scheduled to be at tonight's meeting. She advised that Mr. George had a family medical emergency which made him cancel his participation at the last minute.

Brenda Chalifour responded that the North Runway is not off the table. She believes that the issue of which runway they would build, will come back to the Broward County Commission for further consideration.

Bob Mikes stated he had a perspective that nobody else in the room has because of his experience. He said that Broward County is scared to go before a jury.

Commissioner Jones asked what would happen in inverse condemnation in a class action suit.

Attorney Lukacs responded that property owners have legal remedies available to them. He advised that they are entitled to be compensated for the taking that has occurred. Attorney Lukacs further explained that the burden is on the government to pay, including reasonable attorney's fees. He noted that there is always a risk when you take a matter to a jury, however, there are means where property rights can be valued. Attorney Lukacs stated that we are currently negotiating and the goal is to make you whole. Lastly, he indicated that each property is unique; you do not want to be lumped together and be compensated globally, as opposed to having your own issues addressed individually.

Mr. LaRocca noted he is dealing with eminent domain at his business but he is not paying any attorneys' fees. He confirmed the residents would not have to pay attorneys if we go this route.

Ian Richter noted that the County has to pay your lawyer's fees. The Pilot Program is intended to see how much money they can save.

Attorney McAliley commented that the County has the Pilot Program for the Airport expansion they are proposing. He pointed out that just because somebody gives you an agreement, it doesn't mean you cannot rewrite it.

Mayor Castro noted that if changes are made to an agreement, those changes should be initialed by both parties.

Greg Holmes, 4581 SW 37<sup>th</sup> Avenue, asked if they could check the cancer risk for planes flying over your house.

Thomas Carrins, 3041 SW 46<sup>th</sup> Court, noted he plans to leave the community and would have to rent his house. He was concerned with the way the neighborhood would look in five years. Mr. Carrins asked if we could force the County to act quicker before the neighborhood turns into total rentals.

Commissioner Jones thanked everyone for attending. He indicated we need to think of the south area, or the northwest section. He thanked Commissioner Anton for the presentation. Commissioner Jones remarked that the County Commission has not kept to their promises.

Commissioner Duke noted quiet enjoyment of our homes is our right. He advised that he has immersed himself in this very important subject during his six months on the Commission. Commissioner Duke stated that the home with the Avigation Easement will be worth less than the home without it. The Commission is steadfast in their 5-0 vote against the Airport expansion. He thanked our residents for their patience and input.

Commissioner Anton thanked everyone for attending, especially the attorneys and the consultants. He reiterated that this fight is far from over. Commissioner Anton indicated we will be looking at other consultants and several other issues will also need to be considered. He pointed out that the Airport started talking about building the South Runway in 1977. Commissioner Anton encouraged everyone to stay informed and seek legal advice before signing any type of document.

Mayor Castro thanked everyone for attending tonight's meeting. She assured that we are leaving no stone unturned. Mayor Castro has told the County to do the right thing, and we will do our best to insure that this is exactly what they do. She stated she has two goals: making everyone whole, and making sure Dania Beach survives this.

Mayor Castro adjourned the meeting at 10:02 p.m.

ATTEST:

CITY OF DANIA BEACH

---

LOUISE STILSON, CMC  
CITY CLERK

---

ANNE CASTRO  
MAYOR-COMMISSIONER

Approved: August 25, 2009

Minutes of City Commission Discussion  
Regarding the Expansion of the Fort Lauderdale-  
Hollywood International Airport  
Tuesday, August 4, 2009 – 7:00 p.m.