

**NORTH TEXAS REGIONAL AIRPORT
JOINT AIRPORT ZONING BOARD
JANUARY 28, 2014**

MEMBERS' PRESENT:

Phil Roether, Chairman
Kevin Farley
Janet Gott
Randy Hensarling
Ryan Johnson
Lee Olmstead
Jason Sofey

MEMBERS' ABSENT:

Matt Hanley
Denise Smith

OTHERS' PRESENT:

Mike Shahan, Airport Director
Bart Lawrence, Commission, Pct. #4
Tim Hubert
Meredith Yeomans, KTEN

Michael Hutchins, Herald Democrat
Wm. B. (Ben) Munson, Esquire
Jerry W. Day, Perrin AFB Museum
Dean Gilbert, Dean Gilbert Realtors, Inc.

I.

Call to Order.

Mr. Roether called the meeting to order at 12:03 p.m. At this time, Mr. Roether explained that the Board was having a workshop and the purpose was to go through the draft ordinance that was created by the Zoning Commission to see if there are any changes that need to be made. He stated that today's meeting was to begin the steps to get to a final draft of the Zoning Ordinance that can be adopted and taken to a public hearing.

II.

Approval of the minutes of the December 19, 2013, Joint Airport Zoning Board Meeting.

Mr. Roether asked if the Board had the opportunity to review the minutes of the previous meeting. Ms. Gott made the motion to approve the minutes. Mr. Olmstead seconded the motion. All members voted aye.

III.

Workshop to review Airport Zoning commission recommendations for the Airport Zoning Ordinance.

Mr. Roether stated that he wanted to go through the document paragraph by paragraph to determine any questions about the zoning ordinance.

Purpose Statement – Mr. Roether stated that most of the wording is dictated by State Statute 241. Mr. Johnson stated that looking at the statute it appears that the County has the ability to adopt this ordinance unilaterally without any input from the cities. He asked why the County decided to include the cities. Mr. Roether stated that the County originally started off in that direction. He stated that the Commission began working with a consultant who recommended that it would be best to involve the cities in the process. Mr. Roether stated this would give the cities a “voice” in this process.

Paragraph 2. Section 12. Joint Airport Zoning Board – Mr. Roether stated that he had flagged this one because he felt that there was an issue with it. He stated that it does not follow 241 in that it implies that the chairman would be elected from the eight appointed members of the Board. He stated that to be correct it needs to be corrected to comply with 241. Mr. Roether asked that Mr. Munson assist with this correction.

Paragraph 2. Section 14. Obstruction – Mr. Olmstead asked if this should read “limiting height established by the Federal Aviation Administration” instead of “limiting height established by federal regulations”. Mr. Shahan stated that there is height zoning but the zoning ordinance could limit as little as thirty-five feet and the FAA would not get involved in that. Mr. Roether stated that this would be flagged and more research would be required.

Paragraph 3.0 Controlled Compatible Land Use Area – Mr. Shahan stated that Exhibit A had been left out of the printed copy of the ordinance so a copy was being provided to each member of the Board.

Paragraph 4.0 – Table A and Exhibit A – Mr. Johnson asked if Table A was the Compatibility Criteria and Mr. Roether stated that it was. Mr. Johnson stated that Sherman’s city staff had posed some questions to him and Mr. Sofey about Table A. Mr. Johnson stated that clarification is needed before they can make any recommendation to their city. He asked what is meant exactly by “public & quasi-public services”. He stated that this needed either better parameters or definition of those services in Zone A. Mr. Roether stated that a better definition is needed for “public and quasi-public services.

Mr. Johnson also asked if parks would be included in “recreational uses”.

Mr. Johnson also asked about water hazards that create a bird hazard. He stated that the city has a requirement for detention pond for any new development. He asked if that would be in conflict with another city requirement that is already in place.

Mr. Johnson stated that some of the city staff was concerned about the aviation easement dedication and who was responsible for enforcing or making sure that aviation easement is executed. He stated that there is not any defined hierarchy for the aviation easement. Mr. Shahan stated that the ordinance states that if it falls within the city limits, it is the city’s enforcement and if it is in the county it is the county’s planning department. Mr. Roether stated that they would get into more detail when they get to the section on enforcement.

Mr. Johnson asked if the consultant gave any reason for the 35’ height restriction in Zone A and 100’ for Zone B. Mr. Roether stated that he did not know the reason. Mr. Johnson asked for some clarification on that. Mr. Olmstead stated that he felt it was probably because of instrument landing procedures.

Mr. Roether asked if there were any questions about Zone B. Mr. Johnson asked about the waterways in Zone B and the retention pond issue like was discussed in Zone A.

Paragraph 5.0 Nonconforming Uses, Regulations Not Retroactive – Mr. Roether stated that this addressed preexisting structures and the fact that they are grandfathered unless there is a change.

Paragraph 6.0 Permits – Mr. Johnson who would be responsible for issuing permits. Mr. Roether stated that each city would be responsible for the land inside the city limits and the county would be responsible for property outside the city limits. Mr. Roether stated that this would become an overlay to the existing code for each city. Mr. Shahan stated that all property within the zoning area could be

flagged so that anyone doing a property search could see that it falls under the airport zoning ordinance. Mr. Roether stated that the ordinance does require a disclosure statement if you are transferring property within the zoning ordinance.

Paragraph 6.4 Variances – Mr. Roether stated that it was his understanding that variances would come before the governing body (municipality) so this would not be any different from property located inside the city limits. Mr. Sofey asked which entity property within the county would go before. Mr. Roether stated that it would go before the Regional Mobility Authority. Mr. Shahan stated that Paragraph 8.1 addresses that issue and it would go before the RMA. Mr. Munson stated that it should go to the county planning department and then to Commissioners Court. Any appeals would then go to the RMA.

Paragraph 7.0 Enforcement – Mr. Johnson stated that he felt there should be one central appeal process instead of four different agencies issuing permits. He stated that he felt that perhaps this should come back to the Joint Airport Zoning Board. Mr. Johnson stated that it was his recommendation that there be a central appeal process or permit that would stay with the board and that it would be appealed to the RMA. Mr. Roether stated that there needed to be resolution on this.

Mr. Hensarling asked how many non-conforming uses are currently out there. Mr. Shahan stated he did not know. Mr. Hensarling asked if those needed to be identified so that they could be grandfathered. Mr. Roether stated that a survey needed to be done of existing property.

Paragraph 7.0 Enforcement – Mr. Roether stated that this was what was being discussed earlier.

Paragraph 8.0 Appeals – Mr. Johnson stated that it was his understanding that under 8.1, property in the county would go before the RMA and that this needed to be changed. 8.4 does not specify who within the municipality hears an appeal. Mr. Roether stated that the appeals process needs to be revisited. Mr. Munson stated that it was his original thought that each municipality would want to control the appeals within their jurisdiction. He stated that if each municipality did not want that, it could be addressed with all appeals going before one body. Mr. Roether asked that each representative talk to their attorney and get their opinion on this.

Paragraph 10. Enforcement and Remedies – Mr. Johnson stated that if a centralized agency is used, keeping this as written is probably correct, but if each municipality in enforcing the ordinance then the county and each municipality should have the right to institute a court proceeding to get a judicial interpretation of what they are enforcing.

Paragraph 11. Penalties – Mr. Roether asked Mr. Munson if he knew why the penalty was set at the level that it was. Mr. Munson stated that it was the judgment of the consultant. Mr. Roether stated that this needed to be followed up.

Boundaries – Mr. Roether stated that this was a starting point and there could be discussions on the boundaries. He stated that it was the desire of the Zoning Commission to keep the box as small as possible and effect as few of properties as possible. Mr. Roether stated that the boundaries at the north was FM 996 and within 1,000' of U.S. 82 on the south end.

Mr. Johnson asked for the slide from the consultants' presentation showing the location of most aviation accidents. Mr. Shahan stated that he would send it to each member.

Mr. Johnson asked if the current aviation easement in Zone A would stay as it currently is. Mr. Shahan stated that the easement will remain as is because it is defined by the FAA. Mr. Roether stated

that probably the only way that it would be extended would be with an extension of the runway. Mr. Johnson asked who would sign the easement if it should be extended and what would happen if the easement were not signed. The question was then asked about who would compensate landowners should the easement be extended. Mr. Johnson asked for clarification on these issues. Mr. Shahan stated that he would research this topic.

Mr. Johnson asked if the airport Aerial Easement had been recorded and how it relates to zoning. Mr. Munson stated that it has no effect on zoning and is a height easement only.

Mr. Johnson asked if this was a taking issue and if it is who would compensate the landowners.

Mr. Farley asked if there should be any provisions for a temporary permit. Everyone agreed that this should be thought about.

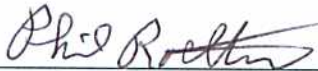
Mr. Roether stated that one of the board members has a conflict for Tuesday meetings and would like to consider moving the meeting to another day in the last week of the month. He stated that for now the meetings would be set on the last Wednesday of the month at 12:00pm.

Mr. Roether advised the Board that he was trying to gather information on the landowners so that he could personally meet with them. He stated that the board members were welcome to attend as long as there was not a quorum.

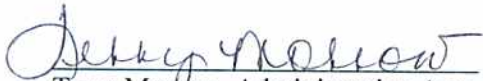
Mr. Gilbert addressed the Board about the easements. He asked that the airport come up with a map showing the easements.

IV.
Adjourn.

Ms. Gott made the motion to adjourn the meeting. Mr. Sofey seconded the motion. All members voted aye. The meeting was adjourned at 1:17pm.



Phil Roether, Chairman


Terry Morrow, Administrative Asst.