City of Creswell
Special City Council Meeting Minutes
August 15, 2013

| Council Present: | | Staff Present: | |
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| Dave Stram | Brent Gifford | Jamon Kent | City Administrator |
| A.J. O'Connell | Adam Pelatt | Roberta Tharp | City Recorder |
| Nora Reynolds | Jacob Daniels | Layli Nichols | Finance Director |
| Jane Vincent | | Shelley Humble | Airport Manager |
| | | Cliff Bellew | Public Works Director |
| | | Mike Kelly | Recruiter |
| | | Ross Williamson | City Attorney |
| | | John Wolf | City Attorney |

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| Council Absent: | 0 | |
| Press: | 3 – | Scott Olson, Creswell Chronicle<br>Lane Today Reporter<br>Serena Markstrom, Register Guard |
| Audience: | 50 | |

The Special City Council meeting was called to order by Mayor Dave Stram at 7:10 PM and the Pledge of Allegiance given.

**Public Forum on Policy Question related to Litigation – Whether the City should create procedures to allow skydivers, after landing on property to the east of the runway, to walk across the runway en route to the hangars on the west side of the airport.**

Speaker Request forms were divided into three groups: Those speakers that are Neutral, Opposed and In Favor of the policy question.

**Neutral**
Donald Schindler, Springfield resident and Airport User addressed the Council and stated crossing the runway is a threat to the Airport and does not want to see the fate of this issue be turned over to a coin toss that a jury trial would be. He doesn't feel it is safe to cross the runway, but is not against skydiving. His solution would be to have Mr. Moore's land lease flip to the other side of the runway; construct a new hangar, return his hangar to the city, and work on the adjusted bases with a dirt road around the end. This issue needs to be resolved in the best interest for everyone.

Sid Voorhees, Eugene resident, Airport user and member of the Airport Commission addressed the council. Stats in aviation show the biggest percentage of accidents are involved in take offs and landings. Any interruption in concentration will be a problem for the pilots. His biggest concern is the liability to the City should someone get hurt. His recommendation would be to sit down with a committee and visit this issue on safety only. It is the attitudes of folks that have gotten us in this situation.

**Opposed**
Larry Lowenkron, Eugene resident, Airport user and member of the Airport Commission, speaking as a user of the airport. The city has paid for a safety study which was adopted by the Council that states there should be no drop zone in the object free (OFA) area. If we make an extension of that area we will be violating the FAA requirements in terms of their OFA rules and extending the City's liability.

Ron Richey Pleasant Hill resident, Goshen business owner with business plane based out of the Creswell Airport, addressed the Council representing eighteen audience members. Pedestrian crossing on the runway is not a good idea; a runway incursion is defined by FAA as any occurrence at an Airport involving the incorrect presence of an aircraft, vehicle or person on the protected area of a surface designated for the landing and takeoff of aircraft.

Runways are designed for aircraft to take off from and land upon. The right of way rules and airport traffic patterns and procedures exist to prevent collisions in the air and on the ground. The goal is to eliminate risk and promote safety. His plane takes off at 110 mph and lands at about 120 mph several times a week with up to as many as seven employees on board. The pilots should not have to worry about a collision with a pedestrian on the runway during the landing of a high speed airplane. Creswell currently has two turbo prop airplanes, two piston twins and in the next couple of weeks a jet will be based at the Airport. These are business related planes and he has spoken with other business related pilots who would like to locate themselves on the airport but are waiting to hear the outcome of this case before making any decision to do so. He is not opposed to skydiving in Creswell; he opposes the conditions that existed six years ago. With good enforceable precise rules in place, the right education of local skydiving pilot communities, a drop zone over on the ODOT property and a van to transport jumpers back to the hangar can be successful and safe.

Mr. Richey used his allotted time limit and Jack Gradle yielded his time to Mr. Richey so he could continue since he was representing a number of audience members.

In the city's own skydiving operations review document, the conclusion states: The FAA's intent is to keep the OFA and OFC obstacle free zones free clear of anything that does not need to be in these areas unless they are fixed by function like the windsock.

If the city authorizes a runway pedestrian crossing or any other ground related activity that penetrates the runway safety zone, you have just co-signed for the risk liability and litigation that goes with the activity endorsed. He suggested researching insurance capability of any service provider that conducts ground activities that obstruct the runway.

Hal Skinner, Springfield resident and airport user addressed the Council to speak in opposition of skydivers crossing the runway. Mr. Skinner said this is a safety issue as skydivers will be dropping in the flight pattern area. Creswell is a non-controlled airport, a place where airplanes without electrical systems or radios fly. He spoke of a near mishap he has had with skydivers. Mr. Skinner suggested the Council table this matter and take no action tonight. He asked them to consider what the cost would be for the City if there were a wrongful death suit.

William Dewey, Eugene resident and President of the EAA (Experimental Aircraft Association) Chapter 31 addressed the Council to speak on behalf of himself and six members of the EAA that are present this evening. He has been a pilot in the USA, Canada and Europe over the past fifty two years and has never heard of the parachute activities landing on an Airport. The drop zone area next to the runway is a flagrant violation of any air laws he has ever heard of in any country. He was a jumper at one time and also has been a pilot for a jump plane. Parachutists do not come straight down; they drift in the wind after opening their chute. At the airport, the parachutist will be drifting directly through the takeoff and landing pattern to land on the east side of the runway. Landings of inexperienced parachutists are not very accurate. The members of the EAA are opposed and do not support the crossing of the runway by parachutists.

Paul Preziose, Enterprise Road and Airport user addressed the Council and stated nothing has changed in the past nine years except the faces of the Council. This is first, foremost and always a safety issue. By moving the skydivers to the other side of the fence changes nothing. There is no guarantee they will land on the drop zone parcel of property everytime they jump. The council has had a safety study done that reports it isn't safe. There are no safety regulations for skydivers. Federal Air Regulations (FAR) does not address skydivers safety, however, the lead regulation 1055, which addresses parachute operations reads: the parachute operation cannot create a hazard to air traffic. He went on to say, a parachutist is not air traffic. He feels if he has to abort a landing because of a skydiver close to the runway, that's a hazard and a violation of the FAR's. The council as the drop zone owners will be negligent for not enforcing those rules should an accident happen. The FAA has done nothing to address this situation.

**In Favor**

Mark Stroble, Creswell resident and airport user addressed the council to say he has seen both sides of this issue. He has seen close calls with parachutists walking across the runway as well as having close calls with other aircraft and he has also seen aircraft and parachutists interact safely. You can't guarantee safety one hundred percent of the time but feels if there are rules put in place, perhaps safety guidelines will follow. He feels people can walk across an uncontrolled airport runway safely under the right conditions. If procedures are not followed correctly, penalties need to be put in place to hold everyone accountable.

Dorothy Schick, business owner at Creswell Airport and speaking on behalf of her forty member Takewing aviation club. Takewing does a significant amount of operations and the airport and has a vested stake in the safety there. The pilots and instructors fully support the return of skydiving at the airport. The pilots will be well informed and understand right of way procedures or any other procedure put in place, and they are capable of good pilot decision making and risk management skills.

Clinton Burg, Creswell resident and business owner at the airport – Middletown, Ohio and Titusville, Florida city owned public use airports allow parachutists to cross the runway. The conditions at these airports are very similar to Creswell's. The FAA has been out to Hobby Field inquiring about skydiving. Appropriate procedures must be put in place in order for the skydivers to cross safely; they must be followed and enforced. The FAA should be the only one to make safety decision at airports and they have been very vague in this situation. Skydiving is a recognized aeronautical use activity and should not be discriminated against. He feels it is in the cities best interest to settle the dispute before a Part 16 decision is made. He feels they would rule against the city and then the airport would be denied federal funding that we need to keep the airport safe and usable by all users.

Ed Gunderson, Creswell resident has been a pilot since 1968 and has never had a problem. In the past the skydivers always announced when they would be jumping so pilots knew when to take extra precautions. When he has used other airports they have safety procedures in place with flags and radios.

Jurgen Ramil, DeBerry Road, Creswell feels the city is wasting their money fighting the lawsuit. He is an experienced jumper and the pilots at the airport are Sunday pilots. He suggested posting notices and use radio communications. This whole issue is a personality conflict.

Comments submitted prior to the meeting were included in the Council packet.

Executive Sessions

192.660 (2)(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed

192.660 (2)(a) To consider the employment of a public officer, employee, staff member or individual agent.

Mayor Stram called for a recess at 7:57 pm in order for the governing body to enter into consecutive executive sessions pursuant to ORS 192.660 (2)(h) and (a) and read the news media statement.

Mayor Stram reconvened the special City Council Meeting at 10:12 pm.

Mayor Stram with unanimous consent of the Council appointed Steve Carmichael as a City Administrator Pro-tem. Mr. Carmichael addressed the Council introducing himself to the Council. He will be meeting with Mr. Kent on Monday for briefing of city business. Mr. Carmichael will be interim City Administrator pro tem for one week.

Mayor Stram with unanimous consent of the Council made the conditional appointment of Larry Patterson as interim City Administrator effective August 26th.

Mayor Stram with the unanimous consent of the Council appointed Council President Jacob Daniels and himself to negotiate the contracts with Interims Steve Carmichael and Larry Patterson and to allow Mayor Stram to execute the contracts.

**Public Forum Airport Policy Question**

Mayor Stram asked the Council to vote on the policy question: Should the City should create procedures to allow skydivers, after landing on property to the east of the runway, walk across the runway en route to the hangars on the west side of the airport. Voted on and those in favor are Councilors Daniels, Gifford, O'Connell, Reynolds and Vincent. Mayor Stram and Adam Pelatt voted in opposition.

Jacob Daniels moved A.J. O'Connell seconded to authorize the Mayor to execute a settlement agreement ending both the FAA Part 16 litigation and the breach of lease litigation each filed by Eugene Skydivers and Urban Moore. The final settlement agreement to be executed will be drafted by the City Attorney and the Attorney for Mr. Moore. The settlement agreement will include the following primary terms:

- Authorization for skydiving companies to use the former ODOT property adjacent to the Airport as a parachute landing area so long as the use is allowed by Lane County zoning regulations
- Authorization for skydiving companies to travel between the landing zone on the east side of the Airport to the hangars on the west via a set of safety procedures allowing crossing the runway and taxiway.
- A payment in the amount of $50,000 from the city to Eugene Skydivers
- A set of violations that includes what is provided in the proposal with the change of a four month revocation which would occur after eight violations.

The other terms of the settlement agreement shall be consistent with the term sheet provided to the Council this evening.

There being no council discussion the motion was voted on and carries with Councilors Daniels, Gifford, O'Connell, Reynolds, Vincent and Mayor Stram voting in favor and Councilor Pelatt voting in opposition.

**Adjournment**
There being no further business to come before the Council, Mayor Stram adjourned the meeting at 10:19 pm.

Dave Stram, Mayor

Roberta J Tharp, City Recorder