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TO: Honorable Mayor James E. Dyer - Mayor of the City of Danbury.

SUBJECT: Minutes of the Special Meeting of the Common Council, held on June 18, 1981.

The meeting was called to order at 7:00 O'Clock P.M. by his honor Mayor James E. Dyer who led the assembly in the Pledge of Allegiance to the Flag.

Councilman Joseph DaSilva offered the Prayer.

Roll Call was taken by City Clerk Elizabeth Crudginton with the following members being recorded as:

PRESENT: Delsin, McManus, Gallo, Rinder, Repole, Eppoliti, Murray, Ryan, Zotos, DaSilva, Turk, Boynton, Burke, Evans, Farah, Councilman Torian arrived after roll call.

ABSENT: Councilmembers - Walsh, Scialabba, White, Cassano, Butera, Farah.

NOTICE OF SPECIAL MEETING to be held on the 18th day of June, 1981 at 7:00 O'Clock P.M. for the purpose of acting upon the following:

1. Airport Lease Agreement - Re: Mr. Robert Zohn - BAC Aviation.
2. Transfer of funds for Xerox Machine - City Clerk's Office.
3. Transfer of funds for Common Council.

Meeting was requested by the following members of the Common Council:

Diane Eppoliti - Roger Delsin - Lilija Rinder - William T. Walsh - John O. Turk - Mounir Farah - James E. Ryan.

RETURN OF SERVICE - Notices served by Police Officers of the City of Danbury.

A motion was made by Councilman Ryan and seconded by Councilman Evans for the Call and Return of Service to be accepted. Motion carried.

Councilman Ryan informed the Council that Councilman Walsh was absent because he was away on business.

REPORT - Airport Lease Agreement.

Councilwoman Lilija Rinder submitted a report stating that the committee appointed to review the Airport Leases, met on June 11, 1981 and June 15, 1981. Present at the June 11th meeting were Councilpersons Rinder and Delsin. Also present were Doug Godfrey, Jack Thompson, Attorney E. Gottschalk, Robert Zohn and Matt Rich.

At the June 15th meeting all of the above were present as well as Attorney Peter Hewitt, Cecil Previdi and Councilpersons William Walsh and Diane Eppoliti.

There had been extensive changes to the Standard Lease for Business Aircraft Center, Inc. The new maps were studied, and the various points of change were discussed at length. With the help of Attorney Gottschalk, we were able to reach agreement on the final version of the lease. The lease is for a period of 25 years, with two 10 year options. There is also provision for a road behind the property to be constructed and maintained by both BAC and Previdi/Morganti on a 5/7:2/7 ratio on expenses. There is provision for an access ramp that is to be shared by both Lessees not to exceed 35 feet in width, for which costs will be shared on a 50/50 basis.

The council

The committee unanimously approved the BAC lease in its final form and recommends to the full Council that it approve the lease with the following stipulations:

1. The Lease is approved with the accepted version of the ramp to be built, which final paragraph will be added by Attorney Gottschalk.
2. Recommend permission to build, subject to approvals from all concerned Municipal, State and Federal Agencies.
3. The ramp construction to be shared 50/50 with Previdi/Morganti.
4. Recommend permission to seek and obtain a mortgage for the building.
5. Recommend granting right of first refusal on small parcel of land (1/3 acre ~~#~~) abutting the leased land.

It is therefore the recommendation of this committee, Councilmembers Rinder, Delsin, and Farah, that the Mayor be authorized to execute the subject lease provided that the prospective lessee first obtain all necessary approvals from the Federal Aviation Administration and the D.O.T. State Department of Aeronautics.

A motion was made by Councilman Delsin and seconded by Councilman Boynton that the Report be accepted as read.

Councilman Ryan asked what is involved in Stipulation Five.

Councilwoman Rinder explained that there is no other use for the land and it may or may not be necessary - it is just a first right for refusal for a Lease of the land, not to purchase.

Councilman Ryan asked of the Corporation Counsel - What is the matter of fact of the whole harmless clause in paragraph one of the Lease - Will the City still be liable for some acts that might occur during the Lease period?

Assistant Corporation Counsel Gottschalk replied - Not if they occur as a result of the lessee's action. - I would say no.

Councilman Ryan - In paragraph two, the City may withhold its consent relating to assignment - What standard is used for that. Can they withhold consent for any reason or must they act in good faith.

Attorney Gottschalk - I would suppose that where there is <sup>not a</sup> municipality the lessor could use whatever criteria he desires to make his choice, however I would imagine also that since we are a municipality we are going to be bound to a standard of reasonableness and that would apply to this case as well.

Councilman Ryan - In paragraph #5 what are some of the "Minimum Standards". Can you summarize some of those standards.

Attorney Gottschalk - The Minimum Standards were promulgated by the Aviation Commission, as far as I know, quite some time ago and they have been revised in the interim. I have a copy here and it is a voluminous document of some fifteen pages and it outlines the responsibilities of various categories of fixed based operators on airport property.

In reply to a question from Mr. Ryan in reference to bankruptcy, Attorney Gottschalk stated - It is customary for some clause relating to bankruptcy to appear in leases. I cannot tell you <sup>that</sup> the precise language in paragraph 9 of the present lease is standard in the industry.

Mr. Ryan - A mere petition by someone not the corporation, could act to suspend the lease - correct?

Attorney Gottschalk - The filing of an involuntary petition of bankruptcy against the lessee not discharged within 30 days. So there is something more than the mere filing of the petition would result in the termination of this lease. Correct.

Councilman Ryan - Would a trustee in bankruptcy have the option to hold the lease and continue it.

Attorney Gottschalk - I would think not, by the language here, if an involuntary petition is filed and not discharged within 30 days, then the lease is terminated, and expires.

Councilman Ryan - What about insurance coverage for the building that is presumably going to be erected on this site - there is no mention of it in the lease. Wouldn't it be to the City's benefit to include a provision relating to the insurance of that building.

Attorney Gottschalk - It may be to the City's benefit, however from a practicable point of view, the tenant is in there to make a living and I cannot conceive of the situation other than a failure of the business in which the structure would be permitted to include a paragraph. you may wish to

Councilman Ryan - What formula is used in paragraph 10 subsection 3 relating to eminent domain

Attorney Gottschalk - The third paragraph in section 10 relates to termination by the City of this lease for reasons other than the Lessee's breach or default under the lease and in that event the lessee is to be reimbursed in some way compensating him for the loss of the use of this building and that formula was used by us as a reasonable vehicle.

He would be entitled to whatever compensation a court would award him for as the fair or reasonable value of his interest in this property. It would have to be valued at the time of the occurrence and that more or less is the fair market value.

Mr. Jack Thompson in reply to a question from Councilwoman McManus in reference to a parallel runway included in the Master Plan of the Airport, stated that when the Master Plan was adopted in 1975 or 1976 we were running close to 200,000 landings and takeoffs a year. At that time there was a provision made for what is known as a touch and go auxiliary runway which was to parallel the taxiway and run in front of the tower.

That is to be considered to be by both the State the FAA and by me to be unnecessary at this point and even so, even though we consider it unnecessary due to a decline in the traffic patterns and the amount of traffic over there it still is possible to put it in, in that place. This will not interfere with that possible reliever runway - as it is called.

On the other hand we are in the process of revising the Master Plan and that is to be taken out of that concept.

first

Councilwoman McManus - Can you tell me when you started working on a revision of the Master Plan?

Mr. Thompson - We are in the process of revising the Master Plan because due to the fact that we lost 25 acres to the Environmental Impact Commission who declared a 25 acre parcel to be wetlands which was not specified in the Master Plan.

Mrs. McManus asked Mr. Thompson several times when did they start to revise the Master Plan. Mr. Thompson replied "about two months ago - three months ago".

Mrs. McManus - "I was wondering about Tax Law 135 - City Property Tax." No answer was given.

Mr. McManus - Will the lessee in actuality operate as an F.B.O. - will they offer flight instructions - repair station - sale of fuel on the grounds - etc.

Mr. Thompson - I understand they are a sales organization and I imagine they will have a sales service. I don't believe they are going to have a school or instructions. F.B.O. can sell gasoline, can have charter rental taxi service, instructions, sales, repairs.

Mrs. McManus asked which two would they have. Mr. Thompson replied "Sales and repairs".

Mrs. McManus - Will there be a high speed turnaround and where would it be located. The answer was "no".

Mrs. McManus - Why is the <sup>proposed</sup> taxi-strip 35 feet wide when the normal taxi-strip at Danbury Airport is only 20 feet wide.

Councilman Delsin replied that the 20 feet strip was too small for the aircraft from Previdi's to operate and the snow which is plowed in the winter on each sides, causes the wing of the plane to hit the snow banks.

Mrs. McManus - Does that mean we will have different types of aircraft coming in here. Mr. Delsin replied yes - Jets and bigger planes.

Mrs. McManus - They have called for a fuel tank capacity of 20,000 gallons. Is that exceptionally high.

Mr. Thompson - Well it is a big one - it is not small.

Mayor Dyer - Are you talking about Jets? Mr. Thompson replied "yes".

Mrs. McManus - I understand that the Aviation Commission approved this lease before they reviewed the Plot Plan.

Mr. Thompson - That's not quite true, we knew where we wanted to put it. We don't have a set rule that we have to have a plot plan before we discussed the lease.

Mrs. McManus - You did approve the lease before you had the plot plan.

Mr. Thompson - Yes that is true. The lease was approved contingent upon the satisfactory plot plan.

Mr. Boynton asked if the minimum standards require insurance on the property.

Attorney Gottschalk - "I don't know" If that question could be passed, I will review it.

Mr. DaSilva I think I heard <sup>something about</sup> Jet planes as opposed to propeller planes.

Mr. Thompson - Not jet fuel - probably be 80 or 100 octane gasoline

Mr. DaSilva - Mr. Thompson, does the lessee plan to use Jet Planes in connection with the building they want to lease from the City. There are no plans for Jet Planes?

Mr. Thompson - I don't think so. He is a piper distributor. They don't make a jet - he will only sell piper aircraft.

Councilman DaSilva - Does the Piper aircraft need a 35 foot width?

Mr. Thompson - No its the Previdi plane that has a 52 foot wing span. That is a beachcraft King-Air

Councilman DaSilva - Would the proposed access-ways or whatever is being put in - would they accomodate jet airplanes in the future.

Mr. Thompson answered "yes".

Mr. DaSilva - Is there anything in the lease that would ok this or deny it.

Mr. Thompson - "No".

Councilwoman McManus, due to questions still unanswered made a motion, seconded by Councilman Zotos, for the Lease to be recommitted.

Councilman Evans requested permission to address a question to Mr. Godfrey, Chairman of the Aviation commission. Permission was granted by the Mayor

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Mr. Evans asked Mr. Godfrey "Has the Aviation Commission as a whole approved this Lease.

Mr. Godfrey - Not as it stands now, no.

Mr. Gallo - I would like to question the Aviation Commission on granting the Fixed Base Operators License. There are nine members of this commission. At the meeting it was voted on, there was a quorum of five members present - two people voted yes - one person voted no - 1 person abstained and one person didn't vote at all, which means that of the nine persons on the commission only two voted yes and it was passed. I don't even know if this is legal, and I would like to ask our Attorney that question.

Attorney Goldstein - This would depend your honor on what the rules and regulations of the Aviation Authority may provide. - what are its rules that constitute a quorum.

We did review this upon Mr. Thompson's request several months ago and it is our conclusion that based on the rules, that so long as they had a quorum in attendance, it did not matter how that quorum voted. That is to say in effect that one person could vote yes and other members could abstain and it would carry under those circumstances.

Councilman Boynton then asked if a recess would be in order.

Mayor Dyer stated that he didn't think it would be and that we should continue with the business before us.

Councilman Torian asked Attorney Goldstein if the Aviation Commission has their own prerogative in the voting process?

Attorney Goldstein - Most commissions will establish their own rules and regulations for determining what constitutes a quorum and how they will act pursuant thereto. If an authority does not do this they generally as a minimum requirement say that they will follow a set of known rules such as Roberts Rules of Order.

The motion to recommit the Airport Lease was passed by the majority of members present.

Mayor Dyer named the following committee, Councilwoman Rinder, Councilman Delsin, Councilman Farah and added Councilwoman McManus and Councilman Turk, to that committee.

COMMUNICATION & CERTIFICATION - Request from Elizabeth Crudginton, City Clerk for a transfer of funds to the following accounts:

Common Council - 02-01-100-029500 -- \$300.00  
(required for Xerox copies)

Common Council - 02-01-100-040100 --- \$100.00  
(required for supplies, postage)

City Clerk - 02-01-111-024501 -- \$300.00  
(rental and supplies for Xerox machine)

A Certification in the amount of \$700 in the Contingency Account to be transferred to the above listed accounts, was submitted by John P. Edwards, Director of Finance, Acting.

A motion was made by Councilman Ryan and seconded by Councilman Evans that the Communications be accepted and transfer of funds authorized. Motion carried unanimously. 15 Ayes - 6 members absent.

Mayor Dyer - It is the prerogative of the chair to caution in the future that when we have Special Meetings that we come before the Council prepared to go forward with the business that we are calling the Special Meeting for, and I do not believe that we should succumb to undue lobbying, pressure from any groups or individuals to rush the business of the City ahead without proper answers coming before us. Are there members of the public who would like to speak at this time.

Robert Zohn - I do have answers which are contained in my Marketing Plan which was submitted to the Aviation Commission, back in January.

In reference to the 20,000 gallon fuel tank. The BAC is not in the fuel business. I understand the Previdi/Morganti Company would like it on their premises, for their turbine, jet engine aircraft. I do not sell this aircraft. I do not service those aircrafts, I have no need of the fuel farm.

Mr. Zohn said they have no intention of avoiding any tax that we must lawfully pay to the City of Danbury.

Mr. Zohn said there was no connection between the Morganti/Previdi Firm and his BAC Firm.

Mayor Dyer then advised that all inquires can be made of the committee.

Mr. Zohn asked that his petition not be sent back to committee as he has nothing to do with Previdi or Morganti.

Mr. Zohn also read provisions of "Minimum Standards" in reference to insurance requirements.

Mayor Dyer - Thank you. I think any further questions should come from the committee.

Mr. Zohn - These questions could have been answered in my 22 page marketing plan as submitted to the Aviation Commission back in January. We originally made application back in November. I have the answers but I am being penalized by it going back to committee.

Mayor Dyer - That may be, but it has been recommitted. At this point it would certainly be appropriate to contact each member of the Common Council and provide information that would enlighten them with regard to their inquiries. There is nothing more we can do this evening as it has been recommitted. It may well be that after the committee meets with you, the questions that have been outlined here, you might want to in writing put in to a letter to each Councilmember exactly the information they obviously haven't been aware of this evening.

The chair has been lenient incidentally, in that this time is reserved for residents - no one has asked so I haven't raised the question. I have been lenient - as to your speaking. Are there any other members of the public who would like to speak on the agenda items.

John Dunning - Danbury Airways Inc. - I was present at the Aviation Commission meeting in which this vote authorized the Aviation Commission to allow Mr. Zohn a lease. It was voted on by only two affirmative votes. 1 negative vote - 1 abstention and one person just did not vote at all. Upon contacting our counsel in Westport, he is of a different opinion and that the vote was illegal. It would necessitate us filing a suit against the Town if this vote was to stand and we would see whose Counsel was correct.

The Master Plan calls for a reliever runway - traffic is down due to the economy as Mr. Thompson has said. When we are talking about a 45 year lease in essence, I don't think we are going to see the traffic down for the next 45 years and I think a reliever runway would be a very definite necessity. It would probably reduce noise in and around the airport.

I believe Mr. Godfrey, Chairman of the Aviation Commission has on him at present, a letter from the State or the FAA, saying that it is not in accordance with the Master Plan and they cannot approve any new FBO going in until that Master Plan has been reviewed and changed.

The financial impact - it has been professed that this will bring great revenues to the Town. At present there are five F.B.O's on the Danbury Airport. At any airport about three times the size of us, Westchester County, there are only two FBO's. Danbury Airport is incapable of supporting six FBO's .

There being no further business to come before the Common Council, a motion was made by Councilman Evans and seconded by Councilman Ryan to adjourn at 8:15 O'Clock P.M.

Respectfully submitted

*Mary Richard*  
Assistant City Clerk

6/18/81

*[Signature]*  
Assistant City Clerk