

NAPA COUNTY
RESPONSE TO THE GRAND JURY FINAL REPORT
THE NAPA COUNTY AIRPORT
UNDER THE RADAR: THE SAGA TO BRING NAPA'S AIRPORT INTO THE 21ST CENTURY
JUNE 21, 2022

Finding

Finding 1: The existing Airport terminal and fixed base operations need renovation and updating to be more efficient, generate more revenue, attract more aviation, and present a better visual representation of the County.

The Acting County Executive Officer agrees with this finding.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 2: The Airport operates as a County enterprise fund; its non-property tax revenues can only be used for the benefit of the Airport according to FAA grant assurances.

The Acting County Executive Officer agrees with this finding.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 3: The Airport has a yearly operational deficit that can be addressed or reduced through increased lease revenue and fees and fuel taxes, which are unlikely to occur without terminal and fixed base operation renovation and updating.

The Acting County Executive Officer disagree with this finding. Airport does not operate at a deficit but does operate within a thin margin that would benefit from objectives to increase revenues to help implement needed capital improvement and maintenance projects at the Airport.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 4: In order to renovate and update the Airport terminal and fixed base operations, the County needs to (a) acquire a second FBO long-term leasehold *and/or* (b) negotiate a new consolidated lease with the existing FBO.

The Acting County Executive Officer partially disagrees with this finding. Long-term leases with one or more FBO's is a commonly accepted way to achieve renovations and updates at an Airport. However, the County must conduct negotiations in compliance with FAA grant assurances related to exclusive rights, land banking, and economic non-discrimination. These FAA grant assurances limit the County's ability to simply negotiate a new consolidated lease with the existing FBO.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 5: It is unknown whether the Airport can sustain two FBOs.

The Acting County Executive Officer disagrees in part with this finding. All indications are, due to fuel sales and other factors commonly used in the industry that contribute toward sustainability, two FBOs are possible at the Airport.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 6: The County is obligated to adhere to its FAA grant assurances in its dealing with any FBO, including ensuring any leasehold does not violate provisions governing economic non-discrimination, exclusive rights and land banking.

The Acting County Executive Officer agrees with this finding.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 7: Outside of the 2007 Airport Master Plan (which assumptions have been proven by time to be significantly inaccurate), there is not a current vision for the Airport that is endorsed by the Board, which addresses issues like the use of facilities, attraction of commercial entities, relationship to broader transportation planning or public engagement.

The Acting County Executive Officer disagrees with this finding. The assumptions made in the 2007 Airport Master Plan are not inaccurate but have changed over time particularly related to assumptions regarding developable land. The Board has endorsed a vision for the Airport that includes: supporting two FBOs, upgrading facilities, supporting general aviation and the use of the airport by small aircraft, managing the airport to be financially self-sustaining, and not providing for commercial air service.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 8: The Board and Senior County Officials have often disagreed as to how best to renovate and upgrade the terminal and fixed base operations, including when to renegotiate with the Incumbent FBO, whether to acquire a second FBO, and the interpretation of its obligations under FAA grant assurances.

The Acting County Executive Officer disagree with this finding. The Board has been unanimous on all public decisions regarding the Airport and its operations.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 9: The County failed to keep Airport PMCDs current; failure to update them for approximately four decades caused delays in releasing the RFP.

The Acting County Executive Officer agrees with this finding.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 10: After the County decided to use an RFP process to acquire a second FBO, it did not adequately think through the timeline and elements required (e.g., update PMCDs, complete an environmental assessment, etc.), leading to unrealistic timelines and expectations.

The Acting County Executive Officer disagree with this finding. Timelines within the RFP were reasonable but were prolonged due to COVID-19, related economic uncertainty, and negotiation factors.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 11: Failure to coalesce behind a two FBO strategy by all Board members and Senior County officials once the RFP strategy was adopted, led to FBOs (prospective and the Incumbent FBO) aggressively pursuing a sole FBO strategy in their proposals and discussions with the County, elongating and muddling the process.

The Acting County Executive Officer disagrees with the finding. FBOs prefer a monopoly for obvious reasons – equates to a higher profit margin. The existing FBO and a RFP respondent FBO both proposed sole FBO services; however the Board has been unanimous on all public decisions regarding the Airport and supporting two FBOs.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 12: While the County provided updates regarding the RFP process to the Commission, its members felt the County was not transparent (i.e., overusing confidentiality for real estate negotiations concerns as an excuse) and did not adequately consult them; as a result, many of its members questioned the purpose of the Commission.

The Acting County Executive Officer partially disagrees with the finding. The Commission is an advisory body to the Board of Supervisors. It is not in the County's best interest to negotiate publicly for an FBO. Under FAA regulations, the contract term is 30 years. Given the amount of investment and term-length it is in the best interest of all parties to have confidential negotiations. The Board shared information in public as soon as it was in the best interest of all concerned.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 13: The County should have managed expectations better and been more transparent by having a communication plan which included more formal stakeholder check-ins, data sharing, repeated reminders of strategic goals, robust process status updates, and proactive public outreach.

The Acting County Executive Officer disagree with this finding. Given the amount of investment and term-length it is in the best interest of all parties to have confidential negotiations. The Board shared information in public as soon as it was in the best interest of all concerned.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 14: Allegations from multiple interviewees with first-hand knowledge that closed Board sessions were misused/overused are credible.

The Acting County Executive Officer's disagree with this finding. No evidence is provided to support this claim.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 15: Allegations from multiple interviewees with first-hand knowledge that confidential information was leaked by non-County staff from closed Board sessions to entities and individuals who were not authorized to receive that information, including FBO entities involved in negotiations with the County, are credible.

The Acting County Executive Officer disagree with this finding. While the County has no evidence to support this claim, there is sufficient anecdotal evidence to support the appearance and concerns about such potential impropriety. The County will provide training to those participating in closed sessions as to their responsibilities regarding confidentiality.

The Board of Supervisors agree with the Acting County Executive Officer.

Finding 16: Overuse of closed sessions, leaks and a failure of the Board and senior County officials to act in a unified manner, complicated and undercut the RFP process, undermined staff, complicated negotiations, and elongated the process.

The Acting County Executive Officer disagree with this finding. Similar to Finding 15 above, the County has no evidence to support this claim. The County will provide training to those involved regarding this situation.

The Board of Supervisors agree with the Acting County Executive Officer.

Recommendations

Recommendation No. 1: By January 1, 2023 the Board should articulate and publish a clear written vision for the Airport which provides for the modernization of the Airport, accommodates Napa County's residents, tourism, and business needs, integrates with other transportation planning, and articulates a meaningful role for the Commission, while also remaining true to the character and values of Napa County.

Board of Supervisor's Response: The recommendation has been implemented. The Board has articulated a clear vision which includes two FBOs, improved facilities, and maintaining the Airport as a valuable general aviation asset that ensures independent financial stability.

Recommendation No. 2: In order to ensure the County is more transparent in the future, the Board and Acting County Executive Officer should complete a review by January 1, 2023, of the process to acquire a

second FBO to determine how it could have been more transparent and managed expectations better and present its findings and recommendation during a public Board meeting.

Board of Supervisor's Response: The recommendation will not be implemented because it is not warranted and is not reasonable. Awarding an FBO contract occurs every 30 years and is unique. It is not a good investment in taxpayer money to spend time on this review.

Acting County Executive Officer's Response: The Acting County Executive Officer agrees with the Board.

Recommendation No. 3: By October 1, 2022, the Board should undertake a review of its use of, and the procedures associated with, closed sessions, to ensure that they are in accord with statutory requirements and further the interests of open government; its findings and recommendations should be presented in a public Board meeting.

Board of Supervisor's Response: The recommendation will not be implemented. The Board has and will continue to conduct closed sessions in accordance with statutory requirements.

Recommendation No. 4: By October 1, 2022, the Board should undertake a review of its procedures to ensure that information that should remain confidential during closed session is not inappropriately communicated to non-authorized entities and individuals; its findings and recommendations should be presented in a public Board meeting.

Board of Supervisor's Response: The recommendation will not be implemented. The Board has and will continue to keep confidential closed session discussions.

Recommendation No. 5: For fiscal year 2023, the Napa County Auditor-Controller should consider internal reviews/audits of (a) the Airport FBO RFP process, (b) the controls and processes governing the use of closed Board sessions, and (c) the controls and processes used to safeguard the confidentiality of information associated with County RFP processes and contractual negotiations.

See attached response from Auditor Controller's Office.



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Auditor-Controller

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Tracy A. Schulze
Auditor-Controller

August 2, 2022

Honorable Victoria Wood
Superior Court of Napa County
825 Brown Street
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Mr. Michael Stone
Foreperson, Napa County Grand Jury
1754 Second Street, Suite D
Napa, CA 94559

Please accept this letter as my response to the 2021-2022 Grand Jury Report dated June 21, 2022, titled "The Napa County Airport. Under the Radar: The Saga to Bring Napa's Airport Into the 21st Century".

Recommendation R5: For fiscal year 2023, the Napa County Auditor-Controller should consider internal reviews/audits of (a) the Airport FBO RFP process, (b) the controls and processes governing the use of closed Board sessions, and (c) the controls and processes used to safeguard the confidentiality of information associated with County RFP processes and contractual negotiations.

The Auditor-Controller responds as follows:

- (a) Recommendation R5(a) has not been implemented, but will be implemented within 12 months from the date of publication, The Auditor-Controller will conduct an internal review/audit of the Airport FBO RFP Process as requested, during the fiscal year 2022-2023. The scope of the review shall be limited to the compliance of the County's RFP process in accordance with Section 8 of the County's Purchasing Policy.
- (b) Recommendation R5(b) will not be implemented. The Auditor-Controller is unable to fulfill this request as there is no provision in the Brown Act for the Auditor-Controller to audit the Board or other agencies within a county for compliance of the Brown Act.
- (c) Recommendation R5(c) will not be implemented. The Auditor-Controller is unable to fulfill this request as the Brown Act prohibits a person from disclosing confidential information acquired by being present in a closed session. It provides several remedies for a violation of this section, none of which specifically involve the Auditor-Controller. In addition, the Brown Act does not provide for a process by which the Auditor-Controller audits the Board to ensure that it is maintaining the confidentiality of information discussed during closed sessions.

Respectfully submitted,

A handwritten signature in blue ink that reads "Tracy A. Schulze".

Tracy A. Schulze
Napa County Auditor-Controller

Cc: Daniel Sanchez, County Executive Office
Neha Hoskins, County Clerk of the Board