

MINUTES OF A SPECIAL MEETING  
CITY COUNCIL, VENICE, FLORIDA

JANUARY 5, 2010

A Special Meeting of the City Council to consider assignment of the current Venice Jet Center lease agreement to Tristate Aviation Group of Florida, LLC was held this date in Council Chambers at City Hall. Mayor Martin called the meeting to order at 1:31 p.m.

**ELECTED OFFICIALS AND OTHERS PRESENT**

Roll was called with the following elected officials present: Mayor Ed Martin, Vice Mayor Ernie Zavodnyik, and Council Members Jim Bennett (1:35), Emilio Carlesimo, Sue Lang, Kit McKeon, and John K. Moore.

Also present: City Attorney Bob Anderson, City Attorney Wayne Hall, City Clerk Lori Stelzer, City Manager Isaac Turner, and Finance Director Jeff Snyder.

**I. NEW BUSINESS**

- A. Consideration of a Request by the Federal Court Receiver for Venice Jet Center (VJC) that the City of Venice (City) Consent to the Assignment of the Current Lease Agreement to Tristate Aviation Group of Florida, LLC (Tristate) Pursuant to Order of the U.S. District Court Entered on December 14, 2009

Mr. Hall provided background information concerning the sale of VJC assets to Tristate and explained that Mark Hildreth, Attorney, Shumaker, Loop, & Kendrick, LLC, was retained as special counsel to represent the city in federal court.

Mr. Bennett arrived at 1:35 p.m.

Mr. Hall recommended that council act as quickly as possible on this matter and noted that staff met with the applicant, reviewed financial information, and would report back to council at a later date. Mr. Hall stated the lease could not be assigned without obtaining consent from the city and “which consent shall not be unreasonably withheld.”

Mr. Hildreth advised that additional time beyond the December 28, 2009 deadline was granted by Judge Lazzara for the city to respond to Mr. Wiand’s motion seeking approval of the transaction between VJC and Tristate. He briefed council members on Florida lease and sub-lease agreement

standards and items the city should consider when making decisions concerning the lease agreement including minimum standard requirements for proposed or existing operators calling for evidence of past experience, financial capability, and technical ability needed to perform proposed services. In addition, standards permit the city to be the sole judge of what constitutes adequate finances, procedures to base financial information, and to deny any requested activity. Mr. Hildreth discussed

Florida law relating to unreasonable withholding of consent.

Discussion followed regarding the city objecting to the sale, accusations that the city was interfering with the sale, Judge Lazzara refusing requests for an intervention, the current order requesting that the city state objections to the deal, filing objections, the lack of case law with regard to this issue, Attorney Tom Devine pursuing the Part 16 complaint, the VJC lease continuing into the receivership, the receiver directing the city to assign the lease to Tristate Aviation Group, and loans to the VJC.

(2:09) Mr. Snyder clarified that the \$1.5 million loan made to Scoop Capital and the \$1.2 million loan made to the VJC were two separate loans for two different purposes, that the buyer of the VJC would or has negotiated with Northern Trust Bank to assume the second loan, and that the certificate of deposit was unrelated to the VJC loan.

Discussion followed regarding LLC ownership; due diligence; the applicant's unwillingness to share names of all principals; possible criminal activity; policies versus legal requirements; changing ownership; supplying business plans, etc. to Northern Trust Bank; providing proof of insurance; businesses being transparent; and the city's objections not having standing in court.

(2:22) Mr. Snyder discussed his financial review of Tristate which concluded that their business plan was viable. Mr. Snyder advised that although this corporation was a spin off of the company named in the packet of financial information, they showed considerable experience and a background check provided no negative information.

A detailed discussion followed concerning Mr. Snyder's review of Tristate's financial information, litigation with the city, proposed hangar locations, the airport layout plan, the VJC lease being in default, Hertz Car Rental operating without a lease, and discussing noise abatement and pollution with Tristate.

(3:02) Marty Kretchman, 400 Airport Avenue East, representing Tristate, discussed council concerns regarding noise abatement, maintaining a community airport, contributing to the city's economy, and maintaining the airport at its current size.

Mr. Kretchman answered questions concerning Tristate's negotiations with the receiver, conditions of the lease assignment, hangar construction, existing hangar space, airfield and hangar access, having the prerogative to construct hangars, his position on the Part 16 Complaint being assignable, Tristate not having an attorney on retainer, increasing operational efficiencies, and differences between Tristate and the VJC.

Recess was taken from 3:32 p.m. until 3:47 p.m.

Tom Gavlick, 130 Rio Terra, encouraged council members to approve purchasing the VJC lease and expressed concerns regarding financial information supplied by Tristate.

Tom Brener, 1118 Bird Bay Way, questioned loan terms and handed out an e-mail referencing the Venice Taxpayers' League resolution.

John Patten, Venice resident, commented on alleged illegal activities at the airport.

Michael Juchnowicz, 400 E. Venice Avenue, supported Tristate's purchase of the VJC.

Discussion followed regarding Tristate's agreement with VJC requiring pursuit of the Part 16 Complaint, Mr. Kretchman working for Volo Aviation, Volo Aviation and Tristate working jointly, expanding the light sport aircraft business, flight training not being profitable, selling fuel, discussions progressing when Tristate becomes the legal owner, and deleting references concerning transferring the Part 16 Complaint if the city agrees to the lease assignment.

(4:20) Mr. Anderson explained that if council members approved the assignment and assumption of the lease and the two subleases, any documents that he prepared would not consent to a transfer of the Part 16 Complaint, and added that city attorneys would object to any attempt by Tristate to exercise its rights in the Part 16 Complaint as a result of a deal struck with the receiver. Mr. Anderson clarified that his consent to assignment and assumption materials clearly limited only the assignment and assumption of the lease and subleases.

Discussion followed regarding the city crafting its own documents, whether or not the VJC lease was valid and if they have the ability to build four hangars, whether or not assignment of the lease conveys approval to construct four additional hangars, relocating the proposed hangars, the city offering to pay for utility relocations, hangar construction not being part of the package, accepting the transfer without including negotiable items, responding to court orders, going on the record with objections, problems with the lease, and examples of mortgage assumptions.

(4:48) Mr. Anderson read the draft consent form which clarified that the VJC would not be released or relieved from any duty, obligation or liability under terms and conditions of the May 23, 2006 lease.

Discussion continued regarding Tristate working with the city in good faith if the assignment was approved, presenting the city's position, default not terminating the lease automatically, terms of Hertz sublease termination, judge determining if a hearing is required, the federal court process, and issues that should be addressed in the response.

Mr. McKeon **moved** that the City of Venice consent to the assignment and assumption of the May 23, 2006 lease to and by Tristate Aviation Group of Florida, LLC. **Seconded** by Mr. Carlesimo.

Council members discussed rewording the motion for clarification regarding consent.

Mr. Carlesimo **moved** to amend the language of the main motion to "include the consent forms that were prepared by city attorney." **Seconded** by Mr. McKeon.

ROLL CALL ON THE AMENDMENT: MR. MCKEON, YES; MS. LANG, YES; MR. ZAVODNYIK, YES; MR. MOORE, YES; MR. CARLESIMO, YES; MR. BENNETT, NO; MAYOR MARTIN, YES. MOTION CARRIED.

ROLL CALL ON THE MOTION AS AMENDED: MR. MOORE, YES; MR. BENNETT, NO; MS. LANG, NO; MR. ZAVODNYIK, YES; MR. MCKEON, YES; MR. CARLESIMO, YES; MAYOR MARTIN, YES. MOTION CARRIED.

Recess was taken from 5:18 p.m. until 5:26 p.m.

Mr. McKeon **moved** that the City of Venice consent to the assignment and assumption of the Cockpit Café, LLC sublease dated February 26, 2008 to and by Tristate Aviation Group of Florida, LLC as written by the city attorney. **Seconded** by Mr. Zavodnyik.

Mr. Carlesimo returned to the meeting at 5:27 p.m.

Mr. McKeon repeated the motion.

ROLL CALL: MS. LANG, NO; MR. MOORE, YES; MR. MCKEON, YES; MR. CARLESIMO, YES; MR. ZAVODNYIK, YES; MR. BENNETT, NO; MAYOR MARTIN, YES. MOTION CARRIED.

Mr. Anderson pointed out that the October 22, 2009 sublease with Hertz Car Rental had not previously been brought to council, but if council agreed to the assignment and assumption they would authorize and approve the Hertz Car Rental lease simultaneously.

Mr. Moore **moved** to approve the sublease agreement identified in the letter from the Boone Law Firm on December 1, 2009 between Venice Jet Center, LLC, sublessor, and the Hertz Corporation, sublessee, and authorize the mayor to sign the consent of lessor to the sublease. **Seconded** by Mr. McKeon.

ROLL CALL: MR. BENNETT, YES; MR. MCKEON, YES; MR. CARLESIMO, YES; MR. MOORE, YES; MR. ZAVODNYIK, YES; MS. LANG, NO; MAYOR MARTIN, YES. MOTION CARRIED.

Mr. McKeon **moved** that the City of Venice consent to the assignment and assumption of the Hertz Corporation sublease dated December 1, 2009 to and by Tristate Aviation Group of Florida, LLC using the city attorney's form. **Seconded** by Mr. Carlesimo.

After discussion regarding the date, Mr. McKeon restated the motion and revised the date.

Mr. McKeon **moved** that the City of Venice consent to the assignment and assumption of the Hertz Corporation sublease dated October 22, 2009 to and by Tristate Aviation Group of Florida, LLC using the city attorney's form. **Seconded** by Mr. Carlesimo.

Ms. Lang clarified that she voted negatively due to concerns regarding staff's due diligence.

ROLL CALL: MR. CARLESIMO, YES; MR. MCKEON, YES; MR. ZAVODNYIK, YES; MR. MOORE, YES; MR. BENNETT, NO; MS. LANG, NO; MAYOR MARTIN, YES. MOTION

CARRIED.

Mr. Bennett explained that he voted negatively due to procedural issues and his belief that the city was missing an opportunity to arrange a better deal with Tristate.

Mayor Martin suggested the attorneys present a draft letter at the January 12, 2010 Regular Council Meeting reflecting the city's prior filing and objections made to the Federal Aviation Administration.

Mr. Anderson indicated a response could be filed before the January 15, 2010 deadline established by the court.

Mayor Martin requested that a draft letter be presented to council members by Friday, January 8, 2010, followed by council approval at the Tuesday, January 12, 2010 Regular Council Meeting.

Mr. Anderson suggested that Mr. Devine and Mr. Hildreth present a draft response to council and that council members provide revisions and comments directly to Mr. Devine.

Ms. Lang expressed concerns regarding statements not related to the Part 16 Complaint made by Mr. Wiand in his motions.

Mr. Anderson responded that the city's engagement with the federal court was concluded once the response was filed, and suggested presenting a response to the motion in order to clarify the record.

Mr. Hildreth, noting document size limitations, stated the need for a document that included consent, Part 16 Complaint issues relative to Tristate stepping into the receiver's shoes, and other issues causing offense.

## **II. ADJOURNMENT**

There being no further business to come before council, the meeting was adjourned at 5:44 p.m.

ATTEST:

Mayor – City of Venice

City Clerk