

JEFFREY L. KLEINMAN
ATTORNEY AT LAW
THE AMBASSADOR
1207 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204

TELEPHONE (503) 248-0808
FAX (503) 228-4529
EMAIL KleinmanJL@aol.com

September 6, 2019

Via First Class Mail and Email to lucinda.d.jackson@doj.state.or.us

Betty Stansbury, Director
Oregon Department of Aviation
c/o Lucinda D. Jackson
Oregon Department of Justice
General Counsel Division
1162 Court St NE
Salem OR 97301

Re: Objections to Scheduled Proceedings–ODA Public Meeting September 24, 2019, and Aviation Board “Public Hearing” October 31, 2019

Dear Ms. Stansbury:

I am writing on behalf of Friends of French Prairie (FFP). We have received the attached Notice of Public Meeting from ODA with respect to upcoming meetings regarding the compatibility of the 2012 Aurora State Airport Master Plan update with applicable land use plans and statewide planning goals. FFP objects to the process described in the within notice on several grounds. **Please place this objection in the record of the proceeding described in said notice.**

ODA's process is nothing more than window dressing for a master planning process ODA believes it has already completed. It is improper and unlawful, and fails entirely to comply with both the letter and spirit of ODA's State Agency Coordination (SAC) Program.

On April 24, 2019, you sent me a letter responding to questions I had submitted regarding the status of the Aurora State Airport Master Plan (master plan). You stated that the master plan was completed in December, 2012, but had not been submitted to the

Betty Stansbury, Director
Oregon Department of Aviation
September 6, 2019
page 2

Aviation Board for adoption. You stated that the "board has not yet adopted a master plan for Aurora." You indicated that the board had adopted ODA's State Agency Coordination program in 2017 but was awaiting review and certification by DLCD. You stated that once ODA's State Agency Coordination program was certified, ODA would comply with it when adopting the Master Plan.

Then, after a whiplash-inducing change of heart, ODA took the opposite position regarding the chronology set out above. In a letter dated August 21, 2019, you stated that the board had in fact adopted the master plan at some point in 2011 or 2012. FFP strongly disputes that characterization but, for the sake of argument and for the sake of this objection, will take it at face value.

The original drafting process for the master plan involved a fair amount of public involvement, including the active participation of a Public Advisory Committee (PAC) including several stakeholders, appointed in December 2009. The PAC held several meetings and ultimately, on March 31, 2011, the department's staff and consultant presented the "Preferred Alternative" to the Aviation Board. As pertinent here, the Preferred Alternative was the "No Build" option—no expansion of the physical size of the Aurora Airport, and no lengthening of the runway. ODA staff reported to the board that a runway extension onto farmland would be infeasible because of the negative impact upon farmland. This in turn is FFP's primary concern in this matter.

Thereafter, however, the worm turned. In April 2011, without any PAC meetings or other public process, including any with local government stakeholders, the Aviation Board directed staff to change the Preferred Alternative from "no extension" of the runway to "an extension is necessary." Staff dutifully drafted up a "new" Preferred Alternative, with two scenarios, north and south, for lengthening the runway by means of a displaced threshold. These were presented to the board on April 28, 2011. The board directed staff to present the new Preferred Alternative to the PAC as *fait accompli*.

ODA presented the new Preferred Alternative to the FAA. The FAA responded that it would support only a longer runway extension. A revised, new "Preferred Alternative" was presented to the PAC, also as *fait accompli*, at a public meeting on June 7, 2011. On June 24, the board voted in support of an 800 foot displaced threshold runway "extension" onto farmland to the north of the airport.

Betty Stansbury, Director
Oregon Department of Aviation
September 6, 2019
page 3

After a period of back-and-forth between the agency and the FAA, in October 2012, a new Airport Layout Plan was signed by both. In November 2012, ODA received a letter from the FAA confirming support for a 1,000 foot extension of the runway to the south, and disapproving the agency's desired 800-foot displaced threshold to the north. At some point thereafter, revised Chapter 5 of the master plan was published. This included a new "Supplemental Data" section detailing the 1,000 foot runway extension to the south. No public notice of this change to the original preferred alternative was given; the PAC was not informed; and no public process occurred. The master plan page on ODA's website was then updated with the revised Chapter 5, without notice and with no indication of the date of the text change.

On January 8, 2015, after frequent requests regarding release of the "final version" of the master plan, Jeff Caines, ODA Aviation Planner, confirmed to FFP that ODA had discovered it did not have the required SAC agreements or corresponding OARs in place to approve the master plan in a manner compliant with Oregon land use laws and rules. He stated that once that process is complete, "the agency will be able to address the formal adoption of airport Master Plans."

We note here that the only master plan on the table in advance of the *pro forma* sessions described in the enclosed notice is the already published version calling for the 1,000 foot runway extension onto farmland to the south. No further alternatives have been presented or discussed. By design, the noticed schedule simply provides no time for discussion or evaluation of alternatives, whether presented by local government representatives or otherwise.

I am again providing a copy of ODA's flowchart entitled "State Agency Coordination Program: Adoption of Final Master Plans, Oregon Department of Aviation." I addressed this in my letter to you of August 12, 2019, and reiterate some of the points I raised then. I would point out first, though, that the flowchart sets out an actual flow in sequence. First comes the process called "Planning Advisory Committee and Public Participation." *After* that come two distinct processes for resolving (1) "Compatibility of Master Plan and local comprehensive plans" and (2) "Compliance with statewide planning goals." *Only then* is the agency to seek "FAA approval of Airport Layout Plan (ALP)." *Only after* the above steps have been carried out fully, in the prescribed order and in good faith, can the final step—State Aviation Board Adoption of Master Plan—be carried out.

Betty Stansbury, Director
Oregon Department of Aviation
September 6, 2019
page 4

I would again point out that in violation of the requirements for the first step, involving the Planning Advisory Committee and Public Participation, the membership of the PAC formed to advise the agency in the master planning process did not include a DLCD representative, or representatives from the Mid-Willamette Valley Council of Governments, the Oregon Department of Agriculture, the Oregon Department of Transportation, the Federal Aviation Administration, or the Confederated Tribes of the Grand Ronde. In connection with the validity/good faith of the conduct of the PAC process, I am again enclosing a letter from five members of the PAC to the chair of the Aviation Board, dated September 14, 2010. It is obvious that the process was conducted with no intention that the outcome would affect agency decisionmaking. It was an idle exercise.

With respect to the "Compatibility of Master Plan and Local Comprehensive Plans," ODA is still not providing the required 45-day public comment period, or a process for due consideration of such comments and action upon them. Carrying out the steps described in your flowchart in the stated order is the only way to achieve compliance with the agency's SAC program. The currently noticed process not only fails to provide such compliance, but would take the agency out of compliance with ORS 197.180, OAR 660-030-0060, and the previously binding SAC program adopted by ODOT.

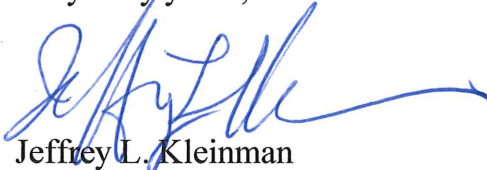
FFP has additional objections, as follows:

- The notice leaves insufficient time for meaningful participation.
- Conducting the agency's only public meeting during business hours on a weekday, at Salem Airport, makes attendance by most interested parties infeasible. So too does the scheduling of the sole Aviation Board "hearing" for Sunriver on a Thursday.
- Limiting testimony before the agency to a total of two hours, and only two minutes per witness; prohibiting testimony before the Aviation Board; and requiring written testimony intended for the board to be filed by October 4, 27 days in advance of the board meeting and almost certainly before the results of and recommendations resulting from the agency hearing are known or published, all serve, intentionally no doubt, to block meaningful participation in the noticed process.

Betty Stansbury, Director
Oregon Department of Aviation
September 6, 2019
page 5

In each of the above particulars, the noticed process serves to deny due process and to prejudice the substantial rights of FFP and all other interested parties. For all the reasons set out in this letter, FFP objects to the noticed process in each of its particulars, and will challenge any adverse decision arrived at under it.

Very truly yours,



Jeffrey L. Kleinman

JLK:cme
Enclosure
cc: client (via email)

RECEIVED

AUG 26 2019

NOTICE OF PUBLIC MEETING Aurora State Airport Master Plan

JEFFREY L. KLEINMAN
ATTORNEY AT LAW

The Oregon Department of Aviation (ODA) is in the process of gathering information on the compatibility of the Federal Aviation Administration approved 2012 Aurora State Airport Master Plan Update with applicable land use plans and statewide planning goals. The Department will prepare findings of compatibility and present the Master Plan and these findings to the Oregon Aviation Board on October 31, 2019, for adoption. This meeting will be held in Sunriver.

To provide opportunity for public input on this, the Department will hold a public meeting on September 24, 2019, from 3-5pm at the Salem Airport – Terminal Building: 2990 25th St SE, Salem, OR 97302. The Department will only consider comments on the issue of compatibility with applicable land use plans and statewide land use goals. Each person, who wishes to speak, will be limited to 2 minutes. The Department strongly encourages that comments also be submitted in writing.

All members of the public, Department of Land Conservation and Development, affected metropolitan planning organizations, cities, counties, state and federal agencies, special districts and other interested parties in the development or amendment of the Master Plan are invited to participate.

Copies of the 2012 Aurora State Airport Master Plan Update are available for public review at the Oregon Department of Aviation, 3040 25th St SE, Salem OR 97302; North Marion Community Library, 21553 Liberty St NE, Aurora, OR 97002; online at the Department's website: Oregon.gov/aviation.

Aviation Board Meeting

The Aviation Board is scheduled to hold a public hearing and consider adoption of the Master Plan at the October 31, 2019 Oregon Aviation Board meeting to be held at the Sunriver Resort – Abbot Room, 17600 Center Drive, Sunriver, OR 97707. The meeting is scheduled to start at 10 am. Last day for public comments will be: **October 4, 2019**. Comments received after this date may be considered and will be given to the Board prior to the meeting as part of the public record. Please submit 15 copies if comments are submitted in person on the date of the hearing.

Written comments can be emailed to the Department prior to the October 4, 2019 deadline. Email: aurora@aviation.state.or.us or via USPS: Oregon Dept. of Aviation, ATTN: Aurora Master Plan, 3040 25th St SE, Salem, OR 97302

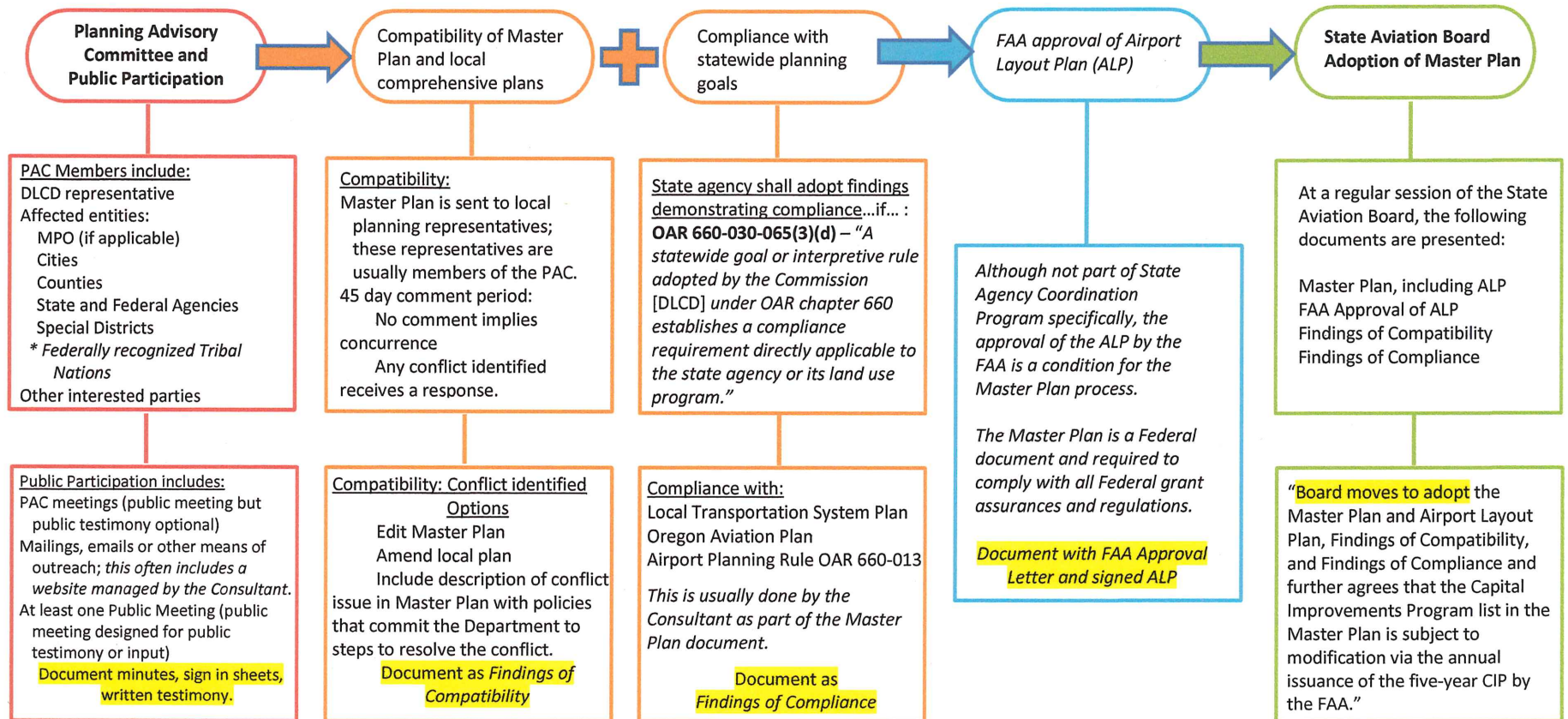
For additional information, please see Department Website:

Website: Oregon.gov/aviation
503-378-4880 – phone
503-373-1688 – fax
Email: aurora@aviation.state.or.us

Accessible Meeting Information

This meeting location is accessible. Special accommodations are available upon advance request. Please contact Mary Buell at 503-378-2217 or Mary.Buell@aviation.state.or.us) at least 48 hours prior to the event to discuss specific needs.

**State Agency Coordination Program:
Adoption of Final Master Plans, Oregon Department of Aviation**



**Members of the Planning Advisory Committee
to the Aurora State Airport Master Plan**

Charbonneau Country Club • City of Wilsonville • Clackamas County
Deer Creek Estates • Friends of Marion County

Mark Gardiner, Chair
State Aviation Board
Oregon Department of Aviation
3040 25th St. SE
Salem, OR 97302-1125

September 14, 2010

**RE: Request for meeting to discuss Aurora State Airport master planning
process and role of the Planning Advisory Committee**

Dear Mr. Gardiner:

As local-government and community-organization members of the Planning Advisory Committee (PAC) to the Aurora State Airport Master Plan, we have grave concerns that our participation in the process is not intended to be meaningful. We see serious deficiencies in how the process is being conducted by the consultant, W.H. Pacific, and we seek to resolve these issues of concern.

In a nutshell, we are very concerned that the Aurora Airport master planning process is being rushed on a condensed schedule—reduced by one-third from the original timeline—without adequate discussion of issues at the PAC level in order to satisfy preconceived outcomes of a few special interests that may be detrimental to the greater public good. It seems fairly clear that the consultant intends to march steadily through construction of ‘chapters’ of the master plan, according to a predetermined timetable, regardless of whether or not there has been adequate discussion at the PAC of the issues. This is not the meaningful public-input practice that the Federal Aviation Administration (FAA) recommends for stakeholders in the master-planning process.

The FAA is quite clear, as outlined in the document ‘Airport Master Plans,’ AC 150/5070-6A, that **stakeholders must have an early opportunity to meaningfully comment before major decisions are made.** Stakeholders in the master-planning process have been asked to enunciate their individual goals, but there has been no discussion on how to integrate these into establishing the ‘strategic role’ and the ‘study goals’ as outlined by the FAA. ODA and consultant W.H. Pacific have specifically rejected the establishment of a ‘vision’ for the Airport as a starting point, something several members of the PAC requested at the outset of the process.

We observe from the conduct of ODA that installation of an air traffic control tower is being actively pursued prior to development of the new master plan and without consultation with the PAC. The fact that ODA is acquiring funds to build a control tower in the absence of any cost estimate and without first conducting planning demonstrates a serious lapse in judgment. ODA has indicated that concurrent to the master plan update, the agency has contracted for an air traffic control tower siting study; again an issue that the PAC should discuss has been arbitrarily removed the planning process.

Further, it seems clear that the role of the PAC has been deliberately marginalized. The forecast of future activity at the airport has apparently been compiled and is about to be sent to the FAA for

approval without any advance discussion with the PAC. It is notable that there is no accurate information available on current activity levels, since there are no records of landings and take-offs. Any methodology used to generate undocumented current activity numbers to use as a starting point for future usage projections surely should require very close scrutiny. But the PAC has not been given that opportunity for review and discussion.

Despite the absence of any discussion of the 'strategic role' and 'study goals' and any review of the activity forecast with the PAC, the process developed by the consultant, under the direction of ODA, appears to be one of justifying the preconceived idea that runway expansion and strengthening is required at Aurora Airport. The Scope of Work, dated June 19, 2009, states on page 3 that consultant "W.H. Pacific will prepare a letter on behalf of ODA to request statements [presumably from large jet operators] to *help justify* an extension" of the runway (emphasis added). This would seem to clearly demonstrate an intent that undermines any pretense of a meaningful process.

We are not aware of any impact analysis based on a forecast of future activity that was developed. In short, this appears to leave the simplistic assumption that if the demand can be somehow justified, then it must be supplied, no matter the impacts. Common sense tells us that increasing the size and types of airplanes, and the increase in the frequency of their use, will have impacts. Going from a general aviation airport with mostly small, propeller-and-piston-engine light-airplane and smaller jets under 45,000 pounds to an airport catering to larger, heavier turbine-engine jet aircraft calls for a serious, reasoned analysis of impacts.

The Aurora State Airport is located in the French Prairie area of "foundation farmland," which the Oregon Department of Agriculture indicates contains Oregon's highest-quality agricultural soils, and has been able to co-exist with its neighbors as a small-aircraft airport. However, the airport is within a mile of the Portland Metro Urban Growth Boundary and dense residential development to the north. There are serious traffic-congestion problems on roads around the airport and on nearby Interstate 5 at the Boone Bridge "bottleneck" over the Willamette River. As the FAA document 'Airport Master Plans' makes clear, the regional setting of the airport must be examined "because the impact of airport planning decisions can extend well beyond the airport property line." What will be the impacts of this greater development at the airport be on noise, pollution, the surrounding farm lands, off-site surface transportation facilities including the interstate highway, and nearby residential areas? What, if any, mitigation should occur?

While the PAC's role has been marginalized, ODA plans to select interviewees outside of the PAC and master-planning process who will be asked to give their views on at least one of the major master-planning issues. The Scope of Work, page 8, states that "up to 20 people [will be interviewed] regarding future activity at the airport." That is a critical task. Who are these people and how has ODA directed the consultant to choose them? What meaningful process is there for the PAC in this regard? Again, there has been no discussion by the consultant with the PAC on this matter.

The Scope of Work, page 5, lists the main areas under which data will be collected. Under Item E, Environmental Inventory, there is no mention of collecting data on noise and traffic impacts on nearby communities and on their transportation infrastructure, key aspects listed by the FAA on page 123 with the title 'Environmental Overview for Master Plan Purposes,' FAA AC 150/5070-6B. Nor

is there any discussion in the Scope of Work of National Environmental Policy Act (NEPA) requirements and whether or not an Environmental Impact Statement (EIS) is required. The Scope of Work states that noise contours will be developed, but only to show existing conditions and those five years into the future. As the activity forecasts will be generated for five years, 10 years and 20 years into the future, the noise contours should be developed for the same time periods.

We are very concerned that the Aurora Airport master planning process is being rushed through on a condensed schedule without adequate discussion of the issues at the Planning Advisory Committee level in order to satisfy the preconceived outcomes of a few special interests. This is not the meaningful, due process input the FAA intended in their Master Plan process.

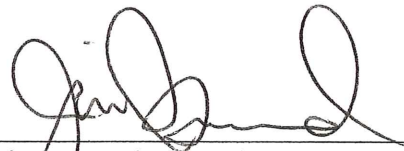
We respectfully request that a meeting be arranged at the earliest opportunity for the undersigned with you, the Acting Director of ODA, the consultant, and appropriate representatives of the FAA to discuss these concerns. Furthermore, we request that this letter be memorialized as a part of the record of the Aurora Airport Master Plan update. Too many issues of previous inside dealings connected with ODA's handling of matters at the Aurora Airport have recently come to light, and it is important that now, under new management direction, ODA not be a part of a process that lacks meaningful input, good planning, and transparency.

We thank you for your time and consideration.

Respectfully submitted by the undersigned members of the Planning Advisory Committee to the Aurora State Airport Master Plan.



Tony Holt, Chair, Civic Affairs Committee
Charbonneau Country Club



Jim Bernard, Commissioner
Clackamas County Board of Commissioners



Steve Hurst, Councilor
City of Wilsonville City Council



Rick Kosta, President
Deer Creek Estates Homeowners' Association



Roger Kaye, President
Friends of Marion County