



## Peninsula Airport Commission secrecy, loan decision questioned

By Dave Ress January 27, 2017

The secrecy of the Peninsula Airport Commission's discussion of its multimillion-dollar support of People Express and its decision to guarantee a loan to the startup airline, a deal that cost it \$4.5 million, reflect a lack of openness and raise serious questions about how the group deals with public funds, political scientists and open-government advocates say.

The commission guaranteed a line of credit from TowneBank to the startup airline, which had already been sued by American Express because it owed \$50,546 on two credit cards. To support air service to New York and Boston, the commission also spent some \$425,000 in advertising; the airline also was promised \$700,000 in incentives from local governments.

People Express also borrowed \$985,000 from W.M. Jordan Co. but in the end, the airline flew for less than three months.

Commission members apparently discussed the loan guarantee behind closed doors before granting then-Chairwoman LaDonna Finch the power "to do and commit any act ... the Chair deems necessary" to provide for air service and general business at Newport News/Williamsburg International Airport. The language of the resolution was written by TowneBank advisory board member Herbert V. Kelly Jr., the commission's lawyer. It was formally proposed for a vote by Newport News City Manager Jim Bourey, also a member of the airport commission.

"Wow," said Alan Gernhardt, a senior attorney for the state's Freedom of Information Advisory Council, when asked if the commission violated open meetings laws when it discussed the loan behind closed doors, describing the action vaguely in open session.

"I don't know that I can answer that question. I think that maybe only a judge can give you a definite answer," he said.

Gernhardt said that what the commission did "sounded like they granted their chair a great deal of power to do just about anything."

Whether that was enough notice for the public is not clear, he said.

"I don't think I've ever seen a commission give a chair that kind of authority," said John McGlennon, a College of William and Mary political scientist and longtime member of the James City County Board of Supervisors.

Whether the commission's closed-door discussions before Bourey made the motion included any constraints on Finch is unclear, as there is no record of the talks or notation in the minutes.

Bourey said he believed the commissioners understood they were clearing the way for a loan guarantee. Aubrey Fitzgerald, who seconded the measure, said he does not remember. Finch has not responded to voicemail messages asking what she understood about the arrangement.

Commission members and airport Executive Director Ken Spirito never mentioned the guarantee when asked about public support for People Express. Nor did anyone at the commission disclose the guarantee

and the eventual payment of \$4.5 million when asked repeatedly whether People Express' collapse caused any financial loss to the airport or local governments.

"On the one hand, I could argue sometimes a body needs to move quickly ... on the other hand, the idea of public body is that you have many people speaking and deliberating on an issue. A motion like this says you don't see a reason to do that," said Quentin Kidd, director of Christopher Newport University's Wason Center for Public Policy. "As a citizen, I have to trust the people on these commissions ... and if that trust is misplaced, then they may have to be replaced."

Megan Rhyne, executive director of the Virginia Coalition for Open Government, said open discussion helps government officials reach sound decisions. She said too many actions involving economic development — the commission's aim in encouraging People Express — result from closed-door meetings and are based on records the public can't see.

"Decisions about a potential expenditure of taxpayer monies — that should be something that is openly discussed in at least a general way," she said.

She said the commission's process, along with its recent decision to charge \$3,374 in response to a [Freedom of Information Act](#) request made by a business owner whose lease at the airport is being terminated, raises questions about its commitment to transparency. The People Express records were part of that FOIA request.

The loan guarantee payment was the equivalent of 57.5 percent of all the airport's revenue that year and came on top of the \$8.1 million in cash it spent on operations, interest, cost of other assistance to its airlines and pensions. Adding in depreciation of what were then \$113 million in assets, that left the airport with a loss of \$11 million that year.

Financial records show it did not borrow any money to make the payment. However, capital contributions, which are mainly funds from the federal and state governments intended to be used to improve airport facilities, spiked that year, rising to \$10 million, more than double the prior year's \$4.8 million and nearly 60 percent more than it received the following year, city and airport financial records show.

The commission is considered a component of the city of Newport News, which under Governmental Accounting Standards Board guidelines means it is fiscally dependent on the city. City financial reports show its last direct payment to the commission proper was in 2013, when it spent \$438,000 toward the commission's payments on its debt.

Newport News, along with Hampton, York County, James City County, Williamsburg, Poquoson and Gloucester County also contribute to the Regional Air Service Enhancement, or RAISE, Committee, which is a Peninsula-based entity that collects money from localities to help attract airlines.

Newport News contributes the most and allocated \$108,431 to the pot this fiscal year, according to figures from Florence Kingston, director of the Newport News Economic Development Authority, which serves as RAISE's fiscal agent. Hampton contributed \$54,974, the second-most.

This was the source of some \$700,000 of subsidies promised to People Express, meant to backstop \$950,000 from the federal government. The local sums were not tapped, commission officials said in the aftermath of the airline's collapse, when asked about any potential or actual losses to the commission or to the local governments that supported the project.

They never mentioned either the guarantee of TowneBank's loan or the eventual \$4.5 million paid to the bank when People Express went under. While Kelly, the commission's attorney, was then and is now a member of TowneBank Peninsula's advisory board, he is not involved in decisions about loans, bank executives say. And while City Councilman Bert Bateman, a TowneBank executive, was on the commission at the time, he was not at the meeting where the motion that cleared the way for the

guarantee was enacted. Nor was he involved in the bank's decision about the loan, those bank officials say.

TowneBank chairman and Chief Executive Officer G. Robert Aston said the bank arranged the loan to People Express at the request of the commission.

"To begin with, it is hard to imagine that both TowneBank and the Peninsula Airport Commission do not see or even think there could have been a conflict of interest," said Olusoji Akomolafe, chairman of the political science department at Norfolk State University.

"Why did the whole deal have to be made behind closed doors? And why does it have to take FOIA to bring the deliberations out into the open?" he said.

Newport News Councilwoman Pat Woodbury said the loan guarantee was "worrisome."

"I mean, I don't think you make a \$4.5 million loan to a company that hasn't at least demonstrated some success. I'm just wondering how much they vetted the situation," Woodbury said.

"It is worrisome to me, and I'm very concerned about our taxpayers' money, being from all of our regions, and being careful, good stewards of that money," she said.

Hampton Mayor Donnie Tuck said he had "no idea whatsoever" of the loan agreement. He said he didn't have enough knowledge about how the commission operates to have an opinion on whether it did something wrong.

Hampton City Manager Mary Bunting said she was unaware of the payment.