

FINAL

Boundary County Airport Board Meeting June 7, 2022.

Present: Don Jordan, Pat Gardiner, Rick Durden, Jay Wages, Caleb Davis, Johannes Snyder, Don Jordan, Travis Wisberg, Jay Wages, Mark Weber, Jesse Stafford and Bob Blanford

Manager: Dave Parker

The meeting was called to order at 5:35 PM by Jay Wages.

Board members identified one misspelling of a name in the May meeting minutes and noted that the names of some of those in attendance were listed twice. Caleb Davis moved to approve the minutes with those corrections. Rick Durden seconded the motion and it passed unanimously.

May 9, 2022 draft Boundary County Self-Fueling Rules and draft Boundary County Hangar Use Rules

The May 9, 2022, draft self-fueling rules and draft hangar use rules for the Boundary County Airport were the first action item.

Self-Fueling Rules

There was an extended discussion of the self-fueling rules by the Board and the airport manager as well as airport users who were at the meeting and the Board was provided with written comments by airport users who could not attend.

It was the consensus of the Board that the introductory language to the rules should be retained.

Concern was expressed over allowing hangar tenants to bring in fuel for their aircraft in trucks that would be based on the airport due to extensive state and federal requirements for fuel transport vehicles that can carry 120 gallons or more. It was the consensus of the Board that fuel transport vehicles and/or trailers, be limited to a capacity of 119 gallons.

Caleb Davis moved that all fuel storage be contained in State and Federally compliant transportable fuel storage container(s), that are not to exceed a total of 119 gallons at any one point in time and be stored within all leased hangars. The motion was seconded by Pat Gardiner and passed unanimously.

Rick Durden moved to strike any reference to a \$25 annual fuel permit in the self-fueling rules. Caleb Davis seconded, and it passed unanimously.

Rick Durden moved to strike any reference to a "self-fueling permit." Pat Gardiner seconded, and it passed unanimously.

Rick Durden moved that the rules include the statement that "Any person who brings fuel onto the airport may only put the fuel into an aircraft that the person owns or is an agent for." Caleb Davis seconded, and it passed unanimously. Board members noted that the agency language was

to allow for situations such as where the Forest Service brings fuel onto the airport to service fire-fighting aircraft that it may not own but which is operating under an agreement with the Forest Service.

Rick Durden moved to change the phrase “permit holder” to “fueler” in self-fueling rules 6 and 7. Caleb Davis seconded, and it passed unanimously.

Rick Durden moved to strike rule 8 which places a limit on the number of five-gallon fuel containers that may be in one hangar at one time and that the rules be renumbered to accommodate the changes made by the Board. Don Jordan seconded, and it passed unanimously.

Don Jordan moved to change the phrase “pickup truck, for example,” in Self-fueling rule 9 to “mobile tank.” Caleb Davis seconded, and it passed unanimously.

It was the consensus of the Board that the final paragraph be included as drafted.

At this point the self-fueling rules were approved by the Airport Advisory Board. Rick Durden was directed by the Board to prepare a full, clean copy of the Self-Fueling Rules as approved by the Airport Advisory Board to be included in the minutes of the meeting. They are as follows:

SELF-FUELING RULES, BOUNDARY COUNTY AIRPORT

When Boundary County accepted Federal Airport Improvement Program funds, it agreed to comply with the terms and conditions of using those funds—formally called grant assurances. As part of the grant assurances, the County agreed to allow aircraft owners to service their own aircraft themselves. That includes providing their own fuel. The County can, and is obligated to, set reasonable rules and regulations regarding self-fueling—primarily to keep it safe, but also to maximize the space available for hangars for aircraft.

In addition, the County has established a fuel-flowage fee for all fuel brought onto the airport to be put into aircraft. Hangar tenants have signed a land lease through which they agree to pay the fuel-flowage fee to the County.

A person who brings fuel onto the airport for the purpose of putting it into an aircraft is referred to as a “fueler” in these rules.

1. All fuel storage be contained in State and Federally compliant transportable fuel storage container(s), that are not to exceed a total of 119 gallons at any one point in time and be stored within all leased hangars.
2. Aircraft may be fueled within a hangar, at the discretion of the aircraft and hangar owner. However, if an aircraft is fueled inside a hangar, the main hangar door must be open for ventilation of the hangar.
3. No person may be inside an aircraft while it is being fueled.

4. The aircraft engine(s) may not be running while the aircraft is being fueled.
5. No smoking is permitted within 50 feet of an aircraft being fueled.
6. Any person who brings fuel onto the airport may only put the fuel into an aircraft that the person owns or is an agent for.
7. The fueler is responsible for any damage caused to persons or property as a result of fueling operations.
8. A fully charged fire extinguisher (type and size at the discretion of the fueler) must be within 25 feet of the airplane during fueling.
9. When fueling from a fuel tank in a mobile tank/truck/trailer, there must be a way of grounding both the mobile tank/truck/trailer and the aircraft.
10. Any fuel spill more than six feet in diameter must be reported to the Airport Manager. The fueler will be financially responsible for any required cleanup/mitigation.

Hangar Use Rules, Boundary County Airport

The May 9, 2022, draft Boundary County Airport Hangar Use rules were discussed at length by the members of the Airport Advisory Board—during that more than one-hour discussion input was received from the airport manager, airport users present at the meeting and written comments from airport users who could not attend the meeting. No time limitation was placed on anyone making a comment on the proposed rules.

An airport user and hangar tenant who could not attend the meeting questioned, in writing, why hangar use rules were necessary and expressed the opinion that anyone who leases a hangar and has paid his lease to date should be able to use the hangar for storage of anything the lessee desires and that the FAA would not penalize the County for violation of grant assurances.

Airport board member, Rick Durden, a recently retired aviation attorney who had experience litigating FAA grant assurance violation claims in front of the FAA's Airports Division, which is charged with grant assurance enforcement stated that when Boundary County accepted federal funding for the Boundary County Airport—which amounts to some 90% of all the monies spent on the airport—it signed grant assurances and the County agreed to use the airport primarily for aeronautical purposes.. The airport is an integral part of the national airspace system and would not exist without federal funding. The FAA monitors to assure that airports are operated primarily for aeronautical purposes.

When it comes to hangar use, the FAA has published guidelines that airports can use to assure that its hangars are used primarily for aeronautical purposes. The guidelines state that airport hangars are to be used for the storage of airworthy aircraft or, if not airworthy, the hangar tenant is actively working to make the aircraft airworthy. The FAA's guidance states that if a hangar is used for storage of an airworthy aircraft and the aircraft can be rolled in and out of the hangar

without having to move anything out of the way, the hangar is being used for an aeronautical purpose and non-aeronautical items may also be stored in the hangar.

The bottom line of the FAA grant assurances that Boundary County must comply with is that a hangar tenant may not use his or her hangar to store anything desired. The hangar must be primarily used for an aeronautical purpose.

Mr. Durden stated that he has reviewed FAA guidance regarding using hangars to build homebuilt aircraft or rebuild/or restore damaged aircraft that are not airworthy. The FAA states that such use is an aeronautical use, but that progress has to be made by the hangar tenant toward making the aircraft airworthy. The FAA specifically references hangars that store nothing but parts of or complete aircraft that are not airworthy for a period of years, and states that such hangars are not being used for an aeronautical purpose.

Mr. Durden referenced the Boone, Iowa airport where the largest hangar is used only by people who are building homebuilt aircraft and that most of the time, none of them are airworthy because when one is completed, it usually moves out to make room for someone else to work on his or her homebuilt. That hangar is being used for an aeronautical purpose.

The FAA does allow hangars to be used for non-aeronautical purposes, but only for short periods of time. Mr. Durden referenced a complaint made to the FAA regarding the Boulder, Colorado airport on which a large hangar was leased to a company that used it primarily to store its fleet of trucks, although it did have one airplane tucked away in a corner. There was demand for the hangar on the part of airport users who sought to store airplanes in a hangar. The FAA ruled that the hangar was not being used primarily for an aeronautical purpose and the airport must evict the tenant or lose funding.

Finally, Mr. Durden pointed out that FAA guidance for airports states that where premises or land on the airport is being used for an aeronautical purpose, the rental rate for the premises or land can be less than the "fair market value" which is what airports must charge for premises or land that is not being used for an aeronautical purpose. Accordingly, a hangar tenant is paying less for space than he would if she or he were renting storage space off of the airport. That is another reason why the FAA demands that hangars be used for an aeronautical purpose.

A number of the board members expressed that the purpose of the rules is to be proactive rather than reactive when it comes to hangar use, especially as the airport runs out of space to build new hangars. The intent of the Board was to make rules that are as unrestrictive as possible so that the airport remains a welcoming place and that hangar tenants are good neighbors, not taking advantage of loopholes in rules and not letting hangars sit empty when there is demand for space to store aircraft. Further, the Board wished to make the rules as simple and clear as possible so that a hangar tenant, and prospective hangar tenants, know going in what is expected of them and what they can expect from the airport.

During discussion, board members also said that they know that a few hangars on the airport have been empty for years, and that problem needs to be addressed, although they emphasized that it remains a small problem. They also said that they are aware that people are building

airplanes in their hangars and they want to encourage them while making sure that progress is being made. They recognized that they had to put some numbers into the rules as to how long a person had to make an aircraft airworthy, but also that they recognized that building may take longer than the number of years in the rules and that a builder should be able to request an extension of time and be granted one when showing that progress was being made.

The board then focused on approving the rules.

It was the consensus of the board that the introduction to the rules be included with the rules.

Rick Durden moved to adopt rule 1 but change the six-month time limit in it to 12 months and remove the last sentence. Caleb Davis seconded, and it passed with 8 ayes and 1 nay.

Rick Durden moved to adopt rule 2 as written but change the 10-month time period to 12 months and strike the last sentence. Pat Gardener seconded, and it passed unanimously.

Rick Durden moved to adopt rules 3 and 4 as written. Don Jordan seconded and it passed with 8 ayes and one nay.

Rick Durden moved to strike rule 5 and renumber the rules as needed. Pat Gardiner seconded and it passed unanimously.

Rick Durden moved to strike rule 6 and renumber the rules as needed. Pat Gardiner second and it passed unanimously.

Rick Durden moved to adopt rules 7-10 as written. Caleb Davis seconded the motion. During discussion there was concern expressed regarding rule 8. The motion was defeated unanimously.

Rick Durden moved to adopt rule 7 as written and renumber it as necessary. Caleb Davis seconded, and it passed unanimously.

The Board discussed draft rule 8. The consensus was that it should be revised, removed from the rules and added to the introduction as the last paragraph.

Rick Durden moved to adopt rule 9 as written and renumber it as necessary. Caleb Davis seconded, and it passed unanimously.

Rick Durden moved to adopt rule 10 as written and renumber it as necessary. Caleb Davis seconded, and it passed unanimously.

Rick Durden moved to adopt rule 11 as written but correct the typo, changing the word “no” to “not,” and renumber the rule as necessary. Caleb Davis seconded, and it passed unanimously.

Rick Durden moved to adopt rules 12 and 13 as written and renumber them as necessary. Caleb Davis seconded, and it passed unanimously.

By board consensus, Rule 8 was removed from the rules, added to the introduction as a last paragraph and reworded to read: “If two-thirds or more of a hangar is either empty or not occupied by airworthy aircraft, a question exists whether the primary purpose of the hangar is aeronautical, and the hangar tenant is encouraged to explore moving to a smaller hangar or store additional airworthy aircraft in the hangar. Persons seeking to build a hangar capable of storing three or more airworthy airplanes but intending to store only one should recognize that the Airport Advisory Board may not recommend approval of their land lease application.”

The Boundary County Airport Hangar Use Rules as approved by the Boundary County Airport Advisory Committee are as follows:

BOUNDARY COUNTY AIRPORT HANGAR USE RULES

Introduction

Boundary County leases land on the Boundary County Airport (65S) to persons who desire to construct a hangar to house aircraft. Because Boundary County receives federal Airport Improvement Program (AIP) funds, it signed an agreement to run the airport in compliance with AIP grant assurances regarding the airport and use of property on the airport. One of the basic premises of grant assurances is that airport property should be used primarily for aeronautical purposes. The FAA has defined using a hangar primarily for an aeronautical purpose as using it to store airworthy aircraft. People who lease airport land to build hangars agree, in writing, to comply with airport rules and federal regulations—which includes using the hangar primarily for aeronautical purposes.

To assure that Boundary County complies with the grant assurances it signed, it has established the following airport hangar use rules. The rules were drafted by the Boundary County Airport Advisory Board in conjunction with users of the airport who made written and oral comments, suggestions, and recommendations. In addition to assuring that the County complies with grant assurances, it was the intent of those drafting these rules that the Boundary County Airport remain a welcoming airport for its users with a minimum number of rules so that users can enjoyably make use of the airport for aviation transportation, education, and recreation and that the airport continues to be available for the types of emergency services that can be provided by aircraft. At the same time, those drafting the rules recognize that there will be some users who will attempt to take advantage of the exact language of these rules to try and use their hangar(s) for primary purposes that are non-aeronautical. Accordingly, it is the intent of the drafters that these rules be followed in good faith by the County and airport users.

If two-thirds or more of a hangar is either empty or not occupied by airworthy aircraft, a question exists whether the primary purpose of the hangar is aeronautical, and the hangar tenant is encouraged to explore moving to a smaller hangar or store additional airworthy aircraft in the hangar. Persons seeking to build a hangar capable of storing three or more airworthy airplanes but intending to store only one should recognize that the Airport Advisory Board may not recommend approval of their land lease application.

Rules

1. A person who has leased land on 65S and erected a hangar on the land is called a hangar tenant in these rules. The purpose of a hangar on 65S is to store an airworthy aircraft. A hangar tenant has twelve months from the time the hangar is erected (or purchases an existing hangar) to store an airworthy aircraft in it. Should the hangar tenant dispose of the aircraft, the hangar tenant has ten months to store another airworthy aircraft in the hangar. If the aircraft in the hangar has not completed an annual inspection within the last 12 months, the hangar tenant has six months to return the aircraft to airworthy condition or replace it in the hangar with an airworthy aircraft. A hangar tenant may apply to the airport manager for an extension of an applicable deadline. The standard for granting an extension is a showing of a good faith attempt to comply with the deadline.
2. A hangar tenant who does not keep an airworthy aircraft in the hangar on a regular basis—for example, a person who also has a hangar at another airport several hundred miles away and uses both of them—must store an airworthy aircraft in the 65S hangar at least one week during any consecutive twelve-month period. At the hangar tenant's option, this requirement may be complied with by working with the airport manager to temporarily park transient aircraft in the hangar. A hangar tenant may apply to the airport manager for an extension of the deadline. The standard for granting an extension is a showing of a good faith attempt to comply with the deadline.
3. The primary aeronautical purpose of a hangar on 65S is met by a hangar tenant that is building a homebuilt aircraft or restoring an aircraft in the hangar. The hangar tenant has a period of five years to make the aircraft under construction or restoration airworthy. Some of the persons involved in drafting these rules have been involved in building homebuilt aircraft and/or restoring aircraft and recognize that there may be unforeseen delays in the process, so the airport manager is authorized to extend the time limit yearly if the hangar tenant so requests and provides documentation showing regular progress with the construction/restoration project.
4. The airworthy aircraft in the hangar must be capable of being moved in and out of the hangar freely. There may be nothing in the hangar that must be moved out of the way before rolling the aircraft out of the hangar. There may be more than one airworthy aircraft in a hangar. Accordingly, it may be necessary to move another airworthy aircraft in order to roll the desired aircraft out of the hangar—however, it is not acceptable to have to move anything else out of the way. The intent of the drafters of these rules is that hangars are primarily used to store airworthy aircraft.
5. A hangar tenant (and/or the owner(s) of aircraft stored in the hangar) may not store items not owned by the hangar tenant (and/or the owner(s) of aircraft stored in the hangar) in the hangar.
6. A hangar may not be occupied by persons for overnight use or used as a residence. It is recognized that a rare circumstance may arise in which a hangar tenant and her/his guests need to remain in a hangar overnight such as after landing late at night and the drive

home without rest may be hazardous—doing so on such a rare occasion will not be considered a violation of these rules.

7. No non-aviation business may be operated in a hangar.
8. Storage of hazardous materials not necessary for aircraft in a hangar is prohibited.
9. Hangar tenants may not drive vehicles on taxiways or off of designated roadways and parking areas and are responsible to assure that those they invite on to the Airport comply with the rule. Anyone causing damage to grass, turf, or soil through use of a vehicle will be responsible for the cost of repairs.
10. Boundary County has the authority to begin eviction proceedings against hangar tenants who do not comply with these rules. While there is no requirement for a warning before beginning such action, the intent of the drafters of the rules is for hangar tenants to voluntarily comply, particularly if the airport manager advises of a violation.

Hilt Corp. Hangar Update.

Dave Parker reported that the builder is ready to go; the County Commissioners held a special meeting to approve and sign the lease with Hilt Corp. Construction should start in the next week.

Grant Updates

Dave Parker reported that the County had applied for a \$200,000 Idaho grant and he received word that it was approved. \$20,000 shall be used for a new AWOS computer—just in time as the current computer has failed a number of times and it has taken hours of work to get it functioning. The other \$180,000 will be used to purchase a tractor, loader, blade and snowblower. Mr. Parker is seeking bids. The grant is 100% paid by the State, so there is no need for matching County funds. The County Commission needs to agree to the Grant.

EA Environmental Update.

Dave Parker reported that the entire Environmental Assessment was written and provided to the FAA some months ago. The FAA has just finished its review and provided guidance regarding changes needed. It will be revised and resubmitted soon.

Fire Hall Update.

There is a continuing attempt to either acquire or lease airport land for the North Bench fire hall. If the land is leased, the lease rate must be at “fair market value,” per the FAA, which, the Board was advised, is far above what the fire department could afford to pay. The FAA advised that because the fire hall does provide a benefit to the airport, there would be a monetary credit toward the lease rate, although it would only be about ten percent—keeping the rate well above what the fire department could afford.

The County cannot give the land to the fire department because it is airport land, and the FAA would not approve the transfer.

Attempts to find suitable land for the fire hall are ongoing.

Grass Runway Discussion.

A letter from tailwheel aircraft airport users asking that area be designated on the airport for a grass runway was presented to the Board. There was support expressed by board members, while there was recognition that it would almost certainly provide a benefit to tailwheel aircraft in terms of increased safety on takeoff and landing as well as reduced tire wear, there would have to be education for all users regarding the traffic patterns for a paved and grass runway so that overall safety is not degraded.

The FAA has recently published guidance on the subject and appears to be supporting airports that wish to designate grass runway sites. Dave Parker is investigating the details of the FAA guidance on the subject—it's complex—and has found that tilling and seeding the ground for a grass runway would cost something over \$2,000.

Power Line Relocation Update

Dave Parker reported that he was advised by Trey Dail that communications with the power company are moving forward but nothing can be done until the EA is accepted by the FAA.

Rock Placement

Dave Parker reported that rocks two- to three-feet in diameter have been placed in locations around the hangars to keep cars from driving on the grass and taxiways to mitigate damage to turf and gravel on the paved taxiways.

New Business

Discuss Construction Easement for owner adjacent to midfield, erosion for future work.

Dave Parker reported that efforts are being made to obtain a construction easement from the property owner adjacent to midfield on the east side of the airport so that work on dealing with the ongoing erosion in the area can move forward.

Hangar Transactions

Dave Parker reported that Doug Bell's hangar has been sold to Travis Wisberg. Mr. Parker and two of the airport board members will conduct the inspection associated with a hangar sale on the airport.

Dave Parker reported that Jim Pannel's hangar has been sold to David Moxley. Mr. Parker said that because the hangar is so new that there is no need for the usual inspection associated with a sale.

Airport Manager Report

Dave Parker reported that the following actions were performed in the last month:

Rocks placed to protect grass and taxiways

Skid steer leaks repaired, and new tires and rims were installed.

Grass damage tilled, planted, and watered.

Damage to several runway lights during the winter was repaired.

Runway edge ruts were repaired with Northern Air equipment.

Grass areas were rolled with a vibrating roller, much improving the condition.

Weeds along the runway, taxiways and hangar parking areas were sterilized.

The airport manager had several hours of conversations and meetings regarding the Hilt Corp. hangar and the agreement that was signed with the County Commission.

Last year's pavement project was not completed due to the onset of cold weather. It will go forward on June 27 through July 1.

The airport manager did research on establishing a grass runway.

The airport budget was reviewed and approved by the Airport manager, Jay Wages and Pat Gardiner and submitted to the County.

Hilt Corp. initially requested three-phase power for its hangar, that is no longer the case.

The Bonners Ferry High School held its prom in one of Northern Air's hangars. It went well and promoted the airport within the community.

Personnel cut lots of grass and moved rocks to facilitate weed eating.

Dave Parker met with future hangar builders, D. Byler, R. Mosler, Scott Morrison and Bill Morrison.

Spent 32 hours on repairs to the AWOS (automatic weather reporting system).

Reviewed and made comments on the draft self-fueling rules and hangar use rules.

Met with Fred Hendrickson regarding a grass runway.

Met with City and Avista Gas and Power regarding power line relocation.

Reviewed a letter from tailwheel aircraft owners regarding a grass runway.

Sprayed broad-leaf weeds.

Provided fair disclosure statements to many landowners around the airport.

Helped Trey Dail make contact with power line owners.

Helped facilitate Hilt Hangar construction start for local contractors

Roll and smooth parking areas

Smooth roads to hangars

Fuel Sales

Fuel sales in June: Jet A 882.81 gallons and 100LL 2,439.56 gallons.

Adjourn

The meeting was adjourned at 8:34 pm.