

To: BCAB

From: Will Dopp, Member

Date: May 19, 2011

Subject: Date Certain (Sunset Clause) re Airport Commitments

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RECOMMENDATION

That this Board recommend to Beaufort County Council that re all future approvals, commitments, and/or tentative agreements affecting leases, contracts, or similar agreements at both County owned airports that such County Council approvals include a Date Certain, i.e., Sunset Clause, by which final and binding agreements must be executed by all parties thereto. In the absence of final agreements being executed by this Date Certain, all parties, both singularly and collectively would be released from the earlier approvals or commitments without penalty. The parties may mutually extend this Date Certain at any time, provided they do so in writing.

BACKGROUND

The reasoning behind this recommendation is to prevent similar contractual delays in the future such as is currently being encountered with a joint Coin Toss, Signature, and County ground lease transaction under which Coin Toss will construct an aircraft storage hangar. In May 2009, this Board okayed the proposal, then it received Public Facilities Committee approval February 2010, and one month later, County Council gave final approval. Now it is 14 months later, and still no final agreements have been signed, nor has the County collected any ground rent money during this extended period.

In the meantime, the County remains tied to a binding commitment on this valuable and scare vacant ground for which it will only receive \$2,000 in annual ground rent when documents are finally signed. Despite this long delay, no retroactive payment of rents to the County is anticipated per the pending agreements.

The County must do a better job to protect its interests and to insure airport transactions are finalized in a timely manner. Using a Date Certain clause will help.