



Memorandum

To: Board of Directors

From: Keith Miller

Date: June 26, 2023

Re: Response to Airpark Community Testimony May 23, 2023

As per the Board's request, staff have reviewed Ms. Wallenmeyer and Ms. Shenk's testimony from the May 2023 board meeting. The following is staff's response to the key items and concerns raised.

Ms. Wallenmeyer's Testimony:

1. This airport has a problem. It is highly impactful upon the community, both with air pollutants, with toxic lead sold in aviation fuels, and with persistent noise pollution. The MCRA management fails to produce timely and thorough responses to requests for public records. The traffic pattern is frequently filled to an unsafe level, with students and recreational pilots. If and when an accident occurs, will MCRA and this Board be held accountable for failing to try to resolve these problems?

The MCRA and the Montgomery County Airpark are in compliance with all FAA and EPA noise and pollution regulations. We have responded to all requests for information in accordance with the Maryland Public Information Act (MPIA). We have received requests for information which we are not in possession of and therefore cannot provide. These issues have been handled with the MPIA Ombudsman. The Baltimore Flight Standards District Office (FSDO) has increased their surveillance of flight activity at the Airpark this year. They have come to the Airpark to listen to the radio communications and to visually monitor the aircraft in the pattern. In doing so, they have found no instances of unsafe flying practices. The FSDO is the only entity that is authorized to determine if pilots are in violation of Federal Aviation Regulations.

2. At a recent meeting, MCRA CEO Keith Miller requested your approval to pursue grants and construct a new hangar at the Airpark. Your minutes do not include any of the needed public information defining intended use or type of hangar to be built. We cannot properly engage the impacted community if we keep them in the dark, leaving out critical details in the minutes. Will you correct this deficiency?

Mr. Miller briefed the board on a funding opportunity for developing the North End of the Airpark through the Bipartisan Infrastructure Legislation. This area has been slated for new hangar construction

since the 1990's. The Board has not taken any action on the approval of this construction yet. In fact, for the MCRA to construct this project, it must be part of the Capital Improvement Plan. This requires staff to present the project as part of the program for a vote by the Board. The project would then be sent to the County Executive and finally to the County Council for approval.

It is important to note this and several other hangars on the North End are part of the current Airport Layout Plan. These hangars adjoin the ramp which was installed by the FAA and are critical to our Grant Assurances because it will provide competition on the airfield. Additionally, there is a large deficit of hangar space in the Greater DC metropolitan area with many years-long waiting list at the Montgomery County Airpark. At Frederick Airport, there are over 80 individuals on the waiting list, and this is similarly true for other airports in the area. The building out of the hangars on the North End of the Airpark has been on the approved Airport Layout Plan for over 20 years, and was developed with community input as per FAA advisory circular 150/5070.

3. Are you familiar with precisely how this airport is structured? It is set up very much like an undeclared public-private partnership. I have heard from many others who comment, the assortment of legal entities, the layers of leaseholders, and the refusal of MCRA officials to produce records, looks and feels like an elaborate shell game. There can be no transparency and no accountability, when MCRA officials fail to timely share records needed by impacted community members seeking to mitigate impacts. You, the Board, need to direct Keith Miller to produce for you a letter or diagram that concisely defines the entire organizational structure of this airport, from the top of MCRA down to each commercial operator, each flight school, each maintenance shop, each fuel seller. The listing needs to include the business names of each lease-holder, and identify the principal official and email address for each lease-holder. Also, if production of this airport organizational structure does in fact look problematic, like a shell game, we should be ready to clean that up, posthaste.

As the Board is aware, the MCRA has two leases at the Airpark. One with K&R Aviation (dba Open Air), which the board voted to approve a seven-year extension to their current lease at the May 23, 2023 board meeting. The second lease is with Montgomery County Airpark LLC (dba DC Metro Aviation), which is a 99-year lease that began in 1960. DC Metro Aviation's lease allows them to sublease space to provide all services required to successfully operate an airport. The master lease restricts information shared with MCRA, so a form license agreement was approved by the Board over ten years ago. Further, the Board has approved minimum standards at the Airpark which is a FAA recommended best practice for airports to encourage competition between businesses operating at an airport while maintaining non-discrimination requirements of the FAA Grant Assurances. A business must meet all of the minimum standards requirements to operate. The MCRA has produced copies of the two leases in our possession to the community.

4. With Airport Master Plans, FAA has a longstanding process to help airports remain compatible with the community. The Master Plan process engages community members, and the end products, including the Airport Layout Plan (ALP) are required for federal grant subsidies. FAA strongly recommends this process on a regular basis, even every 5-10 years, and FAA provides grant monies for this process. Do you know when the last Airport Master Plan process happened for this airport? Do you know the date on the last ALP version approved by FAA's Airports Office?

You should know all of this, and you should have ready access to copies of all the documents. And we the community residents should ALSO have ready access. Would you please direct Mr. Miller to provide these records, as well as a clear timeline defining our history of Master Plans, and the complete history of approved ALP revisions?

The current Airpark Layout Plan was created in 2002, it was updated in 2013, and it is tentatively scheduled for a full master plan process in 2032. The FAA does not require master plans, but it does recommend them, with no requirements on the frequency. MCRA has been in discussions with the Airport District Office of the Federal Aviation Administration to put a Master Planning effort into our Airport Capital Improvement Plan. However, since construction of projects at smaller airparks typically take longer to fund, it is common for airport layout plan updates to be less frequent. For example, we are still working to complete many of the initial projects called for in the 2002 Airport Layout Plan. For smaller airports, the Master Plan is titled Airport Layout Plan Update. The most current version is on our website and publicly available.

5. Do you know how much leaded aviation fuel was sold at this airport, each of the last five years? Should you know, and should the community also know, given the toxicity of lead, especially around children? Do you understand that MCRA has precise records on leaded fuel sales? MCRA raises airport revenues using a fuel flowage fee collected for each gallon of fuel flowed at the airport. We need to get rid of this lead pollution, but are we? Can we share real data showing progress (or lack of progress) on reducing leaded fuel sales?

The MCRA remains concerned about lead fuel and agrees with the community that the ultimate goal is elimination of leaded fuel. According to the FAA Grant Assurances, we cannot regulate or restrict leaded fuel sales. As previously discussed with the Board, the Montgomery County Council and the County Executive's office requested a lead study from the Maryland Department of Environment (MDE) and MDE's response begins:

"In 2017, with the EPA's approval, the Department discontinued the one remaining lead monitoring site in Maryland due to levels consistently below the analytical method's detection limit. The Department no longer has the capability to conduct lead monitoring."

The MCRA receives ten cents per gallon for both Jet A and 100 low-lead gas sold at the Airpark. In response to MPIA requests, we have provided the community with monthly breakdowns of 100LL and Jet A fuel sales. The community will need to calculate to determine the gallons sold. Lastly, there is good news as the FAA announced the approval of unleaded gasoline across all piston aircraft. We are simply waiting for the infrastructure and production capacity to increase and for the fuel to be available.

6. Is this Board going to proactively advocate for restoring the ALC? The Airport Liaison Committee was abruptly disbanded when some of us began expressing our concerns. I was told by MCRA officials I ask that this Board advocate for restoring the ALC, and direct Mr. Miller to write a letter stating his position, for or against.

During the recent public testimony for Bill 23-24 Airpark Community Advisory Committee at the Montgomery County Council, we did explicitly state support of the committee. We also expressed our concerns over the committee's placement under Chapter 42 and added some clarity on the language of its members. We also met with Councilmember Luedtke's office (the bill sponsor) to express our concerns.

7. Are you familiar with the Vianair Report done in June last year? It offered some critiques and recommendations, including the need to restore the ALC. I ask that the Board direct Mr. Miller to prepare a statement declaring the MCRA response to the specific Vianair Report content, to include either explanations for how MCRA will address concerns and pursue recommendations, with a clear timeline showing how and when for each MCRA action. Where a report recommendation is being rejected, there needs to be an explanation of why.

Contrary to the statement above, the MCRA is working on implementing the Vianair report's recommendations. For example, we have renamed Runway 14 as the *preferred runway* as compared to its original title of calm wind runway. We are updating signage and pilot information to reflect the new language. Additionally, on page 23 of the report, it outlines 5 recommendations; establishment of a noise complaint management system, deployment of a flight tracking system, reestablishment of a roundtable or task group, establishment of a formal community and industry engagement program. The MCRA has created a noise complaint management system, is exploring flight tracking systems and is in support of the County Council's bill to establish a community group. Finally, the Vianair report is published on the website and the report was shared with the Board.

8. Lastly, to help reduce impacts and the heightened risk of overfilled air traffic patterns, I ask the Board to direct Mr. Miller to prepare an analysis of how we can impose a landing fee for all arrivals. For the record, in the recent past Mr. Miller has tried to discourage imposing a landing fee, even claiming they are not allowed by FAA. In fact, landing fees are allowable, so long as they do not discriminate unjustly. I have spoken with management at numerous airports where landing fees are imposed.

Landing fees are common at large commercial service airports. This type of fee is incompatible with what the Montgomery County Airpark means to the flying public and how it fits into the National Plan of Integrated Airport Systems. Landing Fees would unjustly discriminate against those learning to fly thus making it against FAA grant assurances. Instead of a landing fee the Airpark has in our lease agreements a storage fee based on the maximum takeoff weight of the aircraft. This allows us to collect a fee without unjustly discriminating and it is typical for an airport to establish either a landing fee or storage fee.

Ms. Shenk's Testimony:

1. I am going to speak to you on two issues of grave concern to the community surrounding the Airpark, noise and safety.

Aviation noise is regulated by the FAA and supersedes local regulations. At the Airpark, we have signage on the taxiways and throughout the terminal area explaining the noise abatement procedures and our website. These are not regulations that can be enforced with fines and notices of violation. We do not have an air traffic tower and pilots must decide on which runway is in use. The MCRA can advise them but not force them to use one runway over another.

2. Mr. Miller even reported that there is no equipment and no one is responsible to report the exact number of flights in or out of the airpark or the altitude at which they fly...the numbers in the published reports are merely estimates and in many cases numbers provided by the flight schools. It is my understanding that the flight schools are required to provide data monthly on touch and go's... those numbers have not been made available to the community when requested and I question if that data is being provided regularly to the MCRA. Several residents surrounding the airpark regularly monitor the flights, in terms of number of flights, altitudes and flight patterns....but when that data is reported to the MCRA officials ,they are told that their data collection is not acceptable.

During the MCRA's public meeting with the FAA, the FAA expressed that they cannot rely on the data from flight tracking sites. Additionally, the below information is directly from a popular flight tracking website.

I believe I witnessed a traffic conflict, altitude deviation, or some other anomaly. Should I report it? [SHARE](#) | [BACK TO TOP](#)

Please don't. Rather, read the [terms of use](#) and understand that this data is for casual observation only and not for any operational purpose. FlightAware technology was not designed with the intent to observe safety or regulation anomalies, so please do not try to use it for that purpose.

Are displayed flight altitudes AGL (above ground level) or MSL (mean sea level)? [SHARE](#) | [BACK TO TOP](#)

Displayed altitudes are dependent on the data source for the position data. FlightAware receives many different types of altitude data, including uncorrected pressure altitude, corrected pressure altitude, [flight levels](#), GPS-based height above mean sea level (MSL) and GPS-based height above ellipsoid. Data received from the FAA or other air navigation service providers is typically MSL. ADS-B data is frequently height above ellipsoid but there are exceptions. In general, it is best to assume altitudes are uncorrected [pressure altitudes](#) (a variation of MSL). FlightAware does not display AGL altitudes.

The FAA position and these disclaimers provide the reasons why we cannot rely on this information. The Maryland Aviation Administration conducts traffic counts every two years to estimate the annual operations at the Airpark. We are exploring other methods to gather this information.

3. When I served on the ALC, noise and safety complaints were made directly to the MCRA. The committee was consistently told that no complaints had been filed. I later found out that the ALC had been misled.....community members were filing complaints, yet the committee was not provided that information. The community now has the ability to file noise complaints on line. However, the noise complaint website is often down. And when data is requested, the only data reported is from households that have filed multiple complaints. The households that only report 1 complaint are not included in the data. And the households that continually file complaints are disparaged. All complaints should be taken seriously.

For the record, the MCRA has never misled the Airpark Liaison Committee (ALC) and we object to that accusation. If statements like these are going to be made, we ask that the Board request residents to provide absolute data before the statement can stand. The reports to the community on the data includes all of the complaints and then highlights the percentage of the complaints received by houses filing multiple complaints versus those submitting one complaint. The MCRA reads every noise complaint submitted and takes them all seriously. Every new complainant receives an email response and Airpark Management responds to repeat complaints as necessary. This is the exact same method that the FAA uses to respond to resident complaints about noise. We track this information and provide the data at every meeting.

4. The question then becomes.... what happens to those complaints when planes are not following the regulations of the Montgomery County Airpark?..... are pilots and/or flight schools spoken to.... Is written notice sent to the pilots, flight schools and/or those leasing planes? Are fines assessed or are pilots forbidden to fly if they disregard regulations? In fact, documents that have been received, indicate that one of the current tenants had 7 safety violations in 2021. Have those been addressed?

The Baltimore FSDO is the only authority that can determine if a pilot has violated a Federal Aviation Regulation (FAR). The MCRA and Airpark Management does not have the authority to make this determination and/or issue fines or notices of violation. The FSDO has not informed the Airport Management of any safety violations at the Airpark. The Baltimore Flight Standards District Office (FSDO) has increased their surveillance of flight activity at the Airpark this year. They have come to the Airpark to listen to the radio communications and visually monitor the aircraft in the pattern. In doing so, they have found no instances of unsafe flying practices.

5. The community is told that MCRA's "hands are tied" and the Airpark is regulated by the FAA. However in the FAA document "Policy on Addressing Aircraft Noise Complaints and Inquiries from the Public" it states that "aircraft noise is a shared responsibility between airport authorities, airlines, state and local government, communities and the FAA. "

This document addresses best practices of a noise complaint system, which was used in the development of the noise complaint system that the MCRA has in place. Additionally, this document states, "The FAA does not use noise complaints, including the volume of noise complaints, to justify the need to alter current practices or alter existing procedures and routes."

6. A second major issue is safety. How safe is it to have student pilots flying above our homes below acceptable altitudes, how safe is it with students flying so closely to each other in the flight pattern? And even if these are not students... how about the licensed pilots that don't follow regulations?

During the public meeting with the FAA, the Eastern Region Director for the FAA expressed the importance of flight training to aviation. There are projected to be hundreds of thousands of pilots needed in the next few years. Each training aircraft at the Airpark has complete dual control systems with a certified flight instructor on board until such time as the student is signed off by a certified flight instructor to fly solo. This is all heavily regulated by the Federal Aviation Regulations. The Baltimore FSDO of the FAA has been increasing their surveillance of flight training at the Airpark and has found no instances of unsafe flying practices or violations of the minimum safe altitudes.