CITY OF
CLOVERDALE

AGENDA
Airport Subcommittee
Meeting Date: February 2, 2016
Meeting Time: 8:00 a.m.
Meeting Location: Cloverdale City Hall Conference Room
124 N. Cloverdale Blvd., Cloverdale CA

Subcommittee Members and City Staff

Councilmember Bob Cox, Chair
Councilmember Gus Wolter
City Manager Paul Cayler
Airport Manager Michael Morrissey

1. **Call to Order:**
2. **Communications:** Committee may, at this time, discuss written communications sent to Committee Members since the last Subcommittee meeting.
3. **Public Comment:** Members of the public may, at this time, comment on any item not on this agenda. Please limit comments to three minutes. Members of the public may comment on items on the agenda when the subcommittee considers that item.
4. **Approval of Minutes**: (March 17, 2015 and June 2, 2015)
5. **Current Items for Discussion:**
   a. Potential hangar rate adjustment
6. **Information Only Memos:**
7. **Future Agenda Items (subject to change)**
8. **Pending Items**
9. **Good of the Order**
10. **Adjournment:** Adjourned *to Tuesday, June 7, 2016, or alternate date if requested.*

CERTIFICATION – Pursuant to Government Code § 54954.2, the agenda for this meeting was properly posted on 01/28/2016

CITY OF
CLOVERDALE

DRAFT MINUTES
Airport Subcommittee
Special Meeting Date: March 17, 2015
Meeting Time: 9:00 a.m.
(Meeting location Change)
Meeting Location: Cloverdale Performing Arts Center
209 N. Cloverdale Blvd., Cloverdale CA

Subcommittee Members and City Staff

Councilmember Carol Russell, Chair
Mayor Bob Cox
City Manager/Acting Airport Manager Paul Cayler
PW Director/City Engineer Craig Scott

1. **Call to Order:** Chair Russell called the meeting to order at 9:00 a.m.
2. **Communications:** None.
3. **Public Comment:** None.
4. **Approval of Minutes**: None.
5. **Current Items for Discussion:**
   a. Presentation from Aviation Expert regarding Citizen Noise Concerns

   City Manager, Paul Cayler, introduced Henry Nanjo, airport advisor to the City Attorney's office, who was present to answer questions. City Manager Cayler stated he would be asking Mr. Nanjo some of the questions that came up at the last Airport subcommittee meeting before opening the meeting to public comment.

   Mr. Nanjo provided his background as airport advisor to Sacramento Executive Airport and Franklin Field, and spoke about FAA grant assurances and the obligations this places on the City.

   Mr. Nanjo stated the FAA has exclusive rights over airplanes once they are in the air, air traffic control, safety, and regulation of aircraft noise at the source. He stated the Federal government also has substantial control over what the airport can do with regard to the property. The City is able to put up sound walls, where the facilities within the airport can be placed, and some zoning of land use.

   City Manager Cayler stated there are questions about the aircraft certification and the role of the City.

   Mr. Nanjo stated FAA regulates certification of aircraft regarding noise. The City can file a complaint with the FAA and the aircraft will contact the owner of the aircraft and will check the aircraft.

   City Manager Cayler asked if the FAA has to approve mufflers and exhaust systems as a part of their certification process.

   Mr. Nanjo answered that any aircraft being flown has to be FAA certified, which means the equipment on it has to be certified as well and that an airport or a private citizen cannot require an airplane to have an additional muffler or any additional parts.

   City Manager Cayler asked what has to be done for Part 150 regulation through the FAA.

Mr. Nanjo explained that Part 150 is the section of the Federal rules that set forth how airport noise is studied and how it is determined if there is a noise issue that can be limited at the airports and that those levels are quite high. Mr. Nanjo stated noise limitations for John Wayne Airport were placed on John Wayne Airport in the range of 92-101 decibels (dB), which is much higher than any noise limits that would be at a smaller airport, such as Cloverdale or even Sacramento. He stated they did not have those levels at Sacramento Executive Airport where they have jet traffic.

City Manager Cayler asked if the City has jurisdiction over its airspace or the airspace in the County.

Mr. Nanjo stated once the aircraft is in the air, the City does not have any jurisdiction over airspace, there is no limitation we can place over where they can fly, and the FAA holds the pilot responsible for the safe operation of the aircraft.

City Manager stated there are questions regarding the requirements and covenants that come with grants for operation of the airport and asked what they compel the City to do once the money has been received and the grants have been used.

Mr. Nanjo stated City Manager Cayler is referring to the FAA Airport Improvement Grant Program money, which is given by the federal government to airport proprietors to do authorized or approved improvements to the airport. Mr. Nanjo stated the federal government views airports as a national asset, as part of a national transportation network and explained that with receiving a grant, the FAA requires agreement to a number of grant assurances. Mr. Nanjo stated In order to close an airport, the grant money is usually required to be paid back, but it is very unusual for the FAA to agree to close an airport. He stated that what trips up airports trying to control an airport's activities is the grant assurance having to do with not discriminating against aeronautic uses, which means that if it is an FAA-approved aeronautic activity, it should be able to be done at your airport

City Manager Cayler asked Mr. Nanjo to speak about signal-to-noise ratio.

Mr. Nanjo stated signal-to-noise ratio is basically that human response to noise is affected by the other noise that is also present, such as during a busy day one's refrigerator isn't noticed but it may sound loud in the middle of the night. Mr. Nanjo stated 65 dB is the benchmark cumulative level allowed for the contour around the airport, which is counted over a 24-hour period. Mr. Nanjo further stated that, upon his review of the kind of flights and activities, Cloverdale Airport is not even close to that. With regard to the Part 150 study, Mr. Nanjo stated he is familiar with airports that have spent from $250,000 for a simple, short Part 150 study to several million dollars and that is what is required to put noise limitations in.

Chair Russell asked if Mr. Nanjo's memo was on our website.

City Manager Cayler stated the City Attorney needs to be consulted as to whether this is attorney-client privileged information or not.

Chair Russell asked for follow up on this matter, as she would like to make this available to the public, if possible.

Mayor Cox asked if decibel levels on the ground is regulated

Mr. Nanjo answered this is component of the Part 150 study, as some of the monitors are at or near the end of runways so the take-off and landing noise is picked up.

City Manager Cayler stated, after quick communication with the City Attorney, that the memorandum Chair Russell asked about is an attorney-client privilege and that the City Council could consider releasing that memorandum but it is an act that can only be done by the Council and not the subcommittee.

Chair Russell stated she would like to see if the Council would approve releasing the entire memorandum and asked Mayor Cox if he approved of that.

Mayor Cox stated he would have to take a closer look but he would be encouraged to get the information to the public.

Chair Russell opened the public comment period.

Steve Nurse, citizen of Cloverdale, stated that airports that have noise ordinances refer to the airplanes at their takeoff and landing, which precludes them from being on the ground and that is a point of confusion for him. Mr. Nurse stated the ordinance that he has from Hayward has 77 dB not 98 dB and there is a single event noise exposure level, which is not an average of 24 hours, that in those airports is subject to some sort of control. Mr. Nurse asked if Cloverdale is precluded from, notwithstanding the cost of implementation, imposing a noise regulation on its community-owned, run, and managed airport.

Mr. Nanjo stated any airport can undertake a Part 150 study and put in noise regulations and that his comment was that process would likely not result in a limitation that would affect Cloverdale's situation at all because the noise limitation would, in his opinion, be set much higher than the use it has. The single even noise exposure limitation (SENEL) is a part of the Part 150 study, which is a very elaborate process and those limits are set very high and, as the monitors are placed far enough away that even a very loud jet is not going to trigger much of a decibel level at that receptor. Mr. Nanjo stated that the noise regulations allowed to be done after a Part 150 study does result in a lot of different decibel levels and those level limitations are at specific locations around the airport; consequently, whether it is a single event or cumulative, unless the decibel levels exceed the limitation at that location the violation is not triggered. Mr. Nanjo stated the FAA has stated that these studies are what the FAA views as an objective standard of acceptable noise at an airport location.

Lois Dilley, citizen of Sonoma County, stated she was before the subcommittee in support of the NorCal Skydiving operation and is concerned the noise complaints may jeopardize the future of the airport, which is a valuable resource to our community.

Linda Welch, citizen of Cloverdale, stated her support of NorCal and the airport.

George Naill, citizen of Cloverdale, stated his support for the airport.

Patrick Paquette, citizen of Cloverdale, asked what the cost to the City of Cloverdale would be in the event of surviving family members suing the City of Cloverdale in the death of a skydiver, whether the FAA provides written assurance to the City of Cloverdale to pay for its legal defense in such an event, if liability would be reduced if the drop zone were to be moved off City property, and whether the City needs to purchase additional insurance to cover its skydive business tenant.

Mr. Nanjo stated the liability for FAA is limited unless there was something that they did not certify properly.

City Manager Cayler the agreement between NorCal and the City has requirements that NorCal maintain certain insurances, which were recently reviewed through the City Attorney's office and found to be in conformance and that NorCal has a lengthy indemnification clause in their lease agreement.

Mr. Cayler stated Mr. Bart Hauger from the Federal Aviation Administration was in attendance and would address the committee.

Patrick Paquette, citizen of Cloverdale, asked if the City requires businesses to keep their licenses current as a condition of operation and whether the City would have been in legal jeopardy during the eight months NorCal was suspended from doing business.

City Manager Cayler stated NorCal addressed this at the last subcommittee meeting and were not aware of their suspension, the City informed NorCal to cease operations, and NorCal corrected the problem in less than five days and the suspension was lifted. Mr. Cayler stated NorCal Skydiving has a lease to operate and a business license.

Don Draper, citizen of Cloverdale, stated propellers are designed for specific aircraft and while great strides have been made to make them quieter they cannot be placed on older aircraft and that complaints regarding noise at the airport could be registered by calling 277-2937.

Richard St. Angelo, citizen of Cloverdale, stated a muffler was developed to reduce the noise by about 5 dB for the Cessna 172 and asks if that is a feasible approach to reducing the noise. Mr. St. Angelo asked if the City has the capacity to adjust rent based on use and, if so, can this be used to encourage NorCal to reduce their noise. Mr. St. Angelo asked if citizens are allowed to picket on City property at the airport and if NorCal is able to go further in trying to reduce their noise.

City Manager Cayler responded that citizens may exercise their First Amendment rights on public property as long as there is no obstruction of the public's right to come and go from a business or interfere with safety and amplification may not be used. With regard to differential rental rates, City Manager Cayler stated the rules state the City may not discriminate and that the Council would need to think carefully about establishing a rental rate that would be a disincentive to economic activity.

Mr. St. Angelo asked if Mr. Nanjo could elucidate.

Mr. Nanjo stated as long as a plane is certified by FAA, it can be used with no obligation to upgrade or use better technology.

Dawn Lasky, citizen of Martinez, stated her support for NorCal Skydiving and stated she and her friends discovered Cloverdale through NorCal.

Clay Skelton, citizen of Cloverdale, stated it might be useful for NorCal to check the tachometer as it could be spinning the propeller faster than it should and his support for the airport.

Ellie Naill, citizen of Sonoma County, stated her support for the airport and its importance to community safety.

Robert Redner, citizen of Cloverdale, stated NorCal should use a Scimitar propeller, make the planes quieter, and lease newer planes.

Chair Russell stated one of her goals for this meeting was to determine the City's jurisdiction and, therefore, its responsibility in this matter. Chair Russell stated it is clear that once the plane is in the air it is out of the City's jurisdiction.

City Manager Cayler stated the City has very little jurisdiction related to noise complaints and the City's ability to discriminate against a legitimate aeronautic business is limited.

Chair Russell called for a ten minute recess at 10:30 a.m.

The meeting reconvened at 10:40 a.m.

Chair Russell invited Bart Hauger, from the Federal Aviation Administration to the podium before further public comment.

Mr. Hauger stated he is a Principal Maintenance inspector out of the Oakland/Alameda office of the FAA, which covers an area from San Francisco to Lodi, bordering Middletown, up to Crescent City, who has been assigned to NorCal Skydiving officially for the past two years, with one year before that, and was instrumental in certifying their aircraft. Mr. Hauger stated the aircraft in question is a 182 is an old aircraft, with an old airframe, but the propeller, carburetor, and the engine are new and have been type certificated for that aircraft. Mr.Hauger stated that NorCal goes through numerous inspections through

the year under his oversight, including the aircraft and the airframe. Mr. Hauger stated he shows up randomly at different times of day, he looks at the aircraft on the ground and as it flies and when there are jumpers, checks the pilots, their ratings and certification. The maintenance facilities NorCal utilizes, the mechanics, manuals, tools, calibrated tools, recordkeeping, any modifications are all inspected through the year. Mr. Hauger stated that to date, after three years, he has not found one infraction. Mr. Hauger also inspects the parachutes, to make sure they are packed correctly, and to make sure the person packing their equipment is FAA certified, trained, and has proper documentation to prove that. Mr. Hauger stated the FAA not only verify that their processes are valid and approved, they go back and verify that they are following what they were approved to do. Mr. Hauger stated, with regard to picketing at the airport, there are federal regulations that could be violated if there is interference with air traffic, air operations, or crew members. Mr. Hauger stated it is up to operator's discretion to change propellers or mufflers and are subject to his surveillance and certification, which is a lengthy and expensive process, and will not necessarily stop the noise complaints. Mr. Hauger stated his office covers a large area and they get a lot of noise complaints and are probably not the highest priority, as they are subjective and very hard to prove for enforcement. He stated the FAA is an extension of the judicial branch of the federal government and do the enforcements regarding aircrafts or airmen and the FAA attorneys have a lot of higher priorities to pursue enforcements with safety being primary. Mr. Hauger offered to answer questions.

Debra Colvard, citizen of Cloverdale, asked what the difference in this plane is which causes it to make so much noise and how much it would cost, if it is the propeller causing the noise.

Mr. Hauger stated it is a newer prop, newer engine and carburetor that are type certificated for that type of airframe, which he believes is a Cessna 182 G. He stated he did not know the number of propellers available or their cost or if changing the propeller would change the sound to the extent that it would be acceptable to the public.

Chair Russell asked that specific questions be asked of Mr. Hauger and that perhaps other questions be addressed to him via email.

Mr. Hauger stated the FAA's mission is to promote aviation safety and changing the propeller will not make the aircraft safer and may not change the sound issue, as it may lengthen the climb from 15 seconds to 45 seconds.

Chair Russell invited Jimmy Halliday, one of the two owners of NorCal Skydiving, to speak.

Jimmy Halliday, citizen of Cloverdale, gave the tail numbers of the aircraft as 8779Tango, 8710Xray. He stated the tail number of the aircraft the public thinks is making all of the noise is Tango, however, they have received noise complaints on days when either plane is flown and the noise complaints that started two years ago were when an aircraft that is no longer flown by them.

Mr. Halliday answered a question from the public that the Tango plane is the modified plane and stated it has Scimitar propellers.

Mr. Nanjo noted that atmospheric conditions do affect sound.

Lori Siebenthal, citizen of Cloverdale, stated she wants to hear about compromise and questioned whether the number of flights and/or the hours of operations could be restricted. Ms. Siebenthal stated Healdsburg Airport limited the number of takeoffs and landings for the flight school to ten per day. Ms. Siebenthal asked who can say the lease will be renewed with these new conditions.

Mr. Nanjo stated he believes the restriction is voluntary and not a regulation as the airport proprietor is very limited in their ability to place curfews or limit flights. He stated there have been a number of cases where airports tried to do this and all of those cases were lost in front of the FAA court, as it is viewed as discriminating against legitimate aviation business.

Mr. Hauger stated NorCal is limited to daytime VFR rules with the equipment they currently operate.

Chair Russell stated this meeting is being held because the City does care and wants to be clear about the City of Cloverdale is able to do.

Larry Lossing, citizen of Cloverdale, asked about minutes from the prior meeting.

City Manager Cayler stated it is always our intention to have minutes available at the next regular meeting, but the City has had staffing issues which are being addressed.

Mr. Lossing asked what the exact nature of Mr. Nanjo's engagement at this meeting is.

City Manager Cayler answered that Mr. Nanjo has an association with the firm that provides City Attorney services to the City of Cloverdale and is here to answer questions and, should there be litigation on this issue, Mr. Nanjo would be advising our City Attorney, who would be defending us.

Mr. Nanjo stated that, although he is a licensed attorney in the State of California, his work with Meyers-Nave and the City of Cloverdale is to provide expertise as an aviation consultant as an airport expert because he has a lot of experience with small airports.

Mr. Lossing asked what the significance of the language from 14-CFR-36.5 with regard to noise restrictions.

Mr. Nanjo answered that language is the door to allow a Part 150 study to be conducted and to set noise limits appropriate for that particular airport.

Mr. Lossing referenced inverse condemnation, naming particular cases involving the entitlement of aggrieved citizens to proceed in inverse condemnation for airport operations, and asked if that case authority is applicable here.

Mr. Nanjo stated those cases are applicable and that airports are subject to inverse condemnation actions and that courts are now familiar with the difficult position the FAA puts airports in and the success those cases have had has been eroded a bit.

Mr. Lossing asked Mr. Nanjo about the doctrine of nuisance and if there is anything in the federal regulations, statutes, or case authority that would prohibit the prosecution of a nuisance action for noise.

Mr. Nanjo stated that he is not aware of any FAA prohibitions of nuisance actions – that would be decided on a case-by-case basis, as would inverse condemnation.

Chair Russell closed public comment.

Chair Russell asked what the subcommittee's next step is.

Mayor Cox stated, after having heard from the FAA and legal experts today, he sees no purpose in bringing this issue to the City Council, as there is no more that they could do than has been done.

Chair Russell stated that we have reached the point where we have a definitive answer, which is that the City does not have control of the air.

6. **Information Only Memos:** None.
7. **Future Agenda Items (subject to change):** None.
8. **Pending Items:** None.
9. **Good of the Order:** None.
10. **Adjournment:** The meeting was adjourned at 11:30 a.m. *to Tuesday June 2, 2015 or alternate date if requested.*

CITY OF
CLOVERDALE

DRAFT MINUTES
Airport Subcommittee
Special Meeting Date: June 2, 2015
Meeting Time: 8:00 a.m.
(Meeting location Change)
Meeting Location: Cloverdale Performing Arts Center
209 N. Cloverdale Blvd., Cloverdale CA

Subcommittee Members and City Staff

Councilmember Carol Russell, Chair
Mayor Bob Cox

City Manager/Acting Airport Manager Paul Cayler
Deputy City Attorney Leticia Ramirez
Community Development Director/Assistant City Manager Karen Massey

1. **Call to Order:** 8:00 a.m.
2. **Communications:** None.
3. **Public Comment:** None.
4. **Approval of Minutes**: (February 3, 2015) Minutes from the March 17, 2015, were not completed in time for publication of the agenda packet. They are complete now and after Staff review, will be posted to the website and will be presented for approval at the next meeting.

   The February 3, 2015, minutes were approved.
5. **Current Items for Discussion:**

a. Discussion and possible recommendation on the NorCal Skydiving lease agreement, including rental rate market analysis, as requested by the City Council.

City Manager Cayler explained how the market analysis was developed and stated a 7% increase annually is proposed.

Edward Dalbec, Cloverdale, representing the Cloverdale Pilots Association, requests the proposed rate increase be tabled until June of 2016 to ensure the City has made improvements needed at the airport, which he outlined. Chair Russell invited other information be sent to the City Manager either by letter or email.

Larry Lossing, Cloverdale, stated the lease is invalid due to lack of extension and breach of lease and Conditional Use Permit.

Mark Tuma, Cloverdale, stated it was the intention of then City Manager Regor to renew and rewrite the lease.

Julie Dilley, Cloverdale, stated no rent increase has occurred and feels the survey of the current marked is inadequate.

Ray Shipway, pilot, stated the airport is below average and needs improvement prior to rent increase.

James Mahurin, Cloverdale, stated he does not find the noise to be excessive and wants the lease renewed.

Patti Mannatt, Cloverdale, stated she lives close to the airport and wants the lease renewed.

Cici Richardson, Cloverdale, stated her support for business in Cloverdale and that the noise is not new.

Robert Redner, Cloverdale, stated his support for business and the airport but is against noise.

Erik Peterson, Cloverdale, stated he has been a pilot for 49 years and feels the rents are already at the maximum given the state of the facilities.

Dawn Lasky, Martinez, stated she witnessed a group of 20 people there to support two people who were jumped, with the entire group eating out, spending time and money in Cloverdale, showing that the skydiving business brings money into Cloverdale's economy.

Patty Norton, Cloverdale, stated her appreciation for the business the skydiving operation brings in.

Larry Lossing, Cloverdale, stated the lease did not exist if the City had to rewrite it.

Mark Stabelin, Cloverdale, spoke in favor of the skydiving business.

Diane Bartleson, Cloverdale, stated a landlord bears responsibility for its lessees' business practices and requests the City be responsible landlords.

Mindy Thal, Cloverdale, stated the noise was bad again both Memorial Day weekend and the next. She stated a response has not been received to the letter Patrick Paquette submitted and thinks the lease should be withheld until then.

Patti Mannatt, Cloverdale, stated that she wants to remind people that the airport has been there for a very long time and that the airport is important to have in this community. She stated the need for leadership to support the airport and businesses at the airport.

Bobbie Stafford, Cloverdale, stated this is an issue of NorCal noise –not airport noise.

Edward Dalbec, Cloverdale, stated the wind has been coming out of the southeast, which causes the planes to go over his house, and that he doesn't understand the noise complaints

Julie Dilley, Cloverdale, stated her house was used as a turning point every ten minutes and the noise was bad.

Jimmy Halliday, Cloverdale, stated with regard to previous two weeks, it is correct that there was a southeast wind, which dictates the direction they take off and their flight pattern, and clarified that they only had one pilot Sunday, therefore, only one plane was flying that day.

Robin Andersen, Cloverdale, commented that she feels there needs to be a more research done before any leases are looked at and believes that averages lead to misinformation.

Mark Tuma, Cloverdale, stated that Sonoma County and Napa need to be left off the comparison, as they are towered airports with commercial air traffic, and suggested other little airports be included, such as Boonville, Ocean Ridge, and Little River.

Chair Russell closed the public comment period.

City Manager Cayler clarified that what is being considered is the NorCal Skydiving lease agreement and that NorCal Skydiving is in agreement with the 7% per year rental adjustment. Mr. Cayler added that lease renewals for other pilots will be sent out in the next week and will not request rental adjustments until City Staff and Council have more time for dialogue and input from them.

Mayor Cox thanked the public for their comments and questioned whether or not what is required for the terms of the lease will be or already has been accomplished.

Chair Russell stated she wants to ensure the City compares apples to apples – to consider like airports with our own - and invited Deputy City Attorney Ramirez to speak.

Deputy City Attorney Ramirez stated their office has advised the City to restate the lease with NorCal Skydiving for the sake of clarity and creating a strong, enforceable contract.

Chair Russell recessed the meeting at 9:06 a.m., which was reconvened at 9:18 a.m.

The airport subcommittee recommended the restated lease agreement for NorCal Skydiving be brought forward to the full City Council at the June 24, 2015, City Council meeting and that contracts be tabled for one year.

6. **Information only memos:** None
7. **Future Agenda Items (subject to change)** None
8. **Pending Items:** None
9. **Good of the Order:** None
10. **Adjournment:** Chair Russell adjourned the meeting at 9:20 a.m. to Tuesday, October 6, 2015, or alternate date if requested.