



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

May 17, 2023

City Council President Linda M. Morad and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Re: Amendment to Ordinance Governing Airport Commission Membership

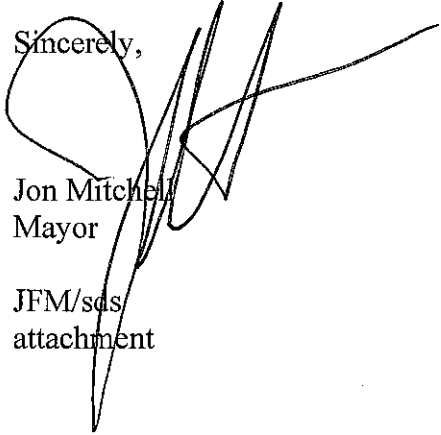
Dear Council President Morad and Honorable Members of the City Council:

The Airport Commission has requested several amendments to Chapter 3, Article 1, Section 3-1 of the City Ordinances [attached]. These amendments will bring the City's ordinance in line with the corresponding state statute and address practical difficulties relating to Airport Commission membership.

I have also attached a letter from Airport Commission Chairman Matthew D. Provencher, which details the proposed amendments and the reasoning that inspired them. I ask that you please place this item on your agenda and that you approve the amendments.

Thank you for your consideration.

Sincerely,


Jon Mitchell
Mayor

JFM/sds
attachment

The Honorable Jonathan F. Mitchell
Mayor of the City of New Bedford
133 William Street
New Bedford, MA 02740

Mayor Mitchell:

I write to ask you to forward a set of proposed amendments to the City Ordinance governing the New Bedford Airport Commission to the New Bedford City Council for consideration. On March 15, 2023, the Airport Commission approved a resolution recommending these proposed amendments to Chapter 3, Article 1, Section 3-1 of the City Ordinances. The proposed amendments are designed to conform the City's ordinance to the General Law controlling municipal airport commissions, G.L. c. 90, § 51E, and address practical concerns that have arisen relating to Airport Commission membership.

Currently, the ordinance sets the number of Airport Commission seats at nine. It also requires that at least two of the nine members have aeronautical experience, that two of the nine members hold pilot licenses, and that at least one member is recommended by the New Bedford Airport Tenant's Association, or another association endorsed by at least a two-thirds majority of airport lease holders.

These requirements conflict with state law and impose additional requirements on membership beyond the state statute. Under G.L. c. 90, § 51E, the number of seats on an airport commission may consist of any odd number between three and eleven. The statute requires only one commissioner to have aeronautical experience. It does not require that any commissioners hold a pilot's license, nor does it require any commissioner to be recommended by another association or entity. The City's ordinance restricts membership on the Commission to a smaller population of individuals than that contemplated by G.L. c. 90, § 51E. The resolution adopted by the Commission recommending these changes reflects our belief that the best course is to mirror the Commonwealth's General Laws and allow membership to the broad class of citizens set by statute. The Commission's recommendation also reflects our shared concern that reserving a seat on the Commission for a group that, by definition, has a direct financial relationship with the Airport creates an ethical concern in addition to conflicting with the General Laws. Moreover, the association referenced by the ordinance has not, to the knowledge of the Commission, existed for many years, nor has any substitute organization been created.

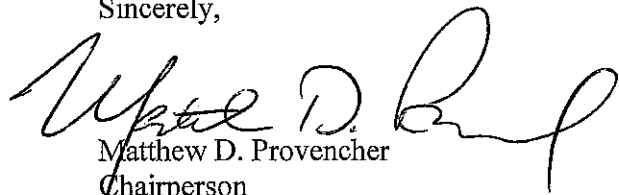
In addition to these statutory concerns, the number of seats on the Airport Commission has created practical difficulties over the years. The full number of seats on the Commission determines the number of individuals necessary for a quorum—whether or not those seats are filled. As commissioners have come and gone over the years, it has posed practical issues at times securing the attendance of a quorum due to scheduling difficulties. The Commission's resolution therefore also recommends reducing the number of seats on the Commission from nine to seven, the number of Commissioners currently appointed. The Commission does not expect that the management and oversight of the Airport will be adversely affected by this change, and instead expects that regular business will be more readily accomplished.

The Airport Commission therefore resolved to respectfully ask you to forward our recommended amendments to the City Council for consideration. Specifically, the Airport Commission proposes reducing the number of seats on the Commission from nine to seven, and to conform the City's ordinance to the General Law by requiring that at least one commissioner have experience in aeronautics. The Commission also recommends adding a provision that specifies when the chairman of the commission will be elected—currently this provision is in the Commission bylaws, but inserting the provision into the ordinance itself will mirror the statute as with the membership provisions.

I and the Commission believe that these amendments are appropriate for the continuing operation of the Airport Commission and the good management of the Airport. I therefore respectfully ask that you transmit this request along with the Commission's recommended amendments to the City Council for their consideration.

Thank you very much for your time and consideration.

Sincerely,



Matthew D. Provencher
Chairperson
New Bedford Airport Commission
1569 Airport Road
New Bedford, MA 02746



CITY OF NEW BEDFORD

In the Year Two Thousand and Twenty-three

AN ORDINANCE

Amending Chapter 3, Article I – In General

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:---

SECTION 1.

Chapter 3, Article I Section 3-1(a) is hereby amended by striking the phrase “nine (9) members” and inserting in place thereof the text “seven (7) members”

Chapter 3, Article I Section 3-1(b) is hereby amended by striking the phrase “two (2) of the nine (9) members” and inserting in place thereof the text “one (1) member”

Chapter 3, Article I Section 3-1(c) is hereby amended by striking it in its entirety and inserting in place thereof the following section:

“(c) Each calendar year, the members shall choose one member to serve as chairman.”

Chapter 3, Article I Section 3-1(d) is hereby struck in its entirety

Chapter 3, Article I Section 3-1(e) is hereby renumbered as Chapter 3, Article I Section 3-1(d).

Sec. 3-1. - New Bedford Airport Commission – Appointment, qualifications and compensation of members.

- (a) The New Bedford Airport Commission shall be comprised of seven (7) members, who shall be appointed by the mayor subject to confirmation by the city council.
- (b) At least one (1) member shall have experience in aeronautics, as defined in G.L. c. 90, § 35.

- (c) Each calendar year, the members shall choose one member to serve as chairman.
- (d) The members of said commission shall serve without pay or other remuneration except for the chairman, who will be compensated at a rate of two thousand five hundred dollars (\$2,500.00) annually.

Sec. 3-1. - New Bedford Airport Commission—Appointment, qualifications and compensation of members.

- (a) The New Bedford Airport Commission shall be comprised of nine (9) members, who shall be appointed by the mayor subject to confirmation by the city council.
- (b) At least two (2) of the nine (9) members shall have experience in aeronautics, as defined in M.G.L.A. c. 90, § 35.
- (c) At least two (2) of the nine (9) members shall have acquired a private pilot certificate with an airplane category and either a single engine or multiengine class rating pursuant to the requirements contained in 14 CFR §§ 61.102 thru 61.109 and has met all requirements of the FAA to maintain a currently active certificate.
- (d) At least one (1) member shall be a person recommended by the EWB Tenant's Association or other association endorsed by at least a two-thirds $\frac{2}{3}$ majority of the current lease holders of the New Bedford Regional Airport.
- (e) The members of said commission shall serve without pay or other remuneration except for the chairman, who will be compensated at a rate of two thousand five hundred dollars (\$2,500.00) annually.

(Code 1963, § 3-701; Ord. of 6-13-96, § 1; Ord. of 8-20-15, § 1)

State Law reference— Authority to establish, etc., M.G.L.A. c. 90, § 51E.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title XIV	PUBLIC WAYS AND WORKS
Chapter 90	MOTOR VEHICLES AND AIRCRAFT
Section 51E	AIRPORT COMMISSIONS FOR MUNICIPAL AIRPORTS; MEMBERS; VACANCIES; AIRPORT MANAGERS

Section 51E. In any city or town in which an airport is established under section fifty-one D, or under any other provision of law, there shall be established a board consisting of an odd number of members not less than three nor more than eleven in number, to be called the airport commission, which shall have the custody, care and management of the municipal airport of said city or town. Of the members appointed at least one shall be a person having experience in aeronautics. An airport commission may be established as herein provided in any city or town for the purpose of establishing an airport therein. Except as provided otherwise in any special law, enacted prior to January first, nineteen hundred and forty-seven, relating to an airport commission in any city or town, the members of the airport commission shall be appointed, in cities, by the mayor with the approval of the city council, and in towns by the selectmen. In the initial appointment of the members of such an airport commission, their terms shall be so arranged that one third of the members, as nearly as possible, will expire each year; and thereafter when the term of any member expires his successor shall be appointed to

serve for the term of three years and, in each instance, until the qualification of his successor. Vacancies in the commission shall be filled for the unexpired term by the appointing authority. The members of said airport commission shall annually choose one of their members as chairman. The airport commission may appoint an airport manager who shall be qualified by general management experience and aeronautical knowledge and shall be the executive officer of said commission, and may also appoint an assistant airport manager who shall be qualified as aforesaid. Neither the airport manager nor the assistant airport manager shall be subject to chapter thirty-one. The assistant airport manager shall act in place of the airport manager at such times and under such conditions as the airport commission may direct. The airport manager, and the assistant airport manager when acting in place of the airport manager under the direction of the airport commission, shall be responsible to said commission for the proper maintenance and operation of such airport and of all facilities under his supervision. Subject to appropriation, said commission shall appoint such other officers and employees as its work may require and shall fix the salaries of all officers and employees appointed or employed by it.