



THE TAOS NEWS

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\$24 million Taos airport expansion upheld

By **J.R. Logan**, jrlogan@taosnews.com

The Taos News, 10/20/2016

A district court judge in Taos has upheld the Taos County Commission's approval of a building permit for the expansion of the Taos Regional Airport.

Opponents of the expansion appealed the commission's July decision to allow the expansion to proceed. The bulk of the expansion is the construction of a second runway, meant to improve safety at the small facility northwest of Taos.

Opponents have said the \$24 million project will increase pollution and benefit only the wealthy.

The airport is owned by the town, but it needed county approval to go forward with the expansion.



Rock crushers do work at the Taos Regional Airport last summer. A Taos judge recently upheld the county's decision to allow the expansion of the airport move forward.

Katharine Egli

In September 2015, a group of opponents appealed the county's approval of the project. The appellants argued that the county mishandled the application by approving it under less stringent requirements meant for "public utility projects" per the county land use regulations. They also argued that two of the county commissioners — Tom Blankenhorn and Jim Fambro — were "biased" because they had both made public statements before the permit hearing that appeared to show support for the expansion.

In cases of permit approvals, the county commission is supposed to act as an objective arbiter, and make its decision based solely on evidence provided at a public hearing.

The Oct. 12 ruling by Judge Jeff McElroy rejected both of those arguments.

McElroy wrote that the county's regulations are "ambiguous," and the county's interpretation that the airport is a "public utility project" — and therefore subject to a less stringent approval process — was "reasonable."

"The court will defer to the county's interpretation of its own ordinance and regulations," McElroy wrote.

As for the allegations of bias, the appellants pointed to written statements made by Blankenhorn and Fambro months before the airport permit hearings began. Among the examples presented by the opponents was an op-ed written by Blankenhorn in which he wrote: "The airport expansion is an important long term investment in our community that will improve the accessibility and safety for air travel into and out of Taos."

The appellants also pointed to a comment Fambro posted to his campaign Facebook page in which he called the airport expansion a "plus from a public safety point of view."

In his ruling, McElroy said the statements did not meet the standard for a bias that would disqualify a county commissioner from ruling on the case. "Chairman Blakenhorn's statements were made in the context of opposing the town's annexation of the airport," McElroy wrote. "Vice chairman Fambro's statements were made while campaigning for the commission. Both are general policy statements of the sort that are permissible by those in public positions or seeking office."

McElroy later wrote that there was no evidence that either commission had "prejudged any facts" relating to the town's application for a building permit for the expansion.

Tim Adler, an attorney representing the appellants, told

The Taos News his clients were still deciding whether to appeal the ruling. Adler said the case raises an "interesting question of law" regarding what constitutes bias in a decision maker.

"We're not saying there was malice there or they weren't taking their jobs seriously, but when you publicly expressed a preferred outcome then it casts doubt on the impartiality of the process," Adler said.

Any appeal would be made to the New Mexico Court of Appeals, which has the discretion to take the case. If they don't, an appeal could be made to the state Supreme Court.

Taos County declined to comment on the ruling.

The town says paving the second runway is about five weeks from being completed. The town hopes to have the runway open by December.

'The airport expansion is an important long term investment in our community that will improve the accessibility and safety for air travel into and out of Taos'

—**Tom Blankenhorn**