

HTO After Expiration of FAA Grant Assurances



Prepared for the Town of East Hampton



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October 19, 2021

Cooley

Grant Assurances Explained

- The Town's most recent Airport Improvement Program (AIP) grant expired on September 25, 2021
 - Acceptance of an AIP grant binds the airport to federal “grant assurances” for a specified term, usually 20 years for public airports
 - During this period, an airport must comply with federal obligations to:
 - Remain open to the public
 - Retain revenue for airport use only
 - Maintain an airport layout plan

Grant Assurances Have Expired

- The Town regained local control over the Airport upon expiration of the grants on September 26, 2021:
 - The Town may close the Airport
 - Airport revenue is not restricted
 - HTO is no longer subject to the FAA's rates and charges policy
 - The Airport may change its status to private use
- The future of HTO is now a matter of local decision making
 - State and local requirements for airports still apply

Airport Legal Background

- 2015 Airport Use Restrictions
 - *Friends of the E. Hampton Airport, Inc. v. Town of E. Hampton*
- Part 161 insufficient to address the Town's goals
- Legislative efforts in Congress
- FAA consultation in 2020 and 2021 to determine legal options
- 2021 Airport Re-envisioning Project

Re-envisioning Project Overview

- Seven Town Board Work Sessions in 2021:
 - May 11
 - Cooley Airport Legal Update
 - HMMH Review of Operations and Complaints in 2019 and 2020
 - HR&A Economic Impact Analysis for HTO
 - Rigano LLC Update on Airport Superfund Site Report
 - July 6
 - HMMH Summer Jet Traffic Addendum for 2020
 - Air Quality Report by Don J. Wuebbles, Ph.D.

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Re-envisioning Project Overview

- August 3
 - East Hampton Airport Environmental Conditions, Planning & Zoning (Liquori/Flinker)
- August 17
 - East Hampton Airport – Overview of Public Participation Process (Liquori/Flinker)
- September 7
 - HMMH Feasibility Study for the Diversion of Airport Operations at East Hampton Airport
- October 12
 - Public Engagement Process Summary (Liquori/Flinker)
- October 19
 - Cooley Airport Legal Update

August						
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Re-envisioning Project Overview

- Four Public Listening Workshops in 2021
 - September 9
 - September 10
 - September 13
 - September 20

September						
S	M	T	W	T	F	S
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- Consistent public engagement at Town Board Work Sessions
- Written comments received on a number of topics
- Airport user survey completed during 2021 Summer Season

Legal Considerations and Options

- HTO may now legally close after the grants expired on September 26, 2021
- FAA letter dated November 6, 2020 regarding the Town's options:
 1. Negotiation of an agreement for mandatory restrictions on aircraft operators per Part 161;
 2. Closure of the airport after the grant assurances expire and the reopening of the airport;
 3. Complete closure of the airport; or
 4. Continue to operate the airport as a public use airport (*status quo*).

Legal Considerations (Option 1)

1. Negotiation of an agreement for mandatory restrictions on aircraft operators per Part 161
 - Airport noise and access restrictions at public use airports may be agreed to by all users or certain types of users (*e.g.*, helicopter, seaplane and jet charter companies)
 - However, “new entrants who are not notified may not be subject to the restrictions”
 - FAA letter dated November 6, 2020
 - No aircraft operator has ever negotiated an agreement for mandatory restrictions at HTO with the Town

Legal Considerations (Option 2)

2. Closure of the airport after the grant assurances expire and the reopening of the airport
 - “Option 2 considers that the federal grant assurances will expire after September 26, 2021 at which time the federal obligation to keep the airport open expires. The Town can close the airport, use the remaining funds in the airport account as it desires, dispose of the land, or not. The remaining FAA obligations, such as Exclusive Rights, Revenue Use, Civil Rights, are extinguished upon closure. The Town of East Hampton can then choose to change the use of the airport from public to private use.”

Legal Considerations (Option 2)

2. Closure of the airport after the grant assurances expire and the reopening of the airport
 - “[Under Option 2], The Town could also re-open as a traditional public-use airport or as a private-use airport made available to others by the Town through authorized rights or by requiring prior permission. A private-use airport would not be eligible for inclusion in the NPIAS or FAA funding. The Town would still need to comply with New York State private-use airport requirements and standards.”
 - NPIAS = National Plan of Integrated Airport Systems
 - Consideration of state and local processes for establishment of private airports

Legal Considerations (Option 3)

3. Complete closure of the airport after the grant assurances expire
 - “Option 3 is for the Town to close the airport completely. This would require notice pursuant to Part 157. There may also be state and local requirements with which the Town would have to comply ”

Process to Close HTO

- Options 2 and 3 require closure even if the airport reopens under Option 2
 - Step 1 – provide prior notice to the FAA on Form 7840-1 to deactivate the Airport pursuant to 14 C.F.R. § 157.3(c), (e)
 - Step 2 - the Airport will be deactivated 30-days. 14 C.F.R. § 157.5(b)(2)
 - Step 3 - 15 days after the expiration of the 30-day period, confirm completion of the deactivation with the FAA. 14 C.F.R. § 157.9
- Timing considerations for closure

Process to Reopen

- Under Option 2, the Town can change the use of the airport from public use to private use and implement restrictions
 - Step 1 – close HTO to all aircraft operations (duration TBD)
 - Step 2 – implement system of authorized rights or prior permissions at HTO
 - Step 3 – re-open the Airport as a private-use airport
- The Town may coordinate modifications to the Airport during temporary closure period

Prior Permission Required

- The FAA defines Prior Permission Required (“PPR”) as “prior permission required to have full operational use of a runway, taxiway, apron, or airport facility/service.”
- PPR offers flexibility to grant, remove, and revise permissions at a private-use airport
- Permissions can include authorized rights for certain users and/or managed permissions under a plan administered by the Town
- PPR can define aircraft operations for which permission will not be granted

Prior Permission Required – Montauk Airport

- For example, Montauk Airport appears to have the ability to require :
 - Prior permission for all jets and helicopters
 - Permission will not be granted for helicopter operations from sunset to sunrise
- Montauk Airport is a privately owned, public-use airport

Substantive Rules Under PPR

- If the Town chooses to reopen the airport as a private-use airport, the Town will need to set specific policies for permissions to use HTO, including:
 - Substantive rules regarding permitted uses
 - Trial periods
 - Enforcement mechanisms
 - Amending the rules and permissions

Substantive Rules Under PPR

- A PPR framework allows for increase local control and the ability to make changes if needed
- The Town can establish initial PPR policy goals based on the Re-
envisioning Project feedback and consultant studies

Options for Substantive Rules

- The following are examples of possible Town policies:
 - Implement curfews with enhanced weekend hours
 - Reduce runway length
 - Provide authorized rights for small general aviation aircraft
 - Restrict or create limits on airport use by commercial users (quotas, slots, rationing, lottery, etc.)
 - Refuse permission for certain incompatible aircraft
 - Limit FBO hours
 - Address Special VFR

Options for Substantive Rules

- Additional policies may include:
 - East Hampton Town resident preferences and incentives
 - Extend control tower operations to maintain Class D airspace
 - Noise-based restrictions
 - Increased airport fees
 - Green incentives (unleaded fuel and electric aircraft)

Next Steps

- ✓ Engage FAA in the process
- ✓ Update consultant reports based on additional community feedback
- ✓ Discuss initial parameters for private-use airport
- ✓ Identify any specific substantive rules for further analysis

Appendix A

- Annual Operations by Month (2017 to Present)

YEAR 2021	Total Ops	Source		Total Operations by type				Unknown Mode C	Seaplane* C-208
		Local	Transient	Piston Engine SE & ME	Turboprop Single Twin	Helicopters	Jets		
Jan	1,284	666	618	748	58	266	212		4
Feb	890	494	396	604	38	154	94		2
Mar	1,210	660	550	760	68	184	198		4
Apr	1,454	598	856	732	80	402	240		10
May	2,754	898	1,856	1,138	312	854	450		62
Jun	4,410	934	3,476	1,420	840	1,144	1,006		418
Jul	5,758	886	4,872	1,554	1,364	1,376	1,464		576
Aug	6,138	892	5,246	1,636	1,338	1,739	1,428		560
Sep	3,666	842	2,824	1,234	684	1,056	692		312
Oct									
Nov									
Dec									
Totals for Year	27,564	6,870	20,694	9,826	4,782	7,175	5,784		1,948

*Split out from Turboprop

***Town of East Hampton
2021 Operations***

YEAR 2020	Total Ops	Source		Total Operations by type				Unknown Mode C	Seaplane*
		Local	Transient	Piston Engine SE & ME	Turboprop Single Twin	Helicopters	Jets		
Jan	802	482	320	566	22	160	54		6
Feb	834	506	328	624	16	144	50		0
Mar	796	450	346	530	50	116	100		0
Apr	622	420	202	474	12	70	66		0
May	1,242	470	772	654	108	166	314		34
Jun	2,650	590	2,060	1,022	416	526	686		156
Jul	4,330	1,364	2,966	2,006	766	704	854		326
Aug	4,574	1,262	3,312	1,906	862	740	1,066		332
Sep	3,486	852	2,634	1,364	538	834	750		232
Oct	2,616	924	1,692	1,236	362	648	370		148
Nov	2,068	868	1,200	1,062	130	528	348		16
Dec	1,384	720	664	782	72	302	228		9
Totals for Year	25,404	8,908	16,496	12,226	3,354	4,938	4,886	0	1,259

*Split out from Turboprop

Town of East Hampton
2020 Annual Ops

YEAR 2019	Total Ops	Source		Total Operations by type				Unknown Mode C	Seaplane*
		Local	Transient	Piston Engine SE & ME	Turboprop Single Twin	Helicopters	Jets		
Jan	520	216	304	284	16	152	68		0
Feb	642	330	312	440	28	148	26		0
Mar	716	340	376	436	36	186	58		2
Apr	896	430	466	568	60	192	76		20
May	2,416	626	1,790	910	442	740	324		236
Jun	3,840	708	3,132	1,170	874	1,224	572		538
Jul	6,780	884	5,896	1,744	1,678	2,234	1,124		986
Aug	7,410	992	6,418	1,848	1,918	2,334	1,310		1,072
Sep	3,012	790	2,222	1,124	516	962	410		310
Oct	1,526	684	842	824	188	356	158		102
Nov	1,302	560	742	696	96	384	126		22
Dec	760	394	366	482	64	144	70		8
Totals for Year	29,820	6,954	22,866	10,526	5,916	9,056	4,322	0	3,296

*Split out from Turboprop

***Town of East Hampton
2019 Annual Ops***

		Source		Total Operations by type					
		Source		Total Operations by type					
YEAR 2018	Total Ops	Local	Transient	Piston Engine SE & ME	Turboprop Single Twin	Helicopters	Jets	Unknown Mode C	Seaplane*
Jan	502	214	288	234	24	182	62		0
Feb	436	172	264	224	24	132	56		4
Mar	682	380	302	428	34	176	44		2
Apr	818	320	498	446	50	224	98		20
May	1,998	424	1,574	622	380	664	332		198
Jun	4,058	648	3,410	1,134	892	1,462	570		566
Jul	6,222	710	5,512	1,592	1,508	2,088	1,034		844
Aug	6,884	728	6,156	1,602	1,670	2,394	1,218		928
Sep	2,712	596	2,116	934	482	922	374		252
Oct	1,522	572	950	730	254	368	170		100
Nov	1,052	386	666	458	106	362	126		28
Dec	778	402	376	536	46	124	72		0
Totals for Year	27,664	5,552	22,112	8,940	5,470	9,098	4,156	0	2,942

*Split out from Turboprop

Town of East Hampton
2018 Annual Ops

YEAR 2017	Total Ops	Source		Total Operations by type				Unknown Mode C	Seaplane*
		Local	Transient	Piston Engine SE & ME	Turboprop Single Twin	Helicopters	Jets		
Jan	590	300	290	352	32	142	64		0
Feb	530	230	300	318	30	128	54		10
Mar	458	200	258	210	26	144	78		6
Apr	962	356	606	566	74	244	78		52
May	1,524	274	1,250	638	148	536	202		188
Jun	3,622	688	2,934	1,124	820	1,192	486		504
Jul	6,030	864	5,166	1,698	1,322	1,890	1,120		754
Aug	7,118	902	6,216	1,830	1,558	2,480	1,250		870
Sep	3,196	662	2,534	1,070	572	1,106	448		302
Oct	1,436	566	870	696	174	396	170		92
Nov	1,450	580	870	724	104	430	192		30
Dec	630	302	328	374	18	188	50		8
Totals for Year	27,546	5,924	21,622	9,600	4,878	8,876	4,192	0	2,816

*Split out from Turboprop

***Town of East Hampton
2017 Annual Ops***

Appendix B

- HTO Class D Airspace

