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Was City Manager's Job Fixed for Jim Scholl?

ATTORNEY HORAN AND OTHERS MAY HAVE PROMISED TO HELP THE RETIRING NAVY BASE BOSS GET THE CITY MANAGER'S JOB IN RETURN FOR DIVERTING THE JET FLIGHT PATH AWAY FROM KEY HAVEN

HORAN SAY THE "CONSPIRACY THEORY" IS FLAWED— BECAUSE "THE FLIGHT PATH HAS NOT BEEN CHANGED SINCE 1983"

STOCK ISLAND RESIDENTS: THEN WHY DID THOSE BIG JETS START FLYING OVER OUR HOMES ALL OF A SUDDEN?



JIM SCHOLL

by *Dennis Reeves Cooper*

An editorial in the *Key West Citizen* two weeks ago, headlined "Ignoring AICUZ puts Keys Citizens in Peril," criticized the County Commission for dragging its feet in adopting the Navy's new plan that determines whose house the super-loud Navy jets fly over as they land and take off at the Boca Chica airfield. That plan is known as AICUZ—Air Installation Compatible Use Zone. The new Navy flight path maps, proposed last year, update 30-year-old 1977 maps.

But there's a reason that the County Commission may

be dragging its feet on codification of the newest plan. There may have been some funny business going on when the new plan was developed and implemented— possibly an elaborate conspiracy to divert the path of the jets away from the upscale Key Haven area to a poorer neighborhood on Stock Island.

Critics of the new plan—who are, in many cases, residents of Stock Island and Geiger Key communities who are now suffering the wall-rattling thunder of dozens, if not hundreds of low-flying jets every day—allege that the mastermind of

the alleged conspiracy was prominent Key West Attorney David Paul Horan. They say that Horan allegedly conceived and coordinated a scheme to finance a possibly illegal lobbying effort by retired Navy Admiral Robert Natter.

There are also allegations that former Key West Naval Air Station commander Jim Scholl played a key role in the conspiracy—in return for a promise from Horan and others to help him get the Key West City Manager job when he retired.

Subsequently, the pro-
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THE ISLAND'S OLDEST INDEPENDENT WEEKLY NEWSPAPER

Was the Navy Jet Flight Path Illegally Diverted From Upscale Neighborhood to Poorer Neighborhood? Several Government Agencies are Reportedly Investigating

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posed AICUZ maps were changed to divert the flight path away from Key Haven and Jim Scholl was named Key West City Manager. Go figure.

Critics say that Scholl not only recommended that the flight path be changed without any input from his Top Gun trainer but, also, without an environmental assessment that took the impact of increased noise from the new Super Hornet jets into consideration. Such an environmental assessment is required by law as part of the AICUZ process.

Apparently, there are

enough questions about possible impropriety—or even downright illegal activity—that, reportedly, the Department of Defense Inspector General, the General Accounting Office and the Environmental Protection Agency are all conducting investigations.

Are these conspiracy allegations true? Maybe. Maybe not. But we, too, think there may be enough unanswered questions that the County Commission is justified in holding off on codification of the proposed new AICUZ maps. At the very least, Commissioners should demand that the Navy

conduct a valid environmental assessment.

Attorney Horan told *Key West The Newspaper* this week that the “conspiracy theory” is bunk. “In fact,” he said, “the flight path has not been changed since 1983.”

But Geiger Key resident Paul Caruso disagrees. “Before the 2007 AICUZ went into effect, our house was hardly affected at all by jet noise,” he said. “But now, those big jets are flying over our home at only 200 feet. Sometimes our house shakes like there is an earthquake! We even get *CONTINUED on next page*

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State Grant to Pay Washington Lobbyist May Have Been Obtained Fraudulently

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sprayed by jet fuel!”

A large part of Stock Island has also been affected by the new flight path—an area that was never affected by jet noise before.

When incoming Navy pilots execute the tight turn now required to avoid Key Haven, that takes them right over Harbor Shores, Safe Harbor and the surrounding working class neighborhoods around Maloney and 5th Avenue on Stock Island.

“Now, tell me again that the flight path has not been changed since 1983,” Caruso said.

NOTE: As part of a long-running effort to protest the recent changes in the Navy jet flight path, Caruso has set up a website: www.stophplanes.com.

HISTORY

Let's look at the history of this bizarre situation.

In the early 1970s, the Department of Defense (DOD) established the AICUZ program to try to balance the need for military aircraft operations with community relations. Here in the Keys, the 1977 AICUZ, as well as the APZ, the Accident Potential Zone—were incorporated into Monroe County's land use regulations in 1986.

Updating began in 2004 and a first version of a new AICUZ was sent to Monroe

County and the City of Key West in January 2005. This updated plan would have taken the loud Navy jets—thousands and thousands a year—right over Key Haven!

Well, as you might imagine, this was totally unacceptable to Key Haven residents, many of whom were and are the people, elected and unelected, who run this end of the Florida Keys. So, reportedly, a plan was conceived to change the proposed AICUZ—to get the flight path moved away from Key Haven.

Attorney Horan said this week that he had seen a draft of the new AICUZ as early as 2003 and that he had immediately contacted Navy officials to question the proposed changes.

A critical part of the alleged campaign to get the flight path moved away from Key Haven was to hire an influential lobbyist to try to convince top Navy brass in Washington to revise the updated AICUZ plan then being proposed. But that was going to be expensive. Who would pay for that? Well, as it turned out, they got the State of Florida to pay for it.

You see, there was something called the Florida Defense Alliance, established by the governor to help lobby to pro-

tect Florida military bases from realignment or closure. State money was funneled to local “defense alliance” committees through Enterprise Florida.

So, in 2004, Attorney Horan—a Key Haven resident—was instrumental in setting up the Florida Keys Defense Alliance (FKDA). Horan also volunteered to act as president of the FKDA.

The stated purpose of the FKDA was to lobby those in Washington responsible for the realignment and closure of military bases to keep the Key West Naval Air Station (NASKW) from being closed or realigned. But that was not the real purpose. The 2005 round of base closures had already been announced and NASKW was not being threatened. According to Paul Caruso and others, the real purpose was to use the FKDA to get grant money from Enterprise Florida to pay Natter to lobby Navy officials in Washington to divert the flight path away from Key Haven.

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Members of Local "Defense Alliance League" Had Nothing to Do. But They Still Met and Billed Their Time at \$45 per Hour

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Even before the FKDA had been incorporated, Horan submitted an application to Enterprise Florida for a \$90,000 grant. In his application, Horan stated that the City of Key West had committed to provide local matching funds totaling \$29,700—although, at the time of Horan's grant application, the City Commission had made no such commitment.

Later, when then-City Manager Julio Avel brought the request for the matching funds to the Commission, he attempted to sneak it through on the consent agenda. But Last Stand protested, pointing out that "the description of the project is vague and lacks any specificity of measurable performance standards . . . In the past, the City has retained an experienced consultant when faced with base closure issues. However, the upcoming 2005 round of base closures are already announced and the entire State of Florida has no threatened closures by any branch of the military. The request for matching funds and the grant itself appears totally

unwarranted and its inclusion on the consent agenda without an executive summary is disturbing."

Well, yeah, but what the Last Stand people didn't understand is that there was no intention to use the money to lobby to protect NASKW. The grant had allegedly been requested under false pretenses. Horan and his cronies needed the money to pay Admiral Natter to lobby in Washington to get the proposed flight path of the big Navy jets moved away from Key Haven!

And the Last Stand people also didn't know that logical argument was futile. The fix was in.

City Manager Avel argued that the City's promised match was not going to be in real money—it was going to be "in kind" funds. But the match commitment was needed to get the cash from Enterprise Florida to pay Natter.

Whether the Mayor and the Commissioners knew or didn't know that the whole exercise was a scam to fraudulently get a State grant, the commitment for the matching funds was approved at the Commission meeting on January 4, 2005.

To try to bill as many in-kind hours as possible in order to reach the City's \$29,700 commitment, Avel formed a 13-member "Defense Alliance Committee"—City employees and members of the FKDA. Although they didn't really have anything to do, committee members vowed to have as many meetings as possible so that every member attending could bill their time at \$45 per hour, the maximum allowed by the terms of the grant.

The first meeting was held on January 21, 2005. The majority of the meeting was taken up with passing out time sheets and emphasizing that as many hours as possible should be billed.

But by the end of June 2005, committee members had been able to bill only about \$8000 in time. They could only fake it to a certain point.

City Port Director Raymond Archer had been assigned to keep track of all the hours that had been spent on the project. He sent a memo to Avel warning him, "Pending a drastic increase in staff or Florida Keys Defense Alliance time, the City will be required to make up the match with cash."

In the meantime, Admiral Natter wasn't having any trouble at all spending the \$90,000 in real money from Enterprise Florida. And when Natter needed more money, Horan just applied for another \$90,000 grant—to lobby to protect NASKW. Wink, wink, nod, nod.

But, allegedly, Natter may have been violating federal law by doing any lobbying at all. Federal law prohibits government officials, including senior military officers, from registering as lobbyists within the first two years after retiring. Natter retired from the Navy in October 2003—but he registered as a lobbyist in March 2004 and almost immediately began to do lobbying work for the State of Florida and the FKDA.

Meanwhile here at home, Attorney Horan—according to his time sheets as president of the Florida Keys Defense Alliance—was spending a lot of time meeting with Jim Scholl, the NASKW commander at that time.

Allegedly, between 2004 and 2006, when Scholl retired from the Navy, there may have been a deal cut with him to change the flight path to divert it away from Key Haven. In return, Scholl may have received a commitment from Horan and others to try to get him hired as Key West City Manager when Avel

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Criteria for City Manager Job "Dumbed Down" To Allow Scholl to Qualify

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either retired or was pushed out of the job.

When we asked Scholl this week to tell us what really happened, he refused comment except to call the job fix allegations an "elaborate fabrication" and refer us to the Navy for details about AICUZ.

Of course, if there ever was such a deal offered to Scholl, it could not have been put in writing. But here is what we know subsequently happened:

- While Natter was smoothing the way in Washington, Scholl, as commander of NASKW, almost unilaterally modified the 2005 AICUZ plan to divert the flight path away from Key Haven over to a poorer neighborhood on Stock Island. At a community meeting on Stock Island in May 2007, Navy Capt. Dewalt, who was the Top Gun tactical trainer when Scholl changed the flight path, was asked if he had been consulted about the change. His answer was, "No."

Got it? The Top Gun trainer says he was not consulted on a flight path change—even though that change required incoming pilots to start making a very tight turn to avoid Key Haven.

- When the City Commission appointed a City Manager Screening Committee, Attorney

Horan was named to that committee.

- One of the first acts of that committee was to "dumb down" the criteria for applicants so that Scholl could qualify. For example, any criteria that required applicants to have city or county management experience was eliminated. Got it? *The criteria developed to attract applicants to be the next Key West City Manager did not require them to have any city or county management experience!*

Most of those who applied did have city or county management experience, of course. Some had extensive education and experience in municipal management. So why would the Key West City Commission even look twice at any applicant for City Manager who didn't have at least some city or county management experience—unless the fix was in?

- In any event, Scholl didn't qualify, anyway, according to the advertised criteria for the job. That criteria stated: "Potential candidates must possess a bachelor's degree with major course work in public/business administration, finance or a related field." *Scholl has a degree in zoology. By any stretch of the imagination, a degree in the study of animals is hardly a field related to public/business administration or finance. Do*

you think, just maybe, that the fix was in?

- Also, when Scholl applied for the job, he neglected to mention that he would have to recuse himself from any matter that might come before the City Commission that involves the Navy—such as AICUZ, the claim by the members of the Truman Annex Master Property Owners (TAMPOA) that they own Southard Street (former Navy property) west of Thomas

Street, possible joint use by the City of the Navy's Boca Chica airfield, any conflicts involving Navy easements anywhere in the City and basically anything else that relates to the Navy. Only after landing the job, did he reveal the existence of a four-page "ethics letter" from the Department of the Navy that imposes upon him a lifetime ban on representing the City in virtually any matter that involves the Navy.

Question: Would the majority of the members of the City Commission have voted for Scholl to become City Manager if they had known about how restricted he would be in the job? After all, this is a Navy town.

Answer: Sure, if the fix was in.

Dennis Reeves Cooper answers email at thebluepaper@kwtn.com.