

August 19, 2016

By FedEx and Electronic Mail

Mr. Tony Vazquez
Mayor of the City of Santa Monica
1685 Main Street
Santa Monica, CA 90401
tony.vazquez@smgov.net

RE: Santa Monica Airport

Dear Mayor Vazquez:

I write on behalf of the National Business Aviation Association (NBAA). As you know, NBAA represents over 11,000 member companies which collectively own and operate over 11,000 general aviation aircraft to facilitate the conduct of their businesses or which are otherwise involved with business aviation – including tenants and users of the Santa Monica Municipal Airport (SMO), who continue to be strongly interested in its future accessibility and viability.

We are disappointed that at its August 23, 2016 meeting, the City Council is scheduled to consider a proposed resolution that would assert its intent to close the airport, when legally permitted to do so. As a preliminary matter, the City is legally obligated to continue operating SMO – through 2023 by commitments that accompanied federal grants (as just confirmed by an FAA administrative decision dated August 15, 2016), and in perpetuity by commitments that accompanied federal surplus property deeds.

Moreover, communities across the U.S. are "good stewards" of their airports and understand that they are economic engines for and a valued overall part of the community. There is no rationale for Santa Monica's virtually unique and entirely unjustified hostility towards one of its greatest assets. We note that at the Council's July 26 meeting, Councilwoman Himmelrich stated that, in regard to SMO: "The courts need to respect us." Of course, respect is a two-way street – and is earned by the quality of one's actions.

Respectfully, we suggest there are other airport matters that should be prioritized by the Council:

- Although the Council adopted a leasing policy for SMO in March 2016, after the passage of five months no aeronautical tenant at SMO yet has been offered a new lease. As NBAA previously has communicated to the City, there are numerous defects in the policy – but the City's outright failure to implement the policy can only be described as a complete abandonment of its fiduciary responsibilities to the airport and its tenants, and must be remedied immediately.
- The City last month sent notices to various SMO tenants that purported to reserve the right to evict them at any time and threatened to hold them liable for any damages to the City caused by their failure to vacate the airport. These notices are legally baseless yet demonstrate the precarious legal position in which the City has placed itself (and its citizens and taxpayers) by failing to issue new tenant leases, consistent with federal law.

- As the Council presumably is aware, in an additional administrative proceeding pending at the FAA the City's lawyers already have conceded to millions of dollars of financial improprieties in its oversight of SMO – e.g., that for years the City has over-charged interest to airport accounts, and under-collected rent from a major non-aeronautical tenant. The City continues to contest the exact extent of its liability (and other issues raised in the proceeding), but in the interim citizens and taxpayers (as well as airport users and tenants) would welcome transparency – and accountability – for the historic and continuing mismanagement of the airport by the City.

NBAA also understands that the Council has requested that City staff provide feedback on certain concepts for the restriction of access to and the use of the Airport, so long as it remains open. We again remind the Council that its federal obligations require it to provide access to SMO on reasonable terms and without unjust economic discrimination. Indeed, not just NBAA but City staff previously has advised the Council that many of these concepts are problematic at best, or simply impermissible. For example:

- Security Screening — The purpose of a security program at a general aviation airport must actually be security; it cannot be an access restriction in disguise. But Councilman Winterer previously has made clear the City's true intent for a security program at SMO – i.e., “to make airport travel less convenient.” The Council should expect any pretextual security program implemented at SMO to be promptly challenged and invalidated.
- Proprietary FBOs — FAA policy allows an airport's municipal owner to opt to be the exclusive provider of fuel or other services at an airport, if it does so with its own employees. But the Council has signaled that its interest in operating a proprietary fixed-based operator (FBO) is premised on the – erroneous – belief that it would enable the City to reduce the scope of services available at SMO. A proprietary FBO must actually be an FBO.
- Aircraft Emissions — On July 26, 2016, Councilwoman Davis suggested that a recent EPA statement on aircraft emissions provided a basis for local regulation. That claim is also in error. The EPA is laying groundwork for aircraft emissions to be evaluated and regulated on a national and international level, in coordination with the FAA and ICAO. The city remains preempted from local regulation by 42 U.S.C. § 7571(a)(2) and § 7573 – statutes that unquestionably remain effective, entirely independent of the City's grant/deed-based federal obligations.

Once again, we urge the Council to recognize that a small minority of Santa Monica should not dictate unwise policy choices by the City as a whole. Airport tenants and users are and desire to be good neighbors, but the City's quixotic efforts to close the airport and to defy its legal commitments have been self-defeating – as they have been for decades at the cost of millions of dollars to taxpayers, apart from lost opportunities for cooperation. In closing, the airport is not “obsolete” (as City Manager Cole suggested on July 23, 2016) but rather an active, vibrant, and productive element of the Santa Monica and greater Los Angeles community – and should be promoted, not restricted.

Sincerely,



Steve Brown
Chief Operating Officer

CC:

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