

VAN NUYS AIRPORT CITIZENS ADVISORY COUNCIL
Tuesday, February 2, 2010
MINUTES

A meeting of the Van Nuys Airport Citizens Advisory Council (CAC) was called to order at 7:07 p.m. by Vice Chair Don Schultz. Members present: Ron Merkin, Wayne Williams, Gerald Silver, Wendy Saunders, Harold Sullivan, Bob Jackson, Bob Frazier, Laurence Rabe, Harold Lee, and Don Schultz.

Members Absent: Ken Miller, Rick Flam, Dave Sotero and Chris Nassif.

The Council vacancies as of February 02 are as follows: one appointment from the Office of Councilmember Alarcon, one appointment from Councilmember Cardenas, one appointment from Councilmember Smith and one appointment from Councilmember Krekorian.

The minutes from January 5, 2010 Council meeting were approved and the minutes from November 3, 2009 Council meeting were deferred.

1.) STAFF REPORTS

Ms. Selena Birk stated that Pacific Aviation made great progress on the lease for the Propeller Park. The lease will be ready to go to the Board in April or May and the environmental review is completed. Ms. Birk also stated that she has been selected to head a new division at LAX at the end of February. She will be working with landside operations, the permits office, and emergency management services. Ms. Birk stated the new VNY Manager will be Jess Romo and he will be managing both VNY and Ontario Airports; his assistant manager will be Kim Ellis. Ms. Birk stated that the new managers have immense aviation and property management experience; therefore, she expects it will be a smooth transition.

The Council members applauded. They stated that Ms. Birk's ten years at VNY have been appreciated and she will be greatly missed.

2.) REPORT FROM THE CHAIR

A. Consideration of VNY BOAC-Discussion

Mr. Schultz stated that he is gathering more information on the ramifications of VNY Airport having its own BOAC. Mr. Schultz stated that all the CAC members will get to speak and take action on this issue in the near future.

Mr. Williams asked if there has been any type of mission statement or a goal that is intended for VNY to have a successful Board of Airport Commissioners.

Mr. Schultz stated the information will be gathered and further discussed.

3.) BOAC AGENDA ITEMS CONCERNING VNY

B. MPG Aviation Lease – Discussion/Action

Mr. Schultz stated this item is a continuation from last month's CAC meeting. The president of MPG Aviation, Ms. Margie Oldenkamp is not here tonight; however, there are people here who would like to speak on her behalf.

Mr. Ron Spindler, Ms. Oldenkamp's partner stated that the VNY Staff has been exceptional on this matter; however, their hands have been tied. There are people at VNY who have concerns regarding this 15 year lease. Mr. Spindler stated that they have made the dollar value improvements to the land that was required for a 30 year lease and now they have to figure out how to amortize the improvements in a shorter period of time. Mr. Spindler stated that he recalls that the rates are a little bit more than what they are paying now; however, when taking the deficit recovery into account it will most likely be a lot more.

Mr. Lee asked when MPG spent the monies on improvements for a 30 year lease, did they do any correspondence regarding that and did LAWA agree on a 30 year lease and then retract on it.

Mr. Spindler stated he does not think LAWA retracted the lease, it was just never signed. Three years ago, the lease came to MPG for signature; the only thing that was left out was the rental rate per month. MPG signed and sent it back to LAWA; we have been negotiating ever since.

Mr. Williams suggested the CAC members start speaking directly with their Councilmember's regarding this issue.

Ms. Monica Milos from LAWA Real Estate Division stated that this has been a long process and she has been negotiating with and supporting Ms. Oldenkamp. She stated that in year 2003 LAWA had a 30 year negotiated lease; that lease went to the Mayor's office for review and it was scheduled to go to BOAC. The BOAC stated they would not approve any long term leases until all the rental rates were adjusted for VNY. Ms. Milos stated that MPG is a tenant in good standing; her rental rates were adjusted and MPG entered into a short term lease.

Mr. Schultz asked what year did that start.

Ms. Milos said it began in 2006 and it expired last September. The lease had a provision that stated if MPG made capital improvements it would go towards credit for its capital investment in their long term lease, if there was one. If there was not a long term lease it would be credited.

There was a very long discussion between Ms. Milos, Mr. Silver, Mr. Lee, Mr. Spinler, and Mr. Williams on this issue.

Mr. Silver urged that the CAC propose a motion to BOAC recommending a 15 year lease for MPG Aviation with a 15 year extension. The motion stated:

"The VNY CAC recommends that the Board of Airport Commissioners (BOAC) support the 15 year lease endorsed by MPG Aviation. Further more, the CAC would support a future extension for an additional 15 years."

This motion passed with a unanimous vote.

4.) PUBLIC COMMENT – NON-AGENDA ITEMS – Discussion

A member from the public was disturbed that a lease would not be extended just because it is a small business; he stated that a small business operated just as same as a large business. To treat a smaller business differently does not make any sense. He stated that he has a substantial investment in the hangar and there is too much uncertainty in rents with a 15 year lease.

Mr. Bill Mouzis from the public stated his research has found cities that have gone to court to assert control over airspace. He said in one case the Court stated: "Cities plagued by excessive noise and safety problems have certain custodial regarding airspace". In examining the 1991 San Francisco versus FAA court case (City and County of San Francisco and FAA, 942 F.2d 1391, 1394 (9th Cir. 1991). The 9th Circuit Court ruled that the proprietor exception allows municipalities to promulgate reasonable, non arbitrary and non discriminatory regulations of noise and environmental concerns at local levels. Mr. Mouzis said that in fact City Attorney Carmen Trutanich urged LAWA to continue its discussions with the FAA, the community and helicopter operators. Mr. Mouzis mentioned that this is not solely an FAA matter. He stated that the FAA never should have been permitted to make a unilateral decision approving Bull Creek as a designated helicopter route. This was done even as they were admitting in what Mr. Mouzis believes was a side agreement to the LAPD and LAFD that Bull Creek Wash was the least preferred route for noise. It was simply a classic "sweetheart deal" between all three, made without public disclosure or hearings. He believes the courts have ruled that the City has custodial rights relative to excessive noise and safety; they have a duty to act by first scheduling public hearings. This would be a good start in acting in the public's interest.

Mr. Schultz stated that the Chairman wanted to speak about the Helicopter Routes at the previous meeting; however, he was ill. This item will most likely be on the agenda for the month of March.

Mr. Rodine from the public stated that this Council is making recommendations that create a disservice to the aviation community and the entire community. There were two RFP's in year 2002 and 2003 for the "RETLAW" property; he had a client that proposed on both RFP's for 30 year term leases. It is really disappointing to a member of the community that is impacted by the CAC's decision to hear comments that do not address the facts. MPG Aviation has not been told that there is precedent for a 30 year lease. He believes that homework needs to be done when issues like this will be addressed.

Mr. Kenny Ortega from the public congratulated Ms. Birk on her new endeavor. He thanked her on her support and praised her good work at VNY Airport.

5.) NEW BUSINESS

A. Air quality and health impacts – Discussion/Action

This item has been deferred to March.

6.) UNFINISHED BUSINESS

A. FAR Part 150 Study and Part 161 Study status updates. The studies are FAA processes to examine costs/benefits and limitations of airport noise/access restrictions – Discussion/Action

Ms. Birk stated that Mr. Scott Tatro from LAWA and Mr. Ted Baldwin are here to give the CAC an update. He is HMMH's project manager of the VNY Part 161 and has extensive experience in conducting Part 161 studies. He was project manager for the Naples Airport's Part 161, the first successful Part 161 in the nation.

Mr. Scott Tatro, the Environmental Affairs Officer from the Noise Management Section at LAWA will give a presentation that was given to BOAC at their 02/01/10 meeting. This presentation is an update on the Part 150 and Part 161 Study; the 161 Study presentation was requested by the BOAC; it included the findings, the estimated time line for going forward and the cost estimates. This update to

the BOAC described processes that they can follow related to noise management; on terms of Part 161 Study it is to impose a noise or access restriction; that was imbedded in the language of the airport noise and capacity act of 1990. Mr. Tatro stated they will provide a summary of the FAA's Record of Approval on the VNY Part 150 study. He had a slide presentation ready for the CAC meeting; he stated that LAWA has a long history of noise management efforts at VNY, starting in the 1970's; the slide describes processes, current and prior actions and pending actions. The processes are Part 150 Study, Part 161 Study and Title 21 Variance; Title 21 Variance means stated noise standards and the state developies go back to the early 80's and are updated again in 1990. Mr. Tatro stated that is where the state defined what the noise impact area is, the 65 CNEL metric, and what the noise measurements the airports must follow. The actions of the noise management efforts at VNY are VNY Curfew, Curfew Extension, Non-Addition Rule, Ongoing Compliance w/Noise Variance, Part 150 Record of Approval. The voluntary measures are: Fly Friendly, helicopter routes, no early turns and noise complaints. The pending actions are: Noisier A/C Phaseout, Part 150 Implementation, Update, Pt. 150 Noise Maps, Part 161 Completion and Full Title 21 Compliance. Mr. Tatro stated that a FAR Part 150 Study is a process designed to reduce the amount of incompatible land uses with an airport's 65 dB CNEL noise contour; it is a voluntary process for airports and is a 2-part document consisting of Noise Exposure Maps (baseline and 5-year projections), and a Noise Compatibility Program. Mr. Tatro stated The Part 161 study has been evaluating these 9 proposed restrictions:

1. Incentives / disincentives in rental rates
2. Incentives / disincentives in landing fees
3. Mandatory Fly Friendly Program with fines
4. Maximum 77 dBA daytime noise limit
5. Limit number of based Stage 3 jets
6. Non-emergency jet and helicopter curfew
7. Cap or phase out helicopter fleet
8. Phase out Stage 2 aircraft in shortest possible time
9. Extend existing VNY Curfew to 9AM on Saturday, Sunday, and holidays

He stated that the first 7 measures originated in the Noise Compatibility Plan of the VNY Part 150 Study; they were approved by a prior Board for study. Numbers 8 and 9 were added by City Council in adopting the VNY Master Plan. The Board asked LAWA to pursue a dual-track method to eliminate the noisiest aircraft from VNY. The FAA, in it's Record of Approval of the VNY Part 150 Study, disapproved the first 7 measures for the purposes of Part 150 pending compliance with the Part 161 regulations.

Mr. Tatro stated that ANCA and the Part 161 regulations require that LAWA submit evidence to the FAA that LAWA's applications for restrictions on Stage 3 aircraft comply with these 6 statutory conditions:

1. Restriction must be reasonable, nonarbitrary, and nondiscriminatory
2. Restriction does not place unreasonable burden on interstate or foreign commerce
 - Requires demonstrating that benefits have a reasonable chance of exceeding costs
3. Restriction maintains the safe and efficient use of the navigable airspace
4. Restriction does not conflict with U.S. laws or regulations
5. Restriction does not place unreasonable burden on national aviation system (NAS)
6. LAWA has provided adequate opportunity for public comment

Stage 2 restrictions will also have to comply with these conditions as a result of the Naples decision. The burden of proof is on LAWA to show that the Proposed Restrictions are in compliance with these conditions. Mr. Tatro stated that LAWA and HMMH grouped the 9 measures shown in the prior slide

into 5 potential separate applications. After extensive and rigorous analyses of the proposed restrictions, HMMH has come back to LAWA and informed us of the findings, by application. The application related to the Stage 1 and 2 ban has a high probability of success as it shows a positive benefits-cost ratio. The FAA considers the measure proposed in the Mandatory Fly Friendly Program application a “beat-the-box” type of restriction which could cause a pilot to potentially commit an unsafe action to avoid exceeding a target decibel level. Their Part 150 Guidance Document states that they will not approve any such measure. Analyses of the measures in the other 3 applications shows that they cannot comply with ANCA’s 6 statutory conditions, have a negative benefit-cost ratio, and would largely result in shifting noise to other airports. LAWA cannot claim noise shifted to other airports as a benefit. Mr. Tatro stated that during the May presentation, the Board asked for estimated timeline for implementation of any of the Part 161 measures that may be approved. Upon receipt of the approval notice, LAWA would initiate the CEQA analysis of the proposed ordinance. This would take an estimated 3-4 months to begin the process, and another 1 to 1½ years to complete the CEQA process. We estimate that it will take up to an additional year for BOAC and City Council approval of any ordinance and it is possible that it could take an additional 4 to 6 years to resolve any litigation and FAA enforcement actions. The amount LAWA spent to date on the VNY project is just under \$3.6 million. The estimated cost of moving forward is shown per application. The estimated cost of moving forward with the Stage 1 & 2 ban includes estimated costs for CEQA analysis of the ordinance. The estimated costs for the other 4 applications does not include CEQA related costs since the analyses show these applications are unlikely to be approved by the FAA if submitted. Mr. Tatro stated that staff recommends that LAWA do the following next steps:

- Brief VNY CAC on Part 161 Findings
- Return to BOAC with Recommendations
- Pursue program improvements to the voluntary Fly Friendly Program to increase compliance
- Implement VNY Noisier Aircraft Phase-out Ordinance upon Council approval
- Monitor Congressional passage of FAA Reauthorization
- Update Part 150 Noise Exposure Maps (NEMs)
- Consider soundproofing to updated Part 150 NEMs as Federal Funds available
- Analyze costs and benefits of implementing other approved Part 150 measures
- Achieve compliance with Title 21 requirements

Mr. Ted Baldwin stated that he is very happy with the progress made in the 161 process. He mentioned that LAWA has spent half as much as Burbank Airport. The FAA notified LAWA in writing that a version of the phaseout that exempted Stage 3 and 4 aircraft would be grandfathered, since it was based on a June 1990 Board resolution initiating the phaseout proposal. The letter said that we are eligible for a grandfather under Part 161 of the phaseout and if LAWA made some minor modifications to the wording it would ensure that it is grandfathered. Mr. Baldwin noted some major milestones since the 1990’s.

1990: BOAC resolution proposes “non-addition rule,” one-hour curfew extension, and noisier aircraft phaseout

2003: Part 150 proposes Part 161 for seven restrictions

2005: HMMH receives notice-to-proceed on Part 161 study

2006: City Council / Mayor approve VNY Master Plan with additional Part 161 alternatives – including phaseout

2006: BOAC resolution readopts noisier aircraft phaseout

Directs staff to pursue phaseout on a “dual track”

2009: FAA recognizes phaseout’s P. 161 grandfather status

2009: LAWA completes EIR for grandfathered phaseout

Recommends City Council adopt grandfathered phaseout

2009: HMMH completes first round benefit-cost analyses

2009: HMMH completes first draft Part 161 submission

2/3/2010: City Council Trade Commerce and Tourism Committee scheduled to consider grandfathered phaseout.

Mr. Baldwin repeated the list of Proposed Part 161 Alternatives.

Mr. Baldwin talked about the major provisions in the grandfather phaseout. He stated that the ultimate limit is 77Dba; which is the same as the Stage 2 (noisier aircraft) non-addition rule. In order to be grandfathered LAWA had to exempt Stage 3 and 4 aircraft, government and emergency operations. What greatly reduced the economic impact in these proposals were provisions to allow operators to bring in aircraft with major maintenance needs. Other exemptions were historic aircraft first flown prior to 1950, former military aircraft first flown after 1949 until 1/1/16 and the BOAC will review historic exemptions every 10 years. Mr. Baldwin stated that Part 161 Alternatives Fall into Five Groups; the first group is Noisier aircraft - Draft submission complete and it consists of Stage 1 and 2 ban, noise-based rental rates, noise-based landing fees, 77-dBA daytime departure limit, grandfathered Stage 1 and 2 phaseout, Noisier aircraft phaseout and St. 1 and 2 fixed-wing / St. 1 helicopter ban. Mr. Baldwin mentioned that the first four alternatives are Part 150 study recommendations and the other three alternatives were added to comply with Part 161. The second group is related to curfews and they are full non-emergency curfew and extend curfew to 9 a.m. Saturdays, Sundays, and holidays. The third group is helicopters and they are Cap helicopter operations and phaseout helicopter operations. Mr. Baldwin mentioned that the Stage 2 helicopter is a quiet helicopter; if you have a Stage 2 helicopter you are meeting the highest standard. The last two groups are fines for violation of "fly-friendly" program and the Stage 3 non-addition rule.

Mr. Baldwin gave the CAC the Estimated Net Present Value of Benefits and Costs of Grandfathered Stage 1 and 2 Ban, Noisier Aircraft Phaseout, and Related Part 161 Alternatives.

Grandfathered Phaseout	EIR	\$1.4 M
Noisier Aircraft Phaseout	EIR	\$1.2 M
Stage 1 and 2 Ban	Part 161	\$6.1 M
Noise-Based Rental Rates	Part 161	\$6.1 M
Noise-Based Landing Fee	art 161	\$5.9 M
77 dBA Daytime Lmax	Part 161	\$5.9 M
St. 1 and 2 Fixed-Wing & St. 1 Helicopter Ban	Part 161	\$6.1 M

Mr. Baldwin stated the benefits and Costs of Other Part 161 Alternatives:

Full non-emergency curfew – costs exceed benefits

Costs to jet operators alone: \$13.5M

Estimated benefit associated with all night operations: \$8.6 M

Extend curfew to 9 a.m. Saturdays, Sundays, and holidays

No effect on CNEL (so no benefit), because it is likely operations and noise would simply shift to other daytime hours

Cap or phaseout helicopter operations

No benefit by FAA "accounting practice," because operations and noise would shift to other airports

Fines for violation of "fly-friendly" program

Program has been highly successful; 2.2 dB average improvement

FAA considers this type of rule "unsafe" and is unlikely to approve

Recommend adopting lower targets and continuing voluntary effort

Stage 3 non-addition rule

No benefit by FAA "accounting practice," because operations and noise would shift to other airports

Mr. Baldwin stated the Potential Part 161 Statutory Condition Issues. Burbank Airport decision indicates FAA will apply conditions in a highly demanding fashion, the FAA recognition of Stage 1 and 2 phaseout's grandfather status suggests absence of statutory concerns for that rule. Curfew and helicopter options, and Stage 3 non-addition would likely fail "burden on commerce" test because costs benefits. Jet and helicopter curfew, helicopter cap or phaseout, and Stage 3 non-addition would likely fail "nondiscriminatory" test because rules are based on non-noise characteristics. Burbank ruling suggests FAA is likely to find diversions under curfew, helicopter cap or phaseout, and Stage 3 non-addition would "interfere with safe and efficient use of airspace" and create "undue burden on national aviation system". Burbank and Naples rulings suggest that FAA would consider Fly Friendly restrictions with fines "arbitrary and unreasonable" because of success of voluntary program.

Mr. Silver asked for a summary on commerce and interstate commerce.

Mr. Baldwin stated that the FAA in Part 161 elaborated one of the conditions has to demonstrate that there is a reasonable expectation that their benefits will exceed the costs.

Mr. Williams stated the issue of commerce is impacted positively and negatively by an airport; by the type of noise they put out and by the type of business they bring in. The impact of the business coming in is essentially valued within the rules of being structurally set up. The negative impact that the aircraft have on the community outside of that is not adequately considered. Mr. Williams stated the Congress has to look further than the 65Db and that would drastically alter the numbers Mr. Baldwin in stating.

Mr. Silver referred to page seven on the slide presentation and talked about the Costs of Grandfathered Stage 1 and 2 Ban and the actual money amount. He stated that kind of language suggests that there are some standards that have to be met. He believes the actual amount is not relevant.

Mr. Baldwin stated that is good news because these are all numbers that are greater than zero.

Mr. Silver stated that it doesn't matter because it is not a criterion they are going to evaluate. There are no rules in those guidelines that say you have to meet an x amount of millions.

Mr. Baldwin stated that the benefits have to be greater than the costs and those are.

There was a lengthy discussion regarding this matter between Mr. Baldwin, Mr. Jackson, Mr. Merkin and Mr. Williams.

Mr. Jim Bickhart on behalf of the Mayor's office thanked everyone on the team, all the consultants and LAWA for the great work they have done on this project. He also thanked the CAC members and especially Mr. Williams who as a member of the community in the 1990's pursued the phase-out project. Mr. Bickhart congratulated the CAC and the members of the community for making this an action of the entire City of Los Angeles.

B. VNY/CAC Vacancies – Discussion/Action

Mr. Jackson stated there are four vacancies on the CAC and he is working with three Councilmember's. He also mentioned that Councilmember Krekorian may have an appointee next month.

7) EMERGENCY ITEMS SINCE POSTING OF AGENDA – Discussion

Mr. Frazier stated that in the February minutes the Vice Chair deferred the Aviation Plaza item to February; however, the February agenda does not reflect that.

The Vice Chair deferred Aviation Plaza item to March.

Mr. Silver stated that he would like to find out more about the court order that released Palmdale Airport to the City Of Palmdale.

Ms. Rabe asked about the Flying Green Symposium in Palm Springs. She attends every year on behalf of the CAC and if there are no new CAC members interested she would like to attend this year as well.

Ms. Sanchez stated that she will email the CAC members the pertinent information and the planning related to the Symposium.

8) ADVISORY COUNCIL MEMBERS' COMMENTS - NON-AGENDA ITEMS

None

9) ADJOURNMENT:

9:35 p.m.