

Committee for Preserving Community Quality

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September 8, 2009

Dear Council Member,

I urge you to vote against Resolution DS-11 09-0851, "Agreement Supplementing 1979 Policy Statement Relative to Airport Layout Plans (ALPs), Aeronautical Facilities and Non-Aeronautical Facilities at the Ann Arbor Airport," at the Ann Arbor City Council meeting of September 8 because at its core the resolution violates a basic principle of conducting government in the sunshine.

While you may have been led to believe this Resolution is only about resolving a legal issue between Ann Arbor and Pittsfield Township, there are far deeper issues involved here and until they can be resolved, this Resolution must not be adopted.

Such significant public policy changes should not be made in the dark of night during a holiday weekend, hidden from the public, and buried in a complex document in the guise of the legal settlement of a related issue. As a result, this entire Resolution must either be defeated, or at a minimum tabled until a full public hearing can be held so its merits can be fully aired.

There are numerous objectionable elements to the proposed Resolution, however we will focus only on the single most troublesome.

Specifically, Item No. 4 in the proposed Resolution, which details particulars for public notification about changes in Airport Layout Plans, would -- without discussion -- make a dramatic change from the long-standing policy of the Ann Arbor City Council with respect to public disclosure of ALPs. This change would sanction a policy of secrecy, if not outright deceit, that makes the public and the Council the last to know about major strategic changes at the airport, after they have already been approved by state and federal authorities.

This is not only contrary to public openness, but contrary to a governmental policy in which change that affects the people, such as the currently proposed runway expansion, can be debated in public and approved by local authorities such as the Council before it is approved by state and federal officials -- not after state and federal channels have been crossed.

The Ann Arbor Council's policy of public openness was best and most recently represented in Resolution R-31-1-07, approved unanimously by voice vote on January 22, 2007, which approved and updated the then-current ALP and called for "staff to bring back a separate proposal regarding extending the runway within the next 60 days and that notification of the proposal be *sent out to citizens in the surrounding area.*" (emphasis added). Unfortunately, not only did the city

staff not return to a public Council meeting in 60 days with an expanded runway plan, but the city staff ignored the Council's mandate to inform citizens in the surrounding community of its actions for at least ten months, according to the City's own admission in documents we obtained under the Freedom of Information Act.

Instead, a month later (on February 28, 2007) -- and by the City's own admission, without any advice to Council or the public -- a new, revised ALP including an 800-foot runway extension was proposed by Ann Arbor to the Michigan Department of Transportation-Aeronautics Division (MDOT-AERO), taking action with a great veil of secrecy from the public. Fourteen months later -- after much persuasion, some strong-arming, and e-mails bemoaning the political state of the Ann Arbor City Council by Airport Manager Kulhanek -- the plan was eventually approved by the state on April 23, 2008.

On June 4, 2008, the ALP was presented to the Federal Aviation Administration for approval. After numerous persuasive e-mails from Mr. Kulhanek to the FAA reviewer, including a memo of commendation to her FAA supervisor, the ALP was approved by the FAA on June 23, 2008 -- three weeks after submission.

In a letter dated August 22, 2008, the ALP was submitted to Pittsfield for the first time, instructing Pittsfield to provide comments to the airport manager by September 19 -- almost 18 months after the proposal should have been shared with the surrounding community under the Council's January 2007 Resolution.

The next day, August 23, 2008, was the expiration of the period specified in Chapter 49, United States Code, Section 46110, which bars objections or federal lawsuits 60 days after federal approval of ALPs without extraordinary cause, effectively foreclosing Pittsfield's right to object in the federal courts under normal circumstances to the Ann Arbor Airport ALP and giving it only a right to voice its concerns about the airport expansion to Ann Arbor. Clearly this secrecy or foreclosure of public debate was not the intent of the Ann Arbor Council, but a quite deliberate strategy of secrecy by the city staff.

On September 19, 2008, as requested, Pittsfield objected to the expanded airport in a letter to the Ann Arbor airport manager, citing (1) increased noise, (2) the larger aircraft the extension would attract, and (3) the more frequent usage that would likely result.

On September 22, 2008, the Ann Arbor City Council finally found out about the ALP -- after it had been approved by state and federal authorities -- and unanimously passed Resolution 08-0836 approving the ALP. Of course, even the Council did not examine the ALP with the magnifying glass members needed to discover some hidden elements in the plan, such as an increase in the airport's weight limit from 20,000 pounds to 45,000-75,000 pounds, clearly buried in the documents put before you. This increased weight limit, which you have already knowingly or unknowingly approved, allows heavy aircraft as large as DC-9s to use the Ann Arbor Airport.

This manipulation by airport bureaucrats -- of the Council and the public -- is at the heart of what public openness in government seeks to avoid. And Item 4 in the proposed Resolution

would sanction this very secretive backroom behavior. The real questions before you are: What is the public's right to know and when should they know it -- whether the public are citizens of Ann Arbor or the surrounding communities? Is it good enough for the public to find out about a major public policy change like an airport expansion at the end of the process, when only one governmental voice can be heard? Or is it better for the public to know at the beginning of the process, when the public can voice its concerns to governmental bodies at the state and federal levels, as well as the city?

As written in the proposed Resolution, the airport management is permitted to propose changes to the ALP for Ann Arbor Municipal Airport to MDOT-AERO and have them approved by the state without public knowledge, then have those plans passed on to the FAA for approval, as well, basically endorsing the egregious behavior Ann Arbor practiced in 2007-2008. Even under this new Resolution, Pittsfield must only be informed 30 days before the Ann Arbor City Council is asked to vote on a resolution to approve the ALP, presumably again long after its access to federal appeals have been foreclosed by law.

The Ann Arbor public, and even the Ann Arbor City Council must only be informed, presumably, in their packets, when the resolution is actually proposed or when contractors are going to be hired.

Were such a proposal made in prior governmental eras, it would smack of a flashback to Cold War governmental control in secrecy where the people are the last to know, are taken advantage of, or of Bush Era exploitation. This should not be the way of a Democratic Ann Arbor City Council-led government.

With proper knowledge, the public should be able to voice its objections to MDOT-AERO, the FAA and not be left to the Ann Arbor City Council alone. Anything otherwise is a travesty of basic justice and government.

For the record, now we know the potential devious methods of the Ann Arbor Municipal Airport bureaucracy crowd -- and we know they may be beyond even the Council's control. So through the Freedom of Information Act, citizens in our group, investigative journalists such as David Askins at the Ann Arbor Chronicle, or the fine reporters at Ann Arbor.com, will be able to keep up with ALP changes by filing FOIA requests on the airport with MDOT-AERO every month or so. We will keep up with the airport!

But it's not fair keeping the rest of the community from being informed, having a voice, and doing what is right by making us do it alone. You on the Council must do it by rejecting this Resolution -- and rewriting at least Section 4, if not the entire Resolution. Please reject this Resolution, or hold a public hearing so its merits can be fully aired.

Thank you.

For the Committee,

Andrew R. McGill, Ph.D.