

Airport Counsel Briefing for Feb 17, 2016
From: Airport Counsel, Steven E. Tackes, Esq.
To: Airport Authority members

1. DISCUSSION AND POSSIBLE ACTION TO APPROVE COMPLIANCE PLAN ON AVIATION FUEL TAX REVENUE AS REQUIRED BY 47 USC 47133 AND FAA RULES THAT REQUIRE FUEL TAX REVENUES TO RETURN TO AIRPORT (S.Tackes; T.Rowe)

This item is responsive to a meeting requested by Mike Williams, Manager, FAA Airports District Office. During our last meeting with the FAA, Mr. Williams, who is the top official in that office asked to speak to the Airport Manager and me to discuss the status of our compliance with a relatively recent FAA ruling.

The Federal law has since the 1980s required that fuel taxes collected on an airport be used for airport operating expenses. The State of California was caught collecting millions of dollars via aviation fuel taxes and using the money for roads and other non-airport expenditures. Hundreds of millions of dollars. As a result, in late 2014, the FAA issued a policy statement, "FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628) (Amendment).

The Amendment clarifies FAA's Policy and Procedures concerning the Use of Airport Revenue (64 Fed. Reg. 7696, February 16, 1999). In simple terms, they said yes we really mean you. Stop using aviation fuel taxes for other than airport use.

On November 24, 2015, the FAA sent a letter to Governor Sandoval telling him that all airports in the state need to comply with this mandate. The letter also gives airports up to 3 years to get into compliance. Our airport is in great shape on jet fuel tax. It comes back to the Carson City Airport monthly. However, all avgas taxes (about \$100,000 per year statewide) go to the Civil Air Patrol under a Nevada statute. The plan is to amend the statute to correct that so that we are not in violation of federal law and so that we do not lose federal funding. (As Tim pointed out in his briefing, the Federal Assurances we agree to on FAA AIP Grants include compliance with all federal laws.)

NDOT has taken the lead on getting the law corrected.

Attached is our strategic plan to comply with the federal law, ie. support NDOT's efforts to get the law corrected.

I am still waiting for word from the FAA on whether the plan should go to Mike Williams at the Phoenix ADO or to the Washington DC office, or to both.

I set it up for Mike Williams since he alerted us to the issue and asked for the response.

Proposed Motion: I move we approve the Compliance Plan presented and authorize Staff to submit it to the FAA.

2. REPORT BY AUTHORITY MEMBERS ON THE TERMINAL BUILDING INSPECTION AND PROPOSALS MADE TO ADDRESS THE HAZARD ASSESSMENT ISSUES. (L. Law)

This is not an action item but rather a request for a report.

3. REPORT BY AUTHORITY MEMBERS AND STAFF ON MEETING BETWEEN CARSON CITY BUILDING DEPARTMENT OFFICIALS REGARDING STATE STATUTES AND THE CARSON CITY BUILDING CODES AS THEY RELATE TO THE CARSON CITY AIRPORT. (K. Hutter, D. Peterson, M. White)
This is not an action item but rather a report.

Airport Counsel Briefing:

1. I should have the draft amendment to Title 19 ready for the next meeting. Per the discussion and vote at the last meeting, we will draft the amendment to remove the traffic pattern pages from Title 19 and replace them with a reference to the webpage for additional traffic pattern and airport information. We will continue to designate runway 9 as non-standard (ie. right hand pattern).
2. The District Attorney requested a number of documents from the Airport regarding allegations made by Mr. Vacarro that the Airport Authority has violated laws. I provided the requested documents (eg. RFP notices, bids, minutes of meetings, etc.). The documents show that Mr. Vacarro's allegations are inconsistent with the facts, however, that is a determination that the DA will make. Mr. Vacarro has had meetings and/or phone calls with the DA and the City Manager from November 13, 2015 through January. Perhaps later.

Since Mr. Vacarro's threats to sue us (Dec 11, 2015), I instructed the Airport Manager to refer all communications from Mr. Vacarro to me. On December 11, 2015, I spoke with Mr. Vacarro and informed him that all communications must be in writing and be sent to me. I think that was the point at which he focused on complaining about us to the City. To my knowledge, neither the Airport Manager nor I have heard from Mr. Vacarro since that time. To my knowledge, Mr. Vacarro has never put anything in writing to the Airport Authority about his complaints, despite the multiple offers by Vice Chair Peterson to look into or agendize his complaint, if he can state it clearly in writing.