

Airport Counsel briefing:
CCAA Meeting for October 19, 2016

Preliminary notes:

1. If you have items to distribute on any Agenda items, please get those to the Airport Manager as soon as possible so that they can be posted and publicly available. True, somethings just pop up during meetings unexpectedly, and the Dep AG says those are OK. But if you expect to refer to a document, please get it to Tim in advance.
2. The Agenda area for REPORT FROM AUTHORITY MEMBERS (Non-Action Item) should not be used to discuss policy issues or other items that are, or will be, action items in the future. The Attorney General indicated that such matters should be placed on a future agenda. So if you have items like that, please talk to the Chair about getting an agenda item on a future meeting.

1.FOR POSSIBLE ACTION: TO APPROVE THE REQUEST BY GREAT IMAGES TO CONDUCT COMMERCIAL DRONE PHOTO OPERATIONS WITHIN A 5 MILE RADIUS OF THE CARSON CITY AIRPORT. (S. Jackson)

Staff Summary: Mr. Jackson is a commercial photographer who wishes to perform photo shoots using a drone within a 5 mile radius of the Carson City Airport. Mr. Jackson is requesting an agreement with the Airport Authority with the requirement that Mr. Jackson give proper notice to the Airport Manager before conducting drone operations.

Mr. Jackson has submitted a copy of his UAS pilot license and the UAS drone registration for his DJI Phantom 3 Pro drone which are attached to the Airport Managers briefing. He is requesting consent from the Airport Authority to operate within 5 miles of the Carson City Airport. Consent is required by NRS 493.109.

That law states:

NRS 493.109 Unmanned aerial vehicles: Operation near critical facility or within 5 miles of airport prohibited; exceptions; penalty.

1. A person shall not operate an unmanned aerial vehicle within:
 - (a) A horizontal distance of 500 feet or a vertical distance of 250 feet from a critical facility without the written consent of the owner of the critical facility.
 - (b) Except as otherwise provided in subsection 2, 5 miles of an airport.
2. A person may operate an unmanned aerial vehicle within 5 miles of an airport only if the person obtains the consent of the airport authority or the operator of the airport, or if the person has otherwise obtained a waiver, exemption or other authorization for such operation pursuant to any rule or regulation of the Federal Aviation Administration. A person who is authorized to operate an unmanned aerial vehicle within 5 miles of an airport pursuant to this subsection shall, at all times during such operation, maintain on his or her person documentation of any waiver, exemption, authorization or consent permitting such operation.
3. A person who violates this section is guilty of a misdemeanor.
4. As used in this section, "airport" means any area of land or water owned, operated or maintained by or on behalf of a city, county, town, municipal corporation or airport authority that is designed and set aside for the landing and taking off of aircraft and that is utilized in the interest of the public for such purposes.

The Authority has given consent to other operators, notably for activities at the RC field located near the Carson City Dump, and to Robison Engineering for

surveying pit areas located on the north side of the hills just north of the Airport. The standard conditions that we have required are set forth below. The FAA has since adopted final rules for operations of drones that include many of these. I have noted those provisions where appropriate. (new rules are 14 CFR Part 107 <https://www.gpo.gov/fdsys/pkg/FR-2016-06-28/pdf/2016-15079.pdf>) In many cases, the Part 107 regs already include the conditions we had required.

- A. The UA must be operated within visual line of sight (VLOS) of the pilot in command (PIC) at all times. This requires the PIC to be able to use human vision unaided by any device other than corrective lenses, as specified on the PIC's FAA-issued airman medical certificate or U.S. driver's license. [New rule 107.31](#)
- B. PIC must hold either an airline transport, commercial, private, recreational, or sport pilot certificate. The PIC must also hold a current Federal Aviation Administration (FAA) airman medical certificate or a valid U.S. Driver's license issued by a state, the District of Columbia, Puerto Rico, a territory, a possession, or the Federal government. The PIC must also meet the flight review requirements specified in 14 CFR § 61.56 in an aircraft in which the PIC is rated on his or her pilot certificate [new rule 107.12 allows FAA remote pilot certificate](#)
- C. UA operations may not be conducted during night, as defined in 14 CFR § 1.1. All operations must be conducted under visual meteorological conditions (VMC). Flights under special visual flight rules (SVFR) are not authorized. [New rule 107.29 \(daytime only\), and 107.49 requires at least 3 miles visibility/ 500 feet below clouds; 2,000 feet horizontal from clouds; all flights below 400 AGL \(see also item G below for exceptions\).](#)
- D. The PIC is prohibited from beginning a flight unless (considering wind and forecast weather conditions) there is enough available power for the UA to conduct the intended operation and to operate after that for at least five minutes or with the reserve power recommended by the manufacturer if greater. [New rule 107.15 requires general safety pre-check](#)
- E. The UA must remain clear of and give way to all manned aviation operations and activities at all times. Observation by any employee or PIC of Robison Engineering of manned aviation operations in the vicinity of the UA shall be responded to immediately by command of the UA to return to launch site and land until such manned aviation activity has concluded. [New rule 107.37](#)
- F. All flights will be done in accordance with Robison Engineering's COA) identified as FAA-2015-0442-333E and the Section 333 exemption No. 11585 per the documents issued by the FAA, herein included by reference and attached as Exhibit B. [COAs no longer required.](#)

- G. Flights will be conducted no higher than 200ft AGL. (can be up to 400ft AGL per new rule 107.49, and sections 107.39, 37, 41, 43); and can be up to 400 feet above structures and within 400 ft radius of structure.
- H. PIC will monitor the common traffic air frequency (CTAF) and communicate with aircraft in the area. Not required by Part 107 but § 107.43 Operation in the vicinity of airports.
States: No person may operate a small unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base.
NRS 493.109 requires Airport consent and this would likely be found to be a reasonable requirement when operations are close to the traffic pattern or airport.
- I. Airport management will be notified at least 24 hours in advance of any UAS operations. Not required by Part 107 but can be a condition of use per NRS 493.109.
- J. Robison Engineering shall name Carson City and the Carson City Airport Authority as additional insureds on its liability policy, and such policy shall be at least the \$2million minimum insurance requirement level prescribed by the Carson City Municipal Code. Not required by Part 107; unclear if it can be required under NRS 493.109. NRS 493.060 states that operator has liability for any damages to others, but no provision for insurance. Our ability to require insurance arises from Title 19 operations on the Airport surface and it does not address drones, nor would they be expected to use the Airport for take off or landing.

Since most of the requirements above are now required by FAA Part 107, it should be sufficient to require full compliance with Part 107 and notification to the Airport Manager in advance of flights near the airport and airport traffic pattern.

Proposed Motion: I move we consent to the request of Steven Jackson dba Great Images Photography to operate within 5 miles of the Carson City Airport, so long as he complies fully with FAA Part 107, and that he notifies the Airport Manager at least 24 hours prior to operations that are within 1 mile of the Carson City Airport.

2. FOR POSSIBLE ACTION: TO APPROVE THE REQUEST BY THE AIRPORT MANAGER TO SCHEDULE AND CONDUCT ANNUAL AIRPORT HANGAR INSPECTIONS TO INSURE COMPLIANCE WITH THE CARSON CITY MUNICIPAL CODE TITLE 19 AND IN COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION HANGAR USE POLICY DATED JUNE 15, 2016. (T. Rowe)

Staff Summary: The Airport Manager is seeking approval to annually inspect airport hangars in order to insure compliance of CCMC Title 19 and FAA Hangar Use Policies, The Airport Manager is requesting to include the Fire Marshal, a Building Department Inspector, The Tax Assessor and a member of the Airport Authority in the inspections.

This is the Airport Manager's item. I have reviewed his briefing and provide the following legal analysis.

1. There is no legal requirement to institute the proposed annual mandatory hangar inspection program. As I understand it, the Airport Manager is requesting this for reasons set forth in his briefing.
2. The proposal states that it is based on the recommendation in the draft FAA Audit report. The FAA Audit report is not final, and may well change. That said, the draft report first recommends that the Airport "formulate a program to monitor use of hangars and take measures to prevent unapproved non-aeronautical use of hangars. Sponsors should consider factors such as emergency access, fire codes, security, insurance, and impact of vehicular traffic on surface areas when enacting rules regarding hangar storage." The Auditor then recommends that the Airport "conduct a hangar use inspection in conjunction with a fire safety and building code inspection to obtain a status on hangar use at the airport and the condition of the hangars meeting fire safety and building codes." The draft report does not reference a legal requirement to have either program. Further, when asked for a sample hangar use policy, the auditor indicated that he was unaware of any. That said, there is logic to first establishing the criteria to be applied. That way, the standard is established first, i.e. the hangar owners at least have some guidance as to what the standards of the hangar monitoring program are. (No criteria appear in the proposal.) Once the criteria are established, then monitoring of that criteria could take place. Monitoring does not require mandatory hangar inspections. Notably, the FAA did not recommend mandatory annual hangar inspections. Yes, the FAA has recommended that a hangar use policy be adopted, and told us during the exit meeting that they did not have a sample we could look at. It is up to you as to whether to do it, whether it will advance the airport economically, and what resources and costs you want to allocate to doing it. At present, compliance with FAA non-required recommendations are done as needed.
3. The FAA did in fact issue (this summer) a new policy on non-aeronautical use of Airport hangars. The new policy is more lax than the prior policy. The full policy is here: <https://www.gpo.gov/fdsys/pkg/FR-2016-06-15/pdf/2016-14133.pdf> Overall, the FAA is ok with non-aeronautical items being in a hangar so long as ---the primary use is for aircraft storage and the storage of non-aeronautical items do not "interfere with or entirely displace aeronautical use of the hangar."

4. The FAA Policy also states that Airports may designate non-aeronautical use areas on the airport with FAA approval (e.g. construction of mini-storage, etc). If such areas are designated additional requirements are to be met as to market rate lease rates and other aspects of those areas. The only leases that may be categorized as such would be the antenna leases on our beacon tower. I don't see any additional actions to be taken on the antenna leases.
5. The closest the FAA comes to hangar compliance in the new policy issued is the following recommendation: "Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars." Historically, the Airport has met its obligation by dealing with hangar use problems as they arise. That approach is still compliant with the FAA hangar use policy. A mandatory hangar inspection program, if properly deployed, would also satisfy the FAA, but to be clear, this is an FAA recommendation, not a requirement. In addition, if the FAA finds that hangars are being used for non-aeronautical purposes, the FAA stated remedy is to "disapprove an AIP grant for hangar construction". The Carson City Airport has never had an AIP grant for hangar construction, and it would be very difficult to get one included in an AIP in the first place.
6. The Authority does have express authority to enter and inspect hangars. Specifically, each lease has a provision similar to the following:

"Right of Entry. Landlord, or its designated Airport Manager or agent, reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection deemed expedient or desirable for the proper enforcement of any terms, conditions, provisions, and covenants of this Agreement."

CCMC Title 19 also states:

To the extent necessary to protect the rights and interests of the Airport Authority or to investigate compliance with the terms of these rules and regulations, the Airport Manager, any member of the Airport Authority, the City Manager, the City Engineer, the District Attorney and Sheriff's Officer and any other agent of the Airport Authority shall have the right to inspect at all

reasonable times all airport premises together with all structures or improvements, and all aircraft, equipment and all licenses and registrations. Neither the Authority nor any individual Authority member shall initiate an inspection of any hangar or groups of hangars without there first being a hearing before the Authority to show cause and an affirmative vote by the Authority to initiate the inspection. In the event an urgent situation requires the Airport Manager to initiate an inspection, the cause for the inspection and the results shall be presented at the next Authority meeting, allowing public comment, and the action either ratified or redressed as appropriate. CCMC 19.02.020.350 (7) (H) 20.

As set forth above, and historically, this Authority has taken the position that there needs to be a distinct reason or problem at hand before it will engage in hangar inspections. If this Authority chooses to proceed, particularly on a wholesale basis, it should articulate the identified problem, the scope of the inspection, and the likely remedial action. Additionally, the Authority is bound by non-discrimination. Thus it should also identify the steps it will take to make sure that the inspection process is non-discriminatory and does not violate the private property rights of the airport tenants. If the Authority changing from a show cause basis for inspections to a new policy of mandatory annual hangar inspections, then this provision of Title 19 should be amended.

7. Purpose. The Airport Manager's proposal states "it is now time to implement a formal hangar inspection program to correct any situations that insure compliance of CCMC Title 19 and may jeopardize compliance with the FAA Grant Assurances." No FAA Grant Assurance requires the proposed inspection program. If the Airport knowingly condoned violations of FAA regulations (we have not), then there could be a risk of violation of FAA Grant Assurances. However, the mandatory hangar inspection proposal does not appear to be based on any known violations of FAA regulations. As for Title 19, as noted above, the language of Title 19 indicates that the Authority will not initiate an inspection without first having a hearing to show cause, i.e. to demonstrate the specifics and the need for the particular inspection.
8. Scope of proposed inspection. The Airport Manager's proposal includes a inspection of each hangar by the Airport Manager, and by the Fire Department, the Building Dept., and the Assessors Office, as well as an

Authority board member. This involves a significant allocation of Airport and City resources. Consideration should be given to the cost and time commitment of doing this. For every tagged item, time and resources will also need to be allocated for a followup. Note: the agenda item notice refers to the “Fire Marshall”, not the Carson City Fire Department. The Fire Marshall is a Nevada state employee that does Investigations, Fire Protection Engineering, Fire Service Training, etc.

9. The inspection checklist seems to depart from that hangar usage. For example it states that aircraft will also be inspected as to airworthiness, insurance and registration. I am unaware of a legal basis to require this, and unclear as to why insurance is included in the list. Further, the checklist states; Storage of recreational vehicles (i.e. boats, motorhomes, trailers or campers) will not be allowed; There is no legal basis to exclude these items so long as they do not impede the use of the aircraft in the hangar. The checklist also states: Determining whether items in a hangar are considered limited, incidental or non-aeronautical use, the Airport Authority may allow such items provided the items:... d. Does not require a larger hangar that would otherwise be necessary if such items were not present; It is unclear what this means but it appears to say that a tenant is not allowed to have a hangar larger than the minimum size that their aircraft would fit into.
10. Liability. On the one hand, the storage of non-aeronautical and/or flammable items in a hangar does present a risk to adjacent hangars should a fire or other event occur, thus justifying some level of use monitoring. On the other hand, by instituting the mandatory annual program there is a greater risk of liability to the Airport due to the possibility of property damage due to inspectors onsite, accidental injuries to inspectors while onsite, or from later claims that the inspectors neglected to catch items that later caused damages to others. Thankfully, to date we have had no fires or other damages that have threatened adjoining hangars. The liability risk should still be considered in your decision.
11. Economic consideration. The Authority members should consider the impact upon the pilot community that currently own the hangars, and the likelihood that the proposed program will discourage existing and potential pilots from basing their aircraft at the Carson City Airport.
12. Hangar owner comment. The Authority should ensure that it has received comments from the hangar owners prior to taking action on this item. As in

the past, sometimes the hangar owners have suggested better solutions. After all, they are the ones with the financial investment in the hangars and aircraft; and they are the ones who generate a significant amount of funds that support the Airport.

Proposed Motion: (Per language of Airport Manager agenda item and document) I move that annual hangar inspections should be conducted which will include participation by representatives of the Fire Marshall, Carson City Tax Assessor, Carson City Building Department, Airport Manager and an Authority Member for compliance with all applicable regulations.

3. FOR POSSIBLE ACTION: TO APPROVE AN AMOUNT NOT TO EXCEED \$11,000 IN EXPENDATURES FOR UPGRADING THE TERMINAL ELECTRICAL SYSTEM WIRING AND THE ADDITION OF BASEBOARD HEATING FOR THE WEST WING OF THE TERMINAL BUILDING. (T. Rowe)

Staff Summary: The rehabilitation of the terminal found that wiring throughout the terminal was not to code and an additional \$10,000 is needed to pay for the upgrades to the wiring. Also, it is requested by the Manager to install base board heating for a cost of \$600 in the west side of the terminal due to the inability of the gas heaters to heat the west side of the building.

This is the Airport Manager's item. I have not been consulted and have not reviewed any documents or information related thereto, and thus have no input.

Proposed Motion: (Per language of Airport Manager agenda item and briefing) I move that we approve an amount not to exceed \$11,000 for upgrading the electrical system wiring and the addition of baseboard heating for the West Wing of the Terminal Building.

4. FOR POSSIBLE ACTION: TO APPROVE AN AGREEMENT WITH TKDA TO PREPARE AN INDEPENDENT FEE ESTIMATE FOR THE AIRPORT MASTER PLAN UPDATE AT THE CARSON CITY AIRPORT. (J. Clague)

Staff Summary: The FAA requires that an independent fee estimate (IFE) from another airport planning firm be prepared to demonstrate to the FAA that the fee from Atkins to prepare the Airport Master Plan Update is fair and reasonable.

This is the Airport Engineer's item. I have reviewed the matter and agree with the briefing provided. An IFE is required by the FAA.

Proposed Motion: I move to approve the agreement with TKDA for a lump sum amount of \$4,000 to prepare an Independent Fee Estimate for the Airport Master Plan Update at the Carson City Airport.

5. DISCUSSION AND POSSIBLE ACTION ON ITEMS RELATED TO THE CARSON CITY AIRPORT PROJECT TO REHABILITATE THE NORTH APRON (FAA AIP No 3-32-0004-30), INCLUDING MONTHLY STATUS REPORTS, POTENTIAL CHANGES TO THE WORK OR WORK SCHEDULE, CONSTRUCTION CHANGE ORDERS, AND OTHER RELATED ITEMS (J. Clague)

Staff Summary: The Airport Engineer will update the Airport Authority on the progress of the North Apron Rehabilitation Project and any potential change orders that may affect the project.

This is the Airport Engineer's item. No action requested.

Legal Counsel Report

No new items at this time.