

## AIRPORT COUNSEL BRIEFING

From: Steven E. Tackes, Esq., Airport Counsel

To: Carson City Airport Authority members, staff

Re: April 19, 2107 CCAA MEETING

1. FOR POSSIBLE ACTION: TO DISCUSS AND MODIFY, IF APPROPRIATE, THE TENTATIVE BUDGET FOR FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018. (T. Rowe, L. Harvey, B. Kohn)

*Staff Summary: The tentative budget for FY 2017/2018 will be discussed for modification by Authority members in anticipation of its approval as the final budget at the Authority's May meeting.*

This is the Airport Manager's item. The law requires that the Authority file a Tentative Budget with the Dept of Taxation by April 15, 2017 for the FY 2017/2018 (which runs from July 1, 2017 to June 30, 2018). The law further requires that a hearing be held at a publicly noticed meeting "not sooner than the third Monday in May and not later than the last day in May" (ie. our regular May meeting) to approve the final budget. NRS 354.596.

The Airport Authority is required to publish a notice of the May meeting.

" 3. At the time of filing the tentative budget, the governing body shall give notice of the time and place of a public hearing on the tentative budget and shall cause a notice of the hearing to be published once in a newspaper of general circulation within the area of the local government not more than 14 nor less than 7 days before the date set for the hearing. The notice of public hearing must state:

(a) The time and place of the public hearing.

(b) That a tentative budget has been prepared in such detail and on appropriate forms as prescribed by the Department of Taxation.

(c) The places where copies of the tentative budget are on file and available for public inspection." NRS 354.396

I have provided the necessary information to the Airport Manager in several prior years, and can re-provide it if necessary.

The law then requires approval of a final budget on the date indicated in the Notice (ie. our regular May meeting). Failure to do so will remove the ability of the Authority to set its own budget and place that authority with the Dept of Taxation.

### **NRS 354.598 Final budget: Adoption; budget by default; certification; appropriations; limitations; changes.**

1. At the time and place advertised for public hearing, or at any time and place to which the public hearing is from time to time adjourned, the governing body shall hold a public hearing on the tentative budget, at which time interested persons must be given an opportunity to be heard.

2. At the public hearing, the governing body shall indicate changes, if any, to be made in the tentative budget and shall adopt a final budget by the favorable votes of a majority of all members of the governing body. Except as otherwise provided in this subsection, the final budget must be adopted on or before June 1 of each year. The final budgets of school districts must be adopted on or before June 8 of each year. Should the governing body fail to adopt a final budget that complies with the requirements of law and the regulations of the Committee on Local Government Finance on or before the required date, the budget adopted and used for certification of the combined ad valorem tax rate by the Department of Taxation for the current year, adjusted as to content and rate in such a manner as the Department of Taxation may consider necessary, automatically becomes the budget for the ensuing

fiscal year. When a budget has been so adopted by default, the governing body may not reconsider the budget without the express approval of the Department of Taxation. If the default budget creates a combined ad valorem tax rate in excess of the limit imposed by [NRS 361.453](#), the Nevada Tax Commission shall adjust the budget as provided in [NRS 361.4547](#) or [361.455](#).

3. The final budget must be certified by a majority of all members of the governing body, and a copy of it, together with an affidavit of proof of publication of the notice of the public hearing, must be transmitted to the Nevada Tax Commission. If a tentative budget is adopted by default as provided in subsection 2, the clerk of the governing body shall certify the budget and transmit to the Nevada Tax Commission a copy of the budget, together with an affidavit of proof of the notice of the public hearing, if that notice was published. Certified copies of the final budget must be distributed as determined by the Department of Taxation.

4. Upon the adoption of the final budget or the amendment of the budget in accordance with [NRS 354.598005](#), the several amounts stated in it as proposed expenditures are appropriated for the purposes indicated in the budget.

5. No governing body may adopt any budget which appropriates for any fund any amount in excess of the budget resources of that fund.

6. If a local government makes a change in its final budget which increases the combined ad valorem tax rate, the local government shall submit the amended final budget to the county auditor within 15 days after making the change.

Thus, this meeting can be used to make proposed changes to the budget that will be considered in May, but it is not the appropriate time to approve the budget. As a result no action is required at this time unless you feel it necessary to vote on changes that you want to be incorporated for the May meeting.

**No action required. However, if action is desired, the action would be to move to adopt certain changes in the budget to be considered in May.**

**2. FOR POSSIBLE ACTION: APPROVAL TO PROCEED WITH APPRAISAL FOR USE WITH THE REQUEST TO EXTEND THE LEASE OF THE MISER/PORTAHANGAR LEASE; CONDITIONED UPON ADVANCE FOR COST OF APPRAISAL; AUTHORIZE STAFF TO ENGAGE APPRAISER. (M. Golden, S.Tackes).**

*Staff Summary: Michael Golden of Mountain West Aviation, CXP, LLC is requesting to extend the Miser/Portahangar lease which expires 12/4/2031. The CCAA is requested to authorize staff to commission an appraiser to define the fair market value lease rate to be discussed at the May CCAA meeting.*

This is Michael Golden's item.

As you know, last December the Authority approved lease extensions for several aircraft-storage-only hangar leases. Per NRS 496.080 (3), we can extend leases for aircraft storage-only leases without going through the public bid process. However, the extension must be based on an appraisal and the lease rate must be at least equal to the appraised value.

**NRS 496.080 Sale, lease or other disposal of municipal airports and related facilities and property.**

3. A board of county commissioners of a county whose population is 55,000 or more may rent or lease to a person, or renew the rental or lease to a person of, a space for the parking or storage of aircraft, including, without limitation, a hangar, on the grounds of a municipal airport that is owned or operated by the county without conducting a public auction and at a price at least equal to the fair market rental or lease value of the space based on an independent appraisal conducted within 6 months before the rental or lease.

On the storage hangar leases extended in December, the tenants were required to advance to the Authority the funds to pay for an appraisal which was commissioned by the Authority from an MAI certified appraiser from the City's list of approved appraisers.

Armed with the appraisal showing the value of the leased are was \$0.12/sqft/yr, the Authority raised the rate to \$0.12/sqft/yr based on an appraisal of those hangar areas. The Authority had the following additional requirements:

1. Payment of a flat fee as an opportunity cost for the extension. The flat fee was calculated as the Net Present Value of an additional \$0.02/sqft/yr in rent.
2. Conditions on the extension as required by the Board of Supervisors that stated:
  - A. At the option of the Landlord, the rent rate may be adjusted to the appraised rate on January 1 of each 10 year anniversary of the new lease term. If the Landlord chooses to exercise the option, Landlord shall, at its expense, use an MAI certified appraiser, selected by the Landlord and Tenant from the Carson City Board of Supervisors' approved list of appraisers.
  - B. Tenant has invested funds for improvement and maintenance expenditures over term of the lease. Tenant shall continue to maintain and improve the property at a similar or greater rate, approximated as \$0.03/sqft/yr, averaged over a 10 year period. (\_\_\_\_\_ sqft x .03 x 10= \$\_\_\_\_\_). Upon each 10 year anniversary of January 1, 2017, the Tenant shall report on its improvements to, and maintenance on, the leasehold made during the 10 year period and, upon request shall provide, supporting documentation of such Tenant expenditures and that the facility is being maintained in the same fashion, i.e. same excellent condition as currently held, normal wear and tear excepted.
  - C. In the event that the leasehold use is modified to allow for FBO use beyond aircraft storage, then the lease rate shall convert to the most recently appraised lease rate for full FBO lots.

It was only after presenting the extension a second time to the Board of Supervisors and including all of the above elements, that the Board of Supervisors approved the extensions.

A similar process should be made available to other storage only leases. The Portahangar lease held by Mountain West fits the criteria. Thus if Mountain West advances the costs of the appraisal, then we can engage an appraiser and find out what the current lease rate value is. Thereafter, the Authority could enter into the same arrangement as the previously extended leases.

To be clear, the Authority is not required to extend leases. Rather this is a permissive act that the Authority can choose to do, and did choose to do for 5 other aircraft storage-only leases. This statute is not available for full FBO service leases.

**Proposed Action: I move we approve the Staff to proceed with an appraisal for the lease rate for the Miser/Portahangar lease; conditioned upon Mountain West's advance of the appraisal fee.**

3. FOR POSSIBLE ACTION: TO APPROVE A COOPERATIVE AGREEMENT BETWEEN THE AIRPORT AUTHORITY AND CARSON CITY TO PERMIT USE OF THE CITY'S HEALTH, DENTAL, VISION AND LIFE INSURANCE FOR AIRPORT EMPLOYEES; DETERMINATION ON MEDICAL COVERAGE TO BE ELECTED, PAYMENT BY AUTHORITY. (L. Law)

*Staff Summary: Per the Authority efforts to reduce administrative costs, this proposal to the existing interlocal agreement with Carson City would permit the Authority to utilize the City's health insurance program for coverage of the Airport employees in place of the insurance policies currently in place.*

This is listed as the Chairman's item but was requested by Authority Member White.

Per our latest communication with the City, there appear to be several problems to solve before the Airport employees could be added to the City employee insurance program. This needs to be discussed since solutions to the problems are not readily available.

**Proposed Action: ? (will be based on the discussion)**

4. FOR POSSIBLE ACTION: ADOPTION OF UPDATED THROUGH THE FENCE FEES FOR THE CARSON CITY AIRPORT TO REFLECT THE CURRENT COST OF AIRPORT MAINTENANCE AND AMOUNT OF HANGAR SPACE AND AIRCRAFT PARKING; AND TO APPROVE AN AMENDMENT TO THE CARSON CITY MUNICIPAL CODE TITLE 19.03.060 FEES TO REFLECT THE UPDATE.

*Staff Summary: This item was discussed previously in conjunction with the observation of the FAA Auditor that the fees are based on a calculation of the Airport operating costs and that the fees have not been updated since 2001. This fee adjustment is based on the same calculation method as the underlying fees, but updated for current costs.*

Through-The-Fence (TTF) fees are set by Carson City Ordinance, specifically CCMC 19.03.060 which states:

- **19.03.060 - Fees.**
- The following access fee shall be assessed against the permittee. An annual fee in the amount of:
  - I. For properties with hangars, the greater of a fee of three hundred dollars (\$300.00) or fourteen cents (\$0.14) per square foot times the square footage of the hangar space located on the permittee's property.
  - II. For properties with hangars and aircraft parked outside of the hangar, fifty dollars (\$50.00) per aircraft so parked, in addition to the fee in subsection 1 above.
  - III. For each property with a hangar, the fee shall be offset by the amount of real property taxes received by the Airport Authority on said hangar. In the event that the property taxes so received exceed the fees in subsection 1 and 2 above, the property tax will be considered full payment for the annual fee.
  - IV. For properties without hangars and with an access permit and no access being presently used, two hundred fifty dollars (\$250.00).
  - V. For properties without hangars and with aircraft parked on said properties, three hundred dollars (\$300.00), plus fifty dollars (\$50.00) per each aircraft beyond the first aircraft.

• The annual fee for the easement may be adjusted from time to time, to reflect the cost of airport maintenance and the amount of hangar space and aircraft parking.

As provided in the last provision, the ordinance permits the Authority to adjust the fee to reflect current costs of maintenance and the amount of hangar space/aircraft parking.

The Chairman has done the recalculation of the TTF fees using the same expense elements contained in the underlying ordinance. Both have been posted to the webpage and are supplied with this briefing memo. Two actions should be taken. The first to adopt the fees. The second to process an update to the CCMC with the Board of Supervisors.

**Proposed Action:**

1. I move we approve the new updated Through The Fence fees for the Carson City Airport to reflect the current cost of airport maintenance and amount of hangar space and aircraft parking.
2. I move that we direct Staff to also process with the Board of Supervisors the changes for an amendment to the CCMC to reflect the new fees.

5. PROGRESS REPORT FROM THE COMMITTEE ASSIGNED TO RESEARCH AND COLLECT INFORMATION AND REPORT TO THE AUTHORITY ALL INFORMATION SO THAT THE AUTHORITY CAN EVALUATE ESTABLISHING A HANGAR USE POLICY AND MONITORING PROGRAM THAT SATISFIES THE FAA HANGAR USE POLICY AND MEETS THE NEEDS OF THE AUTHORITY. (T. Rowe, J. Mayes)

*Staff Summary: The committee assigned to research information regarding hangar use programs will brief the Authority with the information collected as to hangar use and monitoring programs.*

This is the Airport Manager's report from the meetings he has chaired to collect data. Per the Nevada Open Meeting Law, the committee was limited to collecting data and reporting back to the Authority the information it had found.

**No action.** (This item may be combined with the following item for discussion purposes.)

6. FOR POSSIBLE ACTION: DISCUSSION, AND RECEIPT FOR CONSIDERATION, OF THE HANGAR MONITORING PROGRAM PROPOSED BY THE AIRPORT USERS GROUP. (E. Laetsch)

*Staff Summary: An Airport Users Group has been working on a hangar monitoring program that they feel would be effective and would minimize expense to the Airport. Mr. Laetsch has submitted a draft.*

This is a draft which has been posted of a proposed hangar monitoring program as recommended by some of the Airport users. Mr. Erich Laetsch will present the proposal.

**Proposed Action.**

I move we --(a) approve as presented, or --(b) direct that further work be done on this issue per the discussion and the matter be brought back at a future meeting.

7. AUTHORIZE THE CHAIRMAN TO SUBMIT A FAA GRANT APPLICATION FOR THE AIRPORT MASTER PLAN UPDATE FAA AIP NO. 3-32-0004-31; AND APPROVE ACCEPTANCE OF THE GRANT OFFER FROM THE FAA FOR THE AIRPORT MASTER PLAN UPDATE; ALL CONDITIONED ON APPROVAL AND FUNDING BY THE FAA. (B.Fitzgerald; S. Tackes)

*Staff Summary: The Authority previously submitted an application for an AIP Grant to conduct the Master Plan Update for the Carson City Airport. This item approves the acceptance of that Grant from the FAA which is conditioned on approval and funding by the FAA.*

This item was added at Airport Counsel's request so that we are ready to accept the pending FAA AIP grant when it is issued. As you know from prior years, the FAA issues the Grant Offer with a very short time for acceptance. Thus we approve the application and acceptance in advance so that the Grant Offer can be timely accepted. After approval of this item by the Authority, Airport Staff will present it to the Board of Supervisors for their approval on the same basis. Then when the Grant comes in, all signatures can be executed and the Grant acceptance

timely returned to the FAA.

Naturally, all of this is conditioned on approval and funding by the FAA.

**Proposed Action.**

I move we authorize the Chairman to submit a FAA Grant Application for the Airport Master Plan Update FAA AIP No. 3-32-0004-31; And approve acceptance of the Grant Offer from the FAA for the Airport Master Plan Update; All conditioned on approval and funding by the FAA.

**I. LEGAL COUNSEL'S REPORT (Non-Action Item).**

1. We have received a followup request for information from the FAA related to the prior complaint on use of hangars. They are aware of our pending work on a hangar monitoring program. The request was directed to the Airport Manager and a response is due within 30 days.
2. SB 64 to fix the fuel tax has passed out of the Senate and is pending for hearing in the Assembly committee.
3. A BDR has been submitted by the Senate to re-instate the funding of the Aviation Trust Fund at the same level as last biennium (ie. \$100,000 per year for 2 years).
4. We had an aviation day at the Legislature on Thursday, April 6. It was an informative briefing on aviation companies that support the state. Click Bond, Boeing, Dassault, and others were recognized. Assemblyman Al Kramer attended with Collie Hutter, Larry Harvey, Leah Ochs and myself, along with many members of the Nevada Aviation Association..