



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: John Aitken
Interim Director of Aviation

SUBJECT: AIRPORT COMMISSION
FY 2017-18 WORKPLAN
AND FY 2016-17 ANNUAL REPORT

DATE: July 25, 2017

Approved

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Date

7/25/17

RECOMMENDATION

It is recommended that the Transportation and Environment Committee:

1. Approve the Airport Commission Workplan for FY 2017-18 presented by staff at the Commission meeting of May 8, 2017, including the late addition of a one engine inoperative issue;
2. Concur with staff's position to not add closed session briefings to the Commission's FY 17-18 Workplan
3. Approve the Annual Report on the FY 2016-17 Commission Workplan.

DISCUSSION

Staff's Recommended Commission Workplan for FY 2017-18

San Jose Municipal Code Section 2.08.030.C and Council Policy 0-4, Consolidated Policy Governing Boards and Commissions, Council Policy 0-4, require each board and commission subject to Section 2.08 to submit their annual workplan of activities to be undertaken to the designated Council Committee each fiscal year. The Transportation and Environment Committee is the designated Council Committee for the Airport Commission Workplan. Staff recommends the approval of the Airport Commission's workplan for FY 17-18 as recommended by staff and contained in Attachment A. At its meeting May 8, 2017, the Commission accepted staff's recommended workplan and added one item of its own that is addressed later in this report. Staff also reviewed the annual workplan with the Commission at the same meeting.

The FY 17-18 workplan consists of 22 items, the same number as in the FY 16-17 Commission workplan. Many of the items are information-only items. Information-only items identified and

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recommended to the Commission are items of current staff focus that Airport senior staff believes will assist the Commission in further understanding Airport operations and priorities and how those operations and priorities relate to each other – knowledge that will be useful when policy issues do emerge. Some of the information-only items in the recommended Workplan include:

1. *Transportation Security Administration and Customs and Border Protection updates* – a briefing on staff efforts to secure additional TSA staffing and additional Customs staffing and hours of coverage.
2. *Southeast Area Study* – a briefing on plans to upgrade the southeast area of the Airport.
3. *Airport capital projects* – a briefing on the status of current Airport capital projects.
4. *Airport marketing plan* – a briefing on the Airport’s marketing plan to attract more passengers.
5. *Airline lease agreement* – a briefing on the status of the airline lease agreement with the Airport.

However, not all the recommended items are information only. The Workplan contains several items requiring Commission comments on items related to major policy issues or infrastructure development, including:

1. *Runway Incursion Mitigation Study* – a briefing and possible action on what measures may need to be taken to ensure the airfield conforms to current FAA standards. This topic has been on the Commission Workplan for several years. However, staff will be ready to bring the item forward in FY 17-18.
2. *Terminal Optimization Plan* – a briefing and possible action on alternatives under consideration to optimize the use of space in terminals.

In addition, the Commission will continue to receive periodic updates on the Airport’s efforts to: 1) recruit additional air services; 2) track legislative issues that impact the Airport; and 3) address community noise concerns and noise complaints. Finally, staff remains committed to amending the Workplan, as circumstances require, to bring forward to the Commission for review and action any additional issues or items that may emerge during the year.

Staff Late Addition to the Workplan

In addition to the 21 items presented to the Commission for review by staff, staff wishes to add the issue of the impact of downtown building heights on commercial aircraft operations at the Airport. This issue has been commonly referred to as the “one engine inoperative” (OEI) issue. The current Commission has not been briefed on the OEI issue and staff believes it will be

beneficial for the Commission to be briefed on this issue and the importance of the issue to the Airport.

Commission Addition to the Workplan

In addition to the 22 items recommended by staff, by a vote of 8-0-3, the Commission voted to add one or more closed session security briefings to the Workplan.

Some Commission members have expertise or experience in security matters from their professional activities. Over the past two years, the Commission has expressed interest in the topic of the Airport's security. Some Commission members have also requested closed session security briefings that would involve discussions related to information that cannot be disclosed in public meetings. This body of information is known as sensitive security information (SSI). Sensitive security information is defined by the TSA as information, "...if publicly released, would be detrimental to transportation security..." Although sensitive security information is not classified, there are specific procedures under federal law and regulations for recognizing, marking, protecting, safely sharing, and destroying it.

The Commission believes it needs access to sensitive security information to advise the Council on the topic of Airport security. While staff has provided information to the Commission on the Airport's security at its regular meetings, several Commission members believe that staff's refusal to share sensitive security information in closed sessions is preventing the Commission from fully carrying out its advisory responsibility to Council in this area. In advocating for closed sessions, the Commission has cited Section 2.08.420.B of the Municipal Code (functions, powers and duties of the Airport Commission) as giving the Commission "the right" to have closed sessions to access any information it believes it needs to know to carry out its advisory responsibility. Section 2.08.420.B of the Municipal Code states:

"If requested to do so by the director of aviation or member of the general public, or upon its own initiative, the airport commission may investigate, study or review any matter pertaining to the airport or aviation."

The Airport Commission's authority under the Municipal Code is subject to Section 2.08.030.B, which provides that the City Council may, at any time, change the powers, functions and duties of any City board or commission in any manner and to any extent as in its judgment is desirable. Consistent with this provision, Council Policy 0-4 limits the Airport Commission's general authority by requiring the Commission to submit its annual workplan of activities to be undertaken to the Transportation and Environment Committee each fiscal year.

Staff does not support the Commission's request for closed sessions. Access to sensitive security information is reserved for individuals responsible for carrying out airport security. The Airport Commission, as an advisory body, has no oversight, jurisdiction or management responsibility for any function of the Airport, including security, and therefore has no ability to act on the information, except to advise the Council. If a situation arose that required a closed session

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briefing to discuss or disclose sensitive security information, staff would take the matter directly to the full City Council in closed session.

In addition, staff would call for a closed session briefing to the City Council only when there is a specific security issue that requires it and would only share sensitive security information directly related to the issue. Sensitive information is not shared as part of a general or an exploratory discussion but only on a need-to-know basis in relation to a specific security situation. In staff's view, as an advisory body with no oversight responsibility for the Airport, the Commission's strong interest in sensitive security information notwithstanding, the Commission's interest in receiving sensitive security information does not meet the need-to-know threshold. Moreover, as the sensitive information is under the control of and managed by the Transportation Security Administration (TSA), the TSA would need to approve the sharing of such information with the Commission. As such, staff approached TSA about its willingness to approve the sharing of such information with the Commission. TSA staff questioned the need for sharing such information with an advisory body and stated TSA would not be in favor of making such information available to the Commission. Accordingly, even if staff were to be required to conduct closed session briefings, staff would be unlikely to disclose any more information than what would be disclosed in a regular, open meeting session.

The language of Municipal Code Section 2.08.420 notwithstanding, the Council has directed that all board and commission study items be reviewed by the appropriate Council committee. Staff believes the Council established this requirement to ensure that the Commission reviews issues and information Council believes appropriate for and compatible with its advisory role. While section 2.08.420 of the Municipal Code supports the Commission's ability to receive information about Airport security matters, staff does not believe the section requires staff to share security information the federal government has categorized as sensitive.

Nevertheless, while the Commission has and will continue to receive information from staff on the topic of the Airport's security, staff does not believe that the Commission needs to receive briefings on sensitive security information it cannot act upon in order to perform its advisory role.

For these reasons, staff asks the Committee to approve the FY 17-18 Commission workplan as proposed by staff and to not add closed session briefings as requested by the Commission.

Workplan in Alignment with Airport's Strategic Plan

In 2016, the Airport produced a Strategic Plan to identify key priorities for the Airport. Our Mission describes our core purpose: "To connect, serve, and inspire." Our Vision defines what we aspire to achieve over the next ten years: "To transform how Silicon Valley travels." Our four strategic goals define our key priorities and are:

1. Drive growth
2. Innovate
3. Fund the future
4. Reinvent the organization

These priorities are linked to the Commission's Workplan with the objective of ensuring the Commission's work is focused on items that are in alignment with priority areas identified by the Airport and approved by the City Council.

Conclusion

Staff believes the Commission Workplan proposed by staff:

1. focuses on items that are priorities for staff, will help further the Commission's understanding of Airport operations and priorities and will otherwise assist the Commission in carrying out its advisory responsibilities; and
2. makes appropriate and efficient use of available staff resources.

For the aforementioned reasons, staff recommends approval of staff's proposed FY 17-18 Commission Workplan, including the late addition of one engine inoperative issues. Staff also request the Committee concur with staff's position to not add closed session briefings to the proposed Workplan.

Submission of the Annual Report

Attachment B contains the annual report on the disposition of items contained in the Commission's FY 16-17 Workplan.

The FY 16-17 Workplan contain 17 items. The Workplan was amended to add five additional items and a new category (Review of Staff Reports to City Council) that emerged during the year. Two items identified in the Workplan were deferred because they were not ready to bring forward to the Commission. They are contained in the FY 17-18 Workplan proposed by staff.

Noise Concerns

As a result of the re-structuring of the City's boards and commissions in FY 12-13, the Commission has the responsibility to hear Airport noise-related issues. Accordingly, each year the Workplan contains a standing quarterly agenda item to report out on curfew intrusions and violations and to hear public comments/concerns on noise issues.

Since FY 15-16, noise concerns and complaints have become major topics of discussion at Commission meetings. In FY 15-16 the Commission heard from the residents of Santa Cruz and Santa Clara counties who have experienced a significant increase in aircraft noise because of the Federal Aviation Administration's (FAA) implementation of new flight paths into the Bay Area. During FY 16-17, the Commission heard community complaints regarding the noise impacts on nearby communities west and north of the Airport whenever the Airport is in "south flow" operations (aircraft descending for landing from the north rather the usual descent landing from the south).

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The great majority of the noise complaints have come from Sunnyvale residents. (For the first three months of 2017, the Airport received 83,441 complaints from several hundred residents – most on the “south flow” issue.) At the Commission meetings of November 2016 and February 2017, a number of residents attended to express their concerns about the south flow noise impacts. At the Commission’s February 2107 meeting, residents called on the Airport to establish a noise roundtable to address the noise impacts of south flow operations. The Commission voted unanimously to recommend the establishment of a noise roundtable to include FAA participation. Staff is now working to bring the recommendation forward for consideration by the Transportation and Environment Committee and anticipates that this issue will continue to be a topic of discussion at Commission meetings during FY 17-18.

Other Items

The Commission also continued to hear and adjudicate curfew and ground transportation violation appeals, as required. The Commission heard two curfew violation appeals in FY 16-17. The Commission also continued to hear periodic reports on efforts to increase air service and legislative issues that impact the Airport. All of the aforementioned items will continue to be standing items in the FY 17-18 Workplan.

/s/

JOHN AITKEN

Interim Director of Aviation

Please direct questions to Jim Webb, Assistant to the Director/ Government & Legislative Affairs at (408) 392-3609.

Attachment A: Proposed FY 17-18 Airport Commission Workplan

Attachment B: FY 16-17 Annual Workplan Report