



Council Communication

Office of the City Manager

Date

September 25, 2006

Agenda Item No. 45
Roll Call No. 06-
Communication No. 06-612
Submitted by: Craig S. Smith, A.A.E.
Aviation Director

AGENDA HEADING:

Approving amendment to the City of Des Moines Municipal Code, Chapter 22, Article VII, Regarding Flying Clubs.

RECOMMENDATION:

Recommend approval of changes to Chapter 22 Article VII regarding Flying Clubs operating on the Des Moines International Airport upon recommendation from the Des Moines International Airport Board with a request to waive readings.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

Under Chapter 22 of the City of Des Moines Municipal Code, flying clubs are permitted on the Airport if properly structured and operated. Primarily, two articles of Chapter 22 govern the issues generated by flying clubs: (1) Article VI on commercial operations, and (2) Article VII specifically on flying clubs.

In general, flying clubs organize to gain the advantages of sharing the cost of private aircraft ownership and to bring like-minded people together to promote general aviation. There are several social and economic advantages. All members of the club gain the rights to fuel and maintain the club's aircraft and, if qualified, to provide flight instruction to other members of the club. The flying club structure allows its members to engage in these activities without falling under the set of rules directed toward commercial operators at the airport. Otherwise, these activities are, under Article VI, commercial operations traditionally provided by fixed base operators (FBOs).

Before the Airport assumed administration of the various T-hangar leases in 2002, the flying clubs at the Des Moines International Airport were operated under the umbrella of the FBO guidance. Until recently, all Secure Identification Display Area (SIDA) badge requirements for the flying clubs were still administered by the FBOs. However, with the recent changes to the organizational structures of existing flying clubs and the advent of new flying clubs at the Airport, the most recent applications presented to the Airport for SIDA badge approvals have pointed out questions not adequately addressed in the current municipal code. As such, certain provisions of the code need updating.

Commercial operators, for the privilege of operating on the Airport, must meet certain financial solvency and minimum space requirements. These are outlined in greater detail in Chapter 22-208. Flying clubs need not comply with these so long as they truly operate for the mutual benefit of their members. Once the clubs, or their members, begin to operate as a business, they step over the line of a private club and

enter the commercial world where they are subjected to the additional regulations. The flying clubs may be permitted to function, but within appropriate limits.

This situation has not escaped the Federal Aviation Administration (FAA). In its Order 5190.6A, FAA sets out what it considers to be the fundamental confines within which flying clubs must operate to avoid crossing the line into commercial operations. They must be nonprofit organizations, organized for the express purpose of providing its members with an aircraft for their personal use and enjoyment only. The ownership of the aircraft must be vested in the name of the flying club or owned by all its members. No part of the net earnings of the club can add to the benefit of its members in any form whether by salaries or otherwise. The club may not take in more revenue than necessary to cover the cost of the use of its aircraft including the operation, maintenance and replacement of its aircraft.

The particular organizational structure of the flying club seems not to concern FAA, so long as the club is a nonprofit entity not used for commercial activities and meets other requirements. Consequently, FAA specifically allows corporations, partnerships, and associations to operate as flying clubs. Likely because the Limited Liability Company (L.L.C.) was not a widely available option at the time the order was written in 1989, that type of entity is not mentioned. However, there seems to be no other reason to exclude them as a method of forming a club, and other airports do authorize them. Allowing a flying club to form as a L.L.C. would also meet *FAA Advisory Circular 150/5190-5* recommendations, which state that, to avoid unjust discrimination, an airport should impose minimum standards that are no more restrictive than necessary to accomplish its goals.

The proposed changes to Chapter 22 of the City of Des Moines Municipal Code are intended to clarify the permissible, yet limited, purposes for which a flying club may be organized and identify the constraints upon their operations. In addition, insurance requirements placed on flying clubs were somewhat inadequate considering the potential exposure. If Chapter 22 is to be amended, it would be appropriate at the same time to update the insurance requirements. The limits and coverage proposed in the amendment are the current standards in the industry.

To better serve the interests of those entities that currently operate as a flying club at the Des Moines International Airport, the Airport requests waiving the second and third readings.

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Date: September 6, 2006

Resolution Number: A06-162

Action: Recommendation to City Council to Amend City of Des Moines Municipal Code, Chapter 22, Article VII, Regarding Flying Clubs

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE