

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> February 14, 2011
	<b>Agenda Item No.</b> 66 <b>Roll Call No.</b> <u>11-0244</u> <b>Communication No.</b> <u>11-097</u> <b>Submitted by:</b> Richard A. Clark, City Manager and Donald L. Smithey, Aviation Director

**AGENDA HEADING:**

Third and final consideration for adopting an ordinance creating the Des Moines Airport Authority.

**SYNOPSIS:**

Recommend creation of an Airport Authority and adoption of ordinance creating an authority as outlined herein.

**FISCAL IMPACT: NONE**

Amount: There would be little or no fiscal impact on the City.

Funding Source: N/A

**ADDITIONAL INFORMATION:**

**Transparency and accountability**

Appointment

The accountability of the authority is secured, first, through the appointment process. All members are appointed by the city and, since they serve at the pleasure of the council, can be removed by the council. Second, the city code establishes qualifications for board members to assure that a high quality board is selected. Third, and ultimately, if the council is entirely disillusioned, it can abolish the authority all together and take back the airport.

Transparency

The authority would operate within the sunshine laws and thus be covered by the open meetings and public records laws. To that extent, all of its meetings would be open to the public and its agendas and minutes, and for that matter, all of its records, available to any person requesting them. Any resident interested in providing input in the operation of the airport would be able to attend the proceedings of the Airport Authority.

Regulatory Requirements

An airport is a highly focused and regulated entity. Federal Aviation Administration grant assurances as well as federal and state statutes ensure that an authority operates for the benefit of safe and efficient air

transportation. For example, the following is a partial list of the major obligations an airport owner incurs when accepting a federal airport development grant. It promises that it

- has given fair consideration to the interests of communities in or near the project
- will not grant or permit any person the right to the exclusion of others to conduct any aeronautical activities at the airport
- will devote airport revenue to airport purposes
- will properly maintain and operate the airport facilities
- will keep good title to airport property
- will make airport facilities available on fair and reasonable terms without unjust discrimination
- will adhere to the airport layout plan approved by the FAA
- will be as self-sustaining as possible
- will adhere to federal rules on the sale or disposal of property
- will use acceptable accounting and record-keeping systems
- will comply with civil rights requirements

The authority is further constrained by the state statute's grant of powers. Iowa code chapter 330A grants broad powers, but only so long as they are exercised in the operation of the airport.

### **Recommendations**

- **Joint Meeting** - The City Manager and Aviation staff recommends that the agreement between the City and the authority provide that the authority and the City Council meet in joint session at least once annually to exchange information and provide input on matters of mutual interest.
- **Annual Report and Goals** - An annual report to the Council would contain a description of finances, significant changes at the airport, and success indicators. It is recommended that a professional air service research firm conduct a periodic survey with airport users. The surveys would monitor progress of the airport under the control of the Authority. Success indicators would include: operating efficiencies and controlling costs, increased revenues, additional airlines and lower fares, and an update of the airport master plan. Specific 3-5 year goals would include:
  1. Work with FAA to provide future construction of proposed runway only when demand warrants.
  2. Design, remove, and reconstruct Taxiway D for airlines, National Guard, and general aviation.
  3. Aviation Director to continue pursuit of airline service improvements and lower fares for passengers.
  4. Update Master Plan for terminal and cargo areas.
  5. Realign airport management staff to improve efficiency to changing airport challenges.
  6. Increase and maintain cash reserves to provide flexibility and financial security.
  7. Upgrade leasable buildings and remove those that are obsolete and have no remaining value.

8. Continue negotiations to reach consensus with UPS's request to cancel land and building leases.
  9. June 2013: Negotiate new airline lease and use agreements to be more compatible for airport and airlines. Reduce airports "cost per enplaned passenger" to a lower level.
  10. Rewrite and adopt Airport Minimum Standards for commercial users.
- **Authority as a Policy Making Entity** -The authority would act as a policy making entity and hire an executive to oversee day-to-day operations and all aviation staff. The City will need to assign its interests in all agreements, leases and contracts to the authority.
    - The authority would have the power to adopt rules for the use of its facilities, much like the airport board does today. These rules cover safety, landing rates, terminal rental rates, tenant conduct, conduct on the airfield and other matters important to the orderly and safe use of the airport. The language of the proposed ordinance is taken for the most part from current city code.
  - **Contract Services** -The authority would continue to contract services from the City thus mitigating financial budget impact on City's General Fund budget. It is anticipated that revenue payments to the City, including payments in lieu of taxes, would continue and would be in compliance with all FAA requirements.
    - The intent is to enter into a 28E agreement through which the authority will purchase the same services the city currently provides to the airport. So, the authority would continue to use and pay for police, fire, finance and the other services it currently receives from other city departments.
  - **Authority Creation and Appointments** -City of Des Moines would be the only participant of the authority and would appoint all board members in accordance with Iowa statutes. The Council will retain the right to abolish the authority.
    - The board shall consist of five members, nominated by the Mayor and appointed by Council. The terms of board members shall conclude on June 30 of the year in which their terms expire. It is recommended that the process retain qualifications of current City code §22-47 for board members; "Members should have expertise in aviation, business, accounting, finance, marketing, engineering, law, real estate development, management or other fields of value to the operation of the airport". The City Manager, or his or her designee, will serve as an ex-officio member of the board.
    - The nomination process to establish the initial board would be for each Council member, including the Mayor, to submit two nominations creating a pool of 14 nominees from which the Mayor would make a nomination to the Council for appointment. To fill subsequent board vacancies, each council member, including the mayor, would make one nomination creating a pool of seven nominees from which the Mayor would then make a nomination to the Council for appointment.
    - The Mayor will be required to make a nomination to Council for appointment to the board at least four weeks prior to the expiration of the position. If the Mayor has not made a

nomination within this timeframe, members of the City Council may make a nomination at the meeting prior to June 30<sup>th</sup>. If there is a vacancy that occurs outside of the terms of expiration, the Mayor will have 30 days from notice to fill the position on the board. If the mayor has not made a nomination within that timeframe, the City Council may make a nomination to the board at the next Council meeting.

- In the event that the City Council desires to dissolve the authority and return direct governance to the City Council in the future, the FAA is unable to agree to this request today, not knowing the conditions of a retransfer of airport governance in the future. However, it is certain that the FAA will want the city to promise to comply with all federal agreements and laws before it would assent to a retransfer. The scope of their inquiry will probably be very much like the one they will use to evaluate the transfer from the city to an authority now. They will want to be assured that the city would operate the airport in compliance with federal grant assurances, regulations and statutes.
- **Union Contracts** -The authority would honor all employee union contracts. The authority would continue to use PamTechs; however, they will remain employees of the city.
  - The Authority would honor all union contracts and provisions as they currently exist. This includes current benefits and wage rates and those previously negotiated changes that will take effect in FY2012. Representatives of the Municipal Employees Association (MEA) and City staff are near agreement on necessary contract changes to reflect the establishment of the authority. Central Iowa Public Employees Council (CIPEC) representatives have not yet begun this process. Upon the expiration of the current agreement, the unions would negotiate with the authority rather than the city. The authority intends to continue to ask the City's human resources department to lead the negotiation effort.
- **Taxing Ability** -The authority would have no taxing power. Under the new governance structure all debt obligations (both existing and future) will continue to be the complete liability of the Airport with no legal access to property tax support to meet any annual debt service payment obligation. That is also the current situation today.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: January 24, 2011

Roll Call Number: 11-0123

Action: [On](#) proposal to create an Airport Authority. ([Council Communication No. 11-055](#)) Moved by Hensley to Adopt. Motion carried 5-2. Nays: Meyer and Moore

Date: January 10, 2011

Roll Call Number: 11-0064 and 11-0065

Action: On proposal to create an Airport Authority. ([Council Communication No. 11-016](#)) Moved by Hensley to adopt. At the January 24th Council meeting, the City Manager will respond to questions raised by the Council. Motion Carried 5-2. Nays: Meyer and Moore.

First consideration of ordinance above. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 5-2. Nays: Meyer and Moore.

Date: December 20, 2010

Roll Call Number: 10-2115

Action: Regarding intent to create the Des Moines Airport Authority. ([Council Communication No. 10-741](#)) Moved by Hensley to receive, file and refer to the City Manager to recommend criteria to be used to evaluate the Authority, and to recommend a process for all Council Members to submit names to be considered for appointments to the Authority. Motion Carried 6-1. Nays: Meyer.

Date: October 25, 2010

Roll Call Number: Council Workshop

Action: Proposed Des Moines Airport Authority Presentation given by Aviation Director Donald Smithey

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Pass ordinance creating an airport authority pursuant to Iowa code chapter 330A. Appoint members to authority board. Approve documents transferring the airport to the authority and providing for purchase of city services for the authority. Obtain FAA approval of all the above.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).