

Metropolitan Airports Commission



Management and Operations Committee

Regular Monthly Meeting Minutes

Wednesday, August 04, 2010

1:00 pm

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**METROPOLITAN AIRPORTS COMMISSION
MANAGEMENT & OPERATIONS COMMITTEE
REGULAR MEETING**

Wednesday, August 4, 2010, 1:00 p.m.
Room 3048A, Lindbergh Terminal - Wold-Chamberlain Field
Minneapolis-St. Paul International Airport

"CONSENT ITEMS"

Call to Order

A regular meeting of the Management and Operations Committee, having been duly called, was held August 4, 2010, in Room 3048A, Terminal 1-Lindbergh Building, Minneapolis-St. Paul International Airport, Wold-Chamberlain Field. Chair Landy called the meeting to order at 1:00 p.m. The following were in attendance:

Commissioners: Landy, Westerberg, Lanners, Harris, McClung, McKasy, Monaco, Rehkamp

Staff: S. Busch, T.W. Anderson, T.L. Anderson, J. Hamiel, D. Probst, J. Nielsen, S. Wareham, E. Johnson, B. Hoium, J. Greer, K. Kelly, C. Boyd, M. Kilian, P. Hogan, R. Fuhrmann, M. Willis, M. Rosenow, G. Schmidt, P. Rasmussen, W. Bartlett, M. Seifert, A. Irish

Others: Erich Schneider, Susan Kane, Judy Behrend, Marcia Simning, Park 'N Fly; Liz Nordstrom, Curt Callister, EZ Air Park; Dan Williamson, Park 'N Go; Harold Strassner, Team Parking; Darren Aune, EZ Air Park; Jay Benanav, Weinblatt and Gaylord PLC; Peter Coyle, Larkin Hoffman; Mike Seifert, Aden Yunis, Taye Sillga, Girma Alemayehu, Mohamed I. Ali, Omar Farah, Mohamed S. Mohamud, Abdikadir A. Dubad, Ahmed F. Hussein, Ahmed Igale, Hussein H. Yusuf, Mohamed A. Abdi, Abdullah M. Abdi, Ahmed M. Abdi, Haji Omar, Ismacil Xasan, Ilyas Muhumed, Hamze Abdi, Gamado Wako, Abdirahman Moallin, Miheret Gemere, taxi operator; Alexander Asiamah, International Airport Taxi; Fikru Adinew, United Taxi; Mellese Mekonnen, Airport Express; James Valdner, Peter Coyle, XpresSpa; Dick Saunders, Bob Friskney, South Metro Airport Action Council (SMAAC); Joe Montgomery, Morcon Construction; Robert Moss, KSTP Eyewitness News

OPEN FORUM

The Open Forum is a portion of the Committee meeting where persons are allowed to address the Committee on subjects which are not a part of the meeting agenda. No public comments were received.

AGENDA ITEMS

B1. RECOMMENDATION REGARDING ADOPTION OF THE AMENDED RENTAL AUTO FACILITY CHARGE ORDINANCE – CF 2171

Staff proposed changes to Ordinance 109 which governs the collection of a Rental Auto Facility Charge (RAFC) at the airport.

Proposed changes to the ordinance include:

- Funding the apportioned costs of the auto rental facilities at Terminal 2-Humphrey along with the costs associated with construction of a consolidated rental auto facility at Terminal 2-Humphrey upon satisfaction of the Terminal 1-Lindbergh apportioned auto rental facilities debt, anticipated to occur on or around December 31, 2010;
- A revocable credit towards the O&M expenses associated with the auto rental facilities at Terminal 1-Lindbergh.

COMMISSIONER MONACO MOVED AND COMMISSIONER MCCLUNG SECONDED THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND TO THE FULL COMMISSION

THAT THE MANAGEMENT AND OPERATIONS COMMITTEE:

- 1. ADOPT THE ATTACHED HEARING OFFICERS' REPORT;**
- 2. RECOMMEND THAT THE FULL COMMISSION:**
 - A. APPROVE THE ATTACHED FINDINGS, CONCLUSIONS AND ORDER RELATED TO THE ADOPTION OF THE PROPOSED RENTAL AUTO FACILITY CHARGE ORDINANCE;**
 - B. ADOPT THE PROPOSED ORDINANCE AS ORDINANCE NO. 110; AND**
 - C. THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.**

THE MOTION CARRIED BY UNANIMOUS VOTE.

B2A. REQUEST FOR SELECTION OF PROFESSIONAL LEGAL SERVICES CONTINUING CONSULTANT – FEDERAL AVIATION LAW LEGAL SERVICES – CF 2172

Mr. Thomas W. Anderson, General Counsel, presented background on this item. MAC's recently amended policy regarding the Use, Selection, Monitoring and Payment of Consultants requires that a competitive selection process for continuing consultant services be initiated every six years. MAC staff is requesting authority to initiate a selection process for federal aviation continuing consultant legal services.

Federal aviation counsel is needed to represent MAC to advise the Commission on federal aviation and airport issues, including working with the Minnesota legislative delegation and staff, working with various federal administrative/regulatory agencies related to aviation and working with airports on federal aviation issues and litigation involving airports.

MAC does not have resources in house for federal legislative or federal legal matters, and the need for these services is highly unpredictable and often dependent on decisions outside MAC's control. In addition, MAC may need to respond quickly to address an

issue, so it is to MAC's advantage to have expertise that can quickly be called upon to provide the needed services.

COMMISSIONER REHKAMP MOVED AND COMMISSIONER WESTERBERG SECONDED THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND TO THE FULL COMMISSION THAT STAFF BE DIRECTED TO PROCEED WITH A REQUEST FOR QUALIFICATIONS PROCESS FOR FEDERAL AVIATION LAW LEGAL SERVICES AND THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.

THE MOTION CARRIED BY UNANIMOUS VOTE.

B2B. REQUEST FOR SELECTION OF PROFESSIONAL LEGAL SERVICES CONTINUING CONSULTANTS – GENERAL/LABOR & EMPLOYMENT LAW LEGAL SERVICES – CF 2173

Mr. Thomas W. Anderson, General Counsel, presented background on this item. MAC's recently amended policy regarding the Use, Selection, Monitoring and Payment of Consultants requires that a competitive selection process for continuing consultant services be initiated every six years. MAC staff is requesting authority to initiate a selection process for general/labor and employment law continuing consultant legal services.

General/Labor & Employment Law legal services are needed for employment law issues, constitutional issues, ground transportation issues and local government issues, specifically as they pertain to MAC. The majority of this work is litigation, with both civil court and administrative agency proceedings. Many of the constitutional issues and Department of Human Rights complaints are related to the operation and regulation of taxicabs at MSP.

MAC does not have resources in house to do litigation work. A significant number of attorneys, support staff, and equipment would be required to do this work with MAC employees. Since litigation is unpredictable and the issues vary, it is to MAC's advantage to be able to retain the appropriate experts when such need arises.

In response to questions from Commissioners, Mr. Anderson confirmed that these legal services do not include prosecution services. Also, at a Commissioner's suggestion, Mr. Anderson agreed to notify other local city government offices of MAC's selection process for legal services.

COMMISSIONER REHKAMP MOVED AND COMMISSIONER WESTERBERG SECONDED THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND TO THE FULL COMMISSION THAT STAFF BE DIRECTED TO PROCEED WITH A REQUEST FOR QUALIFICATIONS PROCESS FOR GENERAL/LABOR & EMPLOYMENT LAW LEGAL SERVICES AND THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.

THE MOTION CARRIED BY UNANIMOUS VOTE.

B3. REQUEST AUTHORITY TO AMEND THE WELLNESS CENTER AGREEMENT – CF 2174

Mr. Eric Johnson, Commercial Management & Airline Affairs, presented an overview of this item. Staff is requesting authority to terminate the current concession Agreement (“Agreement”) with XpresSpa MSP Airport, LLC (“XpresSpa”) and create a new agreement that removes the leased premises that had previously been planned for a medical clinic with pharmacy.

At last months Commission meeting staff presented a revised lease proposal for the Wellness Center Lease Agreement. Staff discussed the outstanding construction debt that was owed by Airport MD (subtenant to XpresSpa) to Morcon Construction and presented a payment plan to solve the issue and move the construction forward. Since the date of the Commission meeting neither MAC nor Morcon Construction have received the promised payments. Staff has been in discussion with all three parties. In an effort to move the process forward Morcon Construction has agreed to provide MAC and XpresSpa with a lien waiver for the Airport MD build-out space. This would allow MAC to terminate the old Wellness Lease Agreement, execute a new agreement with XpresSpa to operate a full service spa/salon without the medical/pharmacy operation and without the threat of a lien being filed on MAC property.

In conjunction with this action staff is asking for authority to directly negotiate with interested parties for the space previously assigned to Airport MD to allow staff to utilize it as soon as possible to generate revenue for MAC while at the same time trying to capture as much as possible if not all of the construction debt owed to Morcon Construction. After finding a suitable operator staff will return to this Committee to review the proposal and ask for authorization to execute a lease agreement.

In response to questions from Commissioners Mr. Johnson explained that staff rolled the original nine year agreement forward by one year, made minor changes to the Minimum Annual Guarantee (MAG), and increased the concession fees from what was originally proposed so that MAC will make up for uncollected rent that was unpaid during the delayed opening of this concession. Mr. Johnson confirmed that the new lien waiver deal provides an opportunity for Morcon construction to participate in the negotiation process with any prospective tenant to recover money owed them for their construction work in this retail space.

COMMISSIONER WESTERBERG MOVED AND COMMISSIONER MONACO SECONDED THAT THE MANAGEMENT AND OPERATIONS COMMITTEE RECOMMEND TO THE FULL COMMISSION:

- 1. AUTHORIZATION FOR STAFF TO TERMINATE THE WELLNESS AGREEMENT WITH XPRESSPA MSP AIRPORT, LLC AND NEGOTIATE AND FINALIZE A SEPARATE AGREEMENT WITH XPRESSPA MSP AIRPORT, LLC;**
- 2. AUTHORIZATION FOR STAFF TO ENTER INTO NEGOTIATIONS WITH ANY PROSPECTIVE TENANT AND TO RETURN TO THE MANAGEMENT & OPERATIONS COMMITTEE WITH A NEW PROPOSED LEASE FOR THE VACANT SPACE; AND**
- 3. THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.**

THE MOTION CARRIED BY UNANIMOUS VOTE.

B5. RECOMMENDATION REGARDING ADJUSTMENT TO TAXICAB ANNUAL PERMIT FEE – CF 2176

Mr. Arlie Johnson, Assistant Airport Director Landside Operations, presented background on this item. MAC Ordinance 102 governs the operation of taxicabs at Minneapolis-St. Paul International Airport (MSP) and requires the Commission to recover associated costs to MAC by annually adjusting fees for taxis that are permitted to pick up passengers at the airport.

Taxicab Annual Permit Fee Adjustment

The annual taxicab permit fee is determined by dividing the associated budgeted cost to be recovered by the number of permits issued during the most recent annual permit period. Based upon the established calculations of the cost recovery formula, staff recommends the current annual taxicab permit fee of \$3,650 be increased 11% to \$4,050 for the period November 11, 2010 through November 10, 2011. This amount includes the recovery of \$66,400 that the Commission deferred last year as a measure of economic relief to allow the fee to remain unchanged from the year prior. Although costs rose only 0.1% (\$3,598), the inclusion of the deferred amount along with a 5% decrease in the number of permits issued in 2009 produced the recommended increase to the taxicab annual permit fee.

Taxicab Annual Permit Fee Hybrid Payment Adjustment

The Commission established per trip fees as an optional payment method for annual taxicab permits rather than requiring the full annual fee up-front. This “hybrid” option had allowed operators to pay 50% of the annual fee with the remainder to be acquired throughout the permit period via per-trip fees. As an additional measure of economic relief last year, the Commission approved the up-front portion being reduced to approximately one-third of the recommended annual permit fee. Staff recommends the continuance of this option. As such, there would be a \$1,350 up-front permit fee required plus a \$3.03 per-trip fee charge for the period November 11, 2010 through November 10, 2011.

Taxicab Airport Use Fee

The Airport Use Fee enables taxicab operators to recover the approximate cost of the annual taxicab permit fee. Taxicab operators are the only commercial vehicle operators allowed by ordinance to add an Airport Use Fee to the fare charged to a customer.

At the July 7, 2010 M&O committee meeting, industry members asked the Commission to allow taxicab drivers to include the Airport Use Fee as part of the metered fare at the onset of the trip. The reason for this request is that taxi drivers often have difficulty explaining to passengers why an additional amount is added to the metered fare at the end of the trip. Their situation has led to complaints and confusion among the traveling public and verbal arguments between drivers and their passengers. Ensuing committee discussion concluded that the request was acceptable pending internal staff review. That review determined the request does not conflict with the ordinance, and staff recommends it be implemented. To mitigate potential customer service issues, staff will

instruct all drivers who charge the voluntary Airport Use Fee to do so in a prescribed, consistent manner, by adding the fee directly to the metered fare at the onset of the trip. This change is expected to be implemented within 30 days after all literature and notices currently used to explain the fee are modified to reflect the new procedure. In response to questions from Commissioners, Mr. Johnson confirmed that the new procedure of showing passengers the Airport Use Fee on the meter at the onset of the trip would likely result in increased tips for taxi operators.

At the July 7, 2010 M&O Committee meeting, Commissioners and taxi industry representatives also raised concerns regarding increasing the Airport Use Fee from \$3.50 to \$4.50. In response, staff performed this year's calculation using an annual average based upon trips taken over the last three completed annual periods, as allowed by ordinance. As a result, the per trip fee would be \$4.00 rather than \$4.50.

Several taxi operators addressed the Commission to note their concerns regarding the proposed fees. In response to questions from a legal representative, Commissioners acknowledged pro's and con's of the current structure of this ordinance and indicated their willingness continue to work with taxi operators to determine the best solution.

COMMISSIONER REHKAMP MOVED AND COMMISSIONER LANNERS SECONDED

- 1. APPROVAL OF AN ANNUAL TAXICAB PERMIT FEE OF \$4,050 AND THE OPTIONAL HYBRID PAYMENT METHOD OF \$1,350 PLUS \$3.03 PER TRIP FOR THE PERIOD NOVEMBER 11, 2010 THROUGH NOVEMBER 10, 2011;**
- 2. APPROVAL OF ADJUSTING THE AIRPORT USE FEE CHARGED TO TAXICAB CUSTOMERS TO \$4.00 PER TRIP; AND**
- 3. THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.**

THE MOTION CARRIED BY UNANIMOUS VOTE.

The meeting was adjourned at 3:00 pm.

**METROPOLITAN AIRPORTS COMMISSION
MANAGEMENT & OPERATIONS COMMITTEE
REGULAR MEETING**

Wednesday, August 4, 2010, 1:00 p.m.
Room 3048A, Lindbergh Terminal - Wold-Chamberlain Field
Minneapolis-St. Paul International Airport

"DISCUSSION ITEM"

Call to Order

A regular meeting of the Management and Operations Committee, having been duly called, was held August 4, 2010, in Room 3048A, Charles Lindbergh Terminal Building, Minneapolis-St. Paul International Airport, Wold-Chamberlain Field. Chair Landy called the meeting to order at 1:00 p.m. The following were in attendance:

Commissioners: Landy, Westerberg, Lanners, Harris, McClung, McKasy, Monaco, Rehkamp

Staff: S. Busch, T.W. Anderson, T.L. Anderson, J. Hamiel, D. Probst, J. Nielsen, S. Wareham, E. Johnson, B. Hoium, J. Greer, K. Kelly, C. Boyd, M. Kilian, P. Hogan, R. Fuhrmann, M. Willis, M. Rosenow, G. Schmidt, P. Rasmussen, W. Bartlett, M. Seifert, A. Irish

Others: Erich Schneider, Susan Kane, Judy Behrend, Marcia Simning, Park 'N Fly; Liz Nordstrom, Curt Callister, EZ Air Park; Dan Williamson, Park 'N Go; Harold Strassner, Team Parking; Darren Aune, EZ Air Park; Jay Benanav, Weinblatt and Gaylord PLC; Peter Coyle, Larkin Hoffman; Mike Seifert, Aden Yunis, Taye Sillga, Girma Alemayehu, Mohamed I. Ali, Omar Farah, Mohamed S. Mohamud, Abdikadir A. Dubad, Ahmed F. Hussein, Ahmed Igale, Hussein H. Yusuf, Mohamed A. Abdi, Abdullah M. Abdi, Ahmed M. Abdi, Haji Omar, Ismacil Xasan, Ilyas Muhumed, Hamze Abdi, Gamado Wako, Abdirahman Moallin, Miheret Gemere, taxi operator; Alexander Asiamah, International Airport Taxi; Fikru Adinew, United Taxi; Mellese Mekonnen, Airport Express; James Valdner, Peter Coyle, XpresSpa; Dick Saunders, Bob Friskney, South Metro Airport Action Council (SMAAC); Joe Montgomery, Morcon Construction; Robert Moss, KSTP Eyewitness News

AGENDA ITEMS

B4. RECOMMENDATION REGARDING ADOPTION OF AMENDED COMMERCIAL VEHICLE ORDINANCE – CF 2175

Mr. Steve Wareham, Director of MSP Operations, presented background on this item. At Minneapolis-St. Paul International Airport (MSP) Commercial vehicle operations are assessed fees, in accordance with MAC Commercial Vehicle Ordinance 93. Asked by the Commission to identify additional non-aeronautical revenue sources as well as cost-reduction opportunities, MAC staff determined that increased fees to off-airport parking

operators could be additional revenue sources. Staff undertook several measures to review off-airport parking fee structures and collection processes, and also met with the off-airport parking operators that service MSP customers.

Staff has proposed fee structure options (first in May 2009, and again in January 2010); however, after testimony from concerned off-airport parking operators, the Committee asked staff to review its recommendations, to provide additional options for consideration, and finally to provide an analysis of the impact of the fee increase on the industry.

In recent years, other MSP tenants and vendors have experienced increases in MAC fees given the \$3.1 billion invested into facilities and infrastructure as part of the 2010 expansion plan. However, the ordinance governing the off-airport parking fee structure has been in place since 1993, and off-airport parking fees have remained generally flat for several years. Most of the "airport exclusive" businesses at MSP typically pay fees that are calculated from a percentage of gross revenues perspective and are higher than those of the off-airport parking operators.

The Commission set the commercial vehicle per-trip fee for November 11, 2010 through November 10, 2011 at \$2.55. Staff recommends that the per-trip fee for off-airport parking operators be 1.5 times this cost recovery formula, or \$3.83 for that time period. Beginning November 11, 2011, the off-airport parking operator per-trip fee is recommended to be double the annual cost recovery formulation that will be set by the Commission. This increase will bring the off-airport industry more in line with comparable MSP vendors and tenants.

On a separate matter, another change being recommended in the ordinance is in regard to off-airport car rental companies. Staff recommends that the off-airport car rental percentage of gross receipts paid to the MAC increase from 9.5% to 10%, matching the on-airport car rental fees.

Representatives from the four off-airport parking operators voiced their concerns regarding the Commercial Vehicle fee structure and presented an alternative proposal for consideration.

COMMISSIONER MCCLUNG MOVED AND COMMISSIONER MONACO SECONDED THAT THE MANAGEMENT AND OPERATIONS COMMITTEE:

- 1. ADOPT THE ATTACHED HEARING OFFICERS' REPORT; AND**
- 2. RECOMMEND THAT THE FULL COMMISSION:**
 - A. APPROVE THE ATTACHED FINDINGS, CONCLUSIONS AND ORDER RELATED TO THE ADOPTION OF THE PROPOSED COMMERCIAL VEHICLE ORDINANCE.**
 - B. ADOPT THE PROPOSED ORDINANCE AS ORDINANCE NO. 111; AND**
 - C. THAT THE EXECUTIVE DIRECTOR OR A DESIGNEE BE AUTHORIZED TO EXECUTE THE NECESSARY DOCUMENTS.**

THE MOTION PASSED BY MAJORITY VOTE.

The meeting was adjourned at 3:00 pm.