



CITY OF NEWPORT BEACH

OFFICE OF THE CITY MANAGER

Homer L. Bludau, City Manager

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Dear Fellow Residents,

In this newsletter edition I want to update you on City activities involving John Wayne Airport (JWA), including the newly adopted (July 25th) Newport Beach City Council Airport Policy, and airport protection policies contained in the proposed General Plan update.

The 2006 Council Airport Policy

The new Council Airport Policy replaced a Council policy initially adopted in 1972, which has been amended on 12 separate occasions since adoption. The Policy was last revised in 1999, and had not been changed since El Toro was lost as a commercial airport site. The lengthy and comprehensive new Policy was recommended to the City Council by the Citizens Aviation Committee, a resident-based Committee which advises the City Council on JWA matters. The quotations below are directly from the Airport Policy.

Airport Policy's Primary Objective – The Policy states: “The City Council's primary objective is to protect Newport Beach residents from the adverse impacts of commercial aircraft operations at and from JWA. The City Council believes that airport impacts are now, and will continue to be, the most significant threat to the quality of life of Newport Beach residents. Accordingly, the City should develop, modify as necessary, and aggressively implement strategies and action plans that are designed to achieve the primary objective. The strategies and plans must consider and respect the complex legal, political and economic factors relevant to airport operations and impacts.”

Policy Considerations – “The City's airport policy has, historically, been based on a thorough understanding and consideration of a wide range of factors (outside the community's control) that are relevant to airport operations and impacts. Factors relevant to airport operations and impacts include:

- a. State and Federal laws;
- b. The attitudes, philosophy and regulations of the FAA;
- c. The state of the economy – national and regional;
- d. The economic condition of the air carrier industry;
- e. The regional demand for air transportation;
- f. Regional and sub-regional planning and transportation programs and policies;
- g. The decisions, philosophies and opinions of the Board of Supervisors and, to a lesser extent, other local, State and Federal representatives and officials; and
- h. The opinions and concerns of Orange County residents and business owners.

"The number of relevant factors and the complexity of the issues related to adverse airport impacts mean that no single approach or simple strategy will be successful in achieving the City's primary objective. The City will be able to achieve its primary objective only if its strategies and action plans reflect a thorough understanding and consideration of these factors - especially the legal framework applicable to the airport and aircraft operations - and if its residents understand the inherent limitations on the City's legal authority to regulate aircraft operations or airport service levels."

Legal Framework – "Any City Council airport policy must consider decisional law related to aircraft operations and airport regulations. The failure of the City Council or community groups to accurately inform Newport Beach residents about the legal framework could lead to unreasonable expectations and ill-advised decisions and/or strategies."

The legal framework is as follows: "The U.S. Supreme Court has decided that the owner of an airport – the proprietor (in our case, Orange County) – is the only non-federal entity that can adopt regulations restricting the amount of noise that is generated by aircraft operations. A non-proprietor such as the City of Newport Beach has no authority to adopt ordinances or resolutions that regulate airport noise. In fact, Federal law severely constrains the right of the proprietor to regulate Stage 3 (large, noisy commercial) aircraft operations.... The FAA has exclusive jurisdiction over aircraft after takeoff and extensive authority over airport facilities." The FAA approves standard instrument and noise abatement departure procedures and also approves airport layout plans for each airport. It retains the authority to enforce regulations that promote and/or pertain to airfield and airport safety. Under the federal Constitution's Interstate Commerce Clause, which forbids "unreasonable restraints" on interstate commerce, Federal law preempts any local law purporting to regulate aircraft operations or airfield safety.

Policy Relating to JWA Facilities and Operations – JWA has a single runway with air carrier, air cargo and general aviation facilities sharing approximately 500 acres. "The City Council shall take any action necessary to ensure that no additional air carrier runway is constructed. The City Council shall also take any action necessary to prevent any modification of the existing noise curfew that, generally speaking, prohibits certain departures (not private aircraft) from 10:00 p.m. to 7:00 a.m. (8:00 a.m. on Sunday morning). The City should also support any plan or proposal that maintains, and oppose any plan or project that proposes any significant change to, the existing level of general aviation operations, the current level of general aviation support facilities, or the General Aviation Noise Ordinance." These policy statements support maintaining the current critical physical limitations that are inherent in the operation of a 500 acre major airport with a single runway, restricted hours of operation and sharing space with general aviation. All these factors serve to constrict the availability of use for additional larger, noisy commercial aircraft operations.

The Policy states the City Council recognizes that no feasible sites in Orange County currently exist to locate a second airport. Accordingly, the policy states the City Council will support promoting transportation enhancements to, and capacity expansions for, other existing airports outside of Orange County. The policy recognizes the importance of good communications and working relationships with the other Orange County cities that are adversely affected by JWA departures and arrivals, which were successfully implemented during the City's efforts to obtain the most recent (2002) JWA Settlement Agreement with the County.

Community Involvement – In the policy, the City Council recognizes that any plan or strategy to control JWA impacts requires the support and assistance from community-based groups

concerned about JWA's impacts. Groups like the Airport Working Group (AWG) have volunteered thousands of hours pursuing plans designed to minimize airport impacts, and were instrumental in our past Settlement Agreement successes. The policy states the City will regularly communicate with its residents relative to this policy and JWA related issues. In conclusion, the policy names the City Manager as the City Council's designee responsible for coordinating this policy, monitoring the activities of all regional planning agencies that have authority to adopt plans and programs that affect JWA use, and communicating with the City's residents, community organizations and other affected cities.

To find the complete 11-page Council Airport Policy, visit our City website at www.city.newport-beach.ca.us and select "City Council" (at the top left corner of the page). Then select "Council Policy Manual," and look for Policy A-17, the Newport Beach City Council Airport Policy.

Background of Airport Issues

The Council Airport Policy is just one of many City Council strategies designed to protect you from the impacts of JWA. These long-term efforts began in the mid 1970's. They have been supported by community groups such as the Airport Working Group (AWG), Stop Polluting Our Newport (SPON), Airfair, and the Citizens Aviation Committee. They have made JWA one of the most "community friendly" airports in the nation.

Some background is helpful to understand this very complicated issue. In 1985, the City, County and two community groups - the Airport Working Group (AWG) and Stop Polluting Our Newport (SPON) entered into the JWA Settlement Agreement. The JWA Settlement Agreement required the County – for a period of 20 years - to reduce the size of the proposed terminal, limited the number of "average daily departures" by the noisiest aircraft and capped the number of passengers served each year at JWA.

In 2002, the City, SPON and AWG obtained an extension of the term of the JWA Settlement Agreement in exchange for increases in the "cap" on passengers served, the number of aircraft gates and the maximum number of noise-regulated departures. The 2002 Amendments were accompanied by a letter from the FAA confirming that the amendments were consistent with the Airport Noise and Capacity Act (ANCA). The FAA letter confirming the validity of the 2002 Amendments was extremely important because it established a precedent that allows future extensions of the JWA Settlement Agreement. The 2002 Amendments are critical to preserving the flight restrictions that protect residents, because without the Settlement Agreement, those restrictions would require, and very likely not receive, FAA review and approval because of changes in Federal Law approved in 1990.

General Plan Update Part III – Policies to Minimize JWA Impacts

The General Plan Update recognizes that JWA has an unavoidable impact on our residents and that controlling those impacts will always be one of the important issues facing the City. The General Plan Update "Vision Statement" describes a community united in its efforts to control and limit airport noise, air and traffic pollution. The General Plan Update directs the City Council and City Manager to realize that vision by implementing a long-term strategy to control JWA impacts that includes the following:

- **Take any action necessary to oppose any attempt to modify the existing noise restrictions, including the existing curfew and the General Aviation Noise**

Ordinance. (Noise Element Policy 3.4) *Intended result: JWA has a curfew that prevents commercial aircraft from departing before 7:00 a.m. on Monday through Saturday and 8:00 a.m. on Sunday. The County's General Aviation Noise Ordinance applies similar rules to noisier private aircraft. These restrictions are extremely important to Newport Beach residents and the General Plan requires the City Council and City Manager to take "any action" necessary to prevent any change.*

- **Take any action necessary to oppose any attempt to construct a second air carrier runway including the acquisition of land necessary to provide required separation of the existing air carrier runway and any proposed facility. (Noise Element Policy 3.5)** *Intended result: This policy authorizes the City to take "any action" necessary to prevent the construction of an additional runway at JWA. Currently, JWA has a single runway used by large commercial aircraft. This runway is used for both arrivals and departures – reducing the number of possible departures. The development of a second runway would dramatically increase the capacity of JWA and the noise experienced by Newport Beach residents.*
- **Take all steps necessary to preserve and protect the validity of the John Wayne Airport Amended Settlement Agreement. (Noise Element Policy 3.9)** *Intended result: This policy is intended to protect the Settlement Agreement and to ensure that the City Council actively pursues amendments that extend the term of the Settlement Agreement. This policy and others clarify that Settlement Agreement amendments must not allow any modification to the curfew, lead to construction of a second air carrier runway or materially alter residents' quality of life.*
- **Support means of satisfying some of Orange County's air transportation demand at airports other than John Wayne Airport or through alternative means of transportation. (Noise Element Policy 3.8)** *Intended result: JWA serves only a portion of Orange County's air transportation demand. To relieve the pressure to expand JWA, the City must help find ways to satisfy more of that demand at airports outside of the County, and to support development of alternative means of transportation whenever feasible.*

As you can see, the control of JWA impacts is an extremely complex problem that is further complicated by the fact the City does not own the airport. As I mentioned in my last letter, I believe we are close to bringing a draft agreement with the County (the Spheres Agreement) before the City Council for consideration and public discussion. ("Spheres" refers to governance matters which occur within or just outside the City borders which although not directly controlled by the City, can significantly affect the City.) The Spheres Agreement would give the City a say over any plan to construct a second commercial jet runway at JWA or extend the existing runway to the south. I will be sending you an update on the status of the Spheres Agreement in my next newsletter. Until then....

City Centennial regards,



Homer L. Bludau
City Manager

hbludau@city.newport-beach.ca.us