

**MINUTES  
OF THE SPECIAL MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
JUNE 25, 2013  
7:00 P.M.**

***I. CALL TO ORDER***

Mayor Hovland called the special meeting to order at 7:04 p.m.

***II. ROLL CALL***

Answering rollcall were Members Bennett, Sprague, Swenson and Mayor Hovland. Absent and excused was Member Brindle.

***III. MEETING AGENDA APPROVED***

Commissioner Bennett requested the addition of Item VI., Resolution of Support for Appointment of Timothy O'Brien to MAC. **Member Swenson made a motion, seconded by Member Bennett, approving the meeting agenda as revised.**

Ayes: Bennett, Sprague, Swenson, Hovland

Absent: Brindle

Motion carried.

***IV. AVIATION ATTORNEY PRESENTATION – PETER KIRSCH – KAPLAN, KIRSCH AND ROCKWELL***

Manager Neal presented background information on the concerns of the City and its residents in relation to aviation noise. He noted that in November of 2012, the City had an interaction with the Metropolitan Airport Commission (MAC) about this issue. MAC agreed to sideline a proposal that could have resulted in additional noise in Edina. Mr. Neal stated that MAC's decision had provided the City an opportunity to become more informed on the issue and become prepared when the issue surfaced again. He noted that aviation attorney Peter Kirsch of Kaplan, Kirsch and Rockwell had been retained to address this issue with the City. Continuing, Mr. Neal stated Mr. Kirsch had previous experience in the Twin Cities, with MAC, adding Mr. Kirsch would provide a briefing on the issue with an opportunity for questions from the Council.

Mr. Peter Kirsch, made a presentation entitled "Understanding Proposed Changes to Flight Tracks." The presentation covered the topics of the FAA's Next Gen Program, which was the plan to modernize the National Aerospace System and was to have been fully implemented by 1990. Next Gen was now on schedule to be implemented by 2025. Mr. Kirsch explained the basic principal that Next Gen was based upon GPS. Currently aircraft require radar contact with the ground system at certain points during their flights, aircraft utilizing Next Gen will be given a particular geographic coordinate and the avionics in the aircraft will keep the aircraft on track. Mr. Kirsch explained that results of Next Gen would be new routes for aircraft to fly, new procedures, and new equipment on the ground, airports, and aircraft. Advantages of Next Gen technology were more precise flight tracks, improvements to the efficiency of the aviation's system, increased airspace capacity, and lower costs to airlines. He stated that implementation of Next Gen was the FAA's highest priority.

Mr. Kirsch presented a map and answered questions of the Council relating to the Next Gen Flight Tracks Implementation.

Member Bennett inquired about implementation of Next Gen at airports similar to Minneapolis that were surrounded by residential neighborhoods. Mr. Kirsch replied that every airport was different and noted Minneapolis tended to have more residential development close in to the airport and within a couple miles away from the airport. He said Atlanta had a similar type of population density to Minneapolis, with

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industrial zoning closest to the airport and residential neighborhoods beginning about one mile from the airport. Mr. Kirsch stressed that each airport was different. He noted one advantage for the Minneapolis airport was the river to the south.

Member Bennett inquired about airport locations that were similar to Minneapolis where Next Gen had been fully implemented. Mr. Kirsch replied that no airports have been fully implemented with Next Gen, but that Atlanta could be compared.

Member Bennett inquired what mitigations, if any, had been provided for the Atlanta neighborhoods that begins a mile out from the airport. Mr. Kirsch replied that the FAA had done very little mitigation due to the way the FAA measured noise. The FAA measures noise very precisely and rigidly. Given the methodology and threshold that was used, the FAA's position was that almost no airport would have any noise impact from Next Gen technology.

Mayor Hovland asked if there were any airport locations in the U.S. where there had been a partial implementation of Next Gen and where local airport authorities had convinced the FAA to modify procedures normally followed in terms of track patterns based on population density. Mr. Kirsch replied yes, prior to Next Gen. However, with respect to Next Gen, the extent that airports have influence over the FAA was not known.

Mayor Hovland asked if there were any airport locations where the FAA had indicated they would abide by the decision of the local airport authority. He stated it had been inferred that the FAA would adopt what MAC recommends in terms of RNAV and Next Gen. Mr. Kirsch replied that the FAA respected the individual airport commissions, but still would guard the FAA's decision-making rights.

Member Sprague asked what percentage of airports had been converted to Next Gen. Mr. Kirsch replied that none had been completely converted. Implementation was about half way completed at the top 35 airports in the country. Implementation priority was being given to the busiest routes.

Mr. Kirsch provided an overview of the following three benefits and costs of Next Gen in terms of implementation: 1) Change in flight paths; 2) Change in concentration in flight paths; and, 3) Change in aircraft altitudes.

Member Bennett asked about the likely width of the new flight paths. Mr. Kirsch replied they do not know what the width would be at the Minneapolis airport. But, there was now enough data available that they should be able to collect data on the width of paths with Next Gen technology. Denver and Atlanta both have good flight track recording systems and were likely to have very good data. Dallas Fort Worth Airport also had good data and data could be collected from the individual airports.

Mayor Hovland asked if there were any airports in the U.S. where the FAA had agreed to the Close-in Departure Technique, which was used in some European locations. He also asked what the effect was on noise with this type of technique. Mr. Kirsch replied that this technique was used in Orange County, CA and was very successful. He noted the Orange County geography was such that the area right around the airport was not noise sensitive and explained that the very steep ascent of a close-in departure would create quite a bit of noise, so while concentrating the noise close to the airport was a good idea in Orange County, it may not work in Minnesota.

Mr. Kirsch reviewed flight track problems at Minneapolis. He advised that at MAC's request, the FAA had delayed the implementation of Next Gen procedures that would affect Edina.

Member Bennett stated in regard to statements that Next Gen had not been fully implemented anywhere, residents of Edina have been told that there were locations where it had been fully implemented. Mr. Kirsch stated he was not aware of any locations where Next Gen had been fully implemented.

Mr. Kirsch stated in an effort to expedite the implementation of Next Gen, Congress had allowed the FAA to avoid any environmental review under federal law. The trend was towards minimal environmental review. He discussed noise impacts associated with Next Gen implementation and provided an overview of the FAA measuring threshold of 65 decibels Day Night Noise Level (DNL). He advised that the FAA would state there would be no noise impact in Edina, as it was not located within the 65 decibels DNL noise level contour.

Member Bennett questioned the origin of the 65 decibels DNL standard asking if there had been any pressure to change it to something that measured more realistically. Mr. Kirsch replied the origin of the standard in 1979 had been for the purpose of planning land use around airports. The FAA had applied the standard to environmental review, noise mitigation, and essentially to everything the FAA measured. This had been subject to enormous criticism for at least 20 years. That criticism had gone almost on deaf ears in that the FAA now allowed airports to look at noise using other metrics and other thresholds "for information purposes only." He noted that MAC had been one of the most aggressive airports in the country stating the need to use a different metric and another threshold other than 65 decibels DNL.

Mr. Kirsch reviewed the players in the Next Gen implementation and their roles: the FAA, Delta Airlines, and MAC. The FAA must review safety, efficiency, time, fuel, and air space capacity, and on the other side community impact noting that according to the FAA, there were no community impacts because based on the FAA's measuring, there was no noise. MAC must look at all of the various parties, including Delta Airlines, the Air Traffic Control Tower, cities around MAC, MAC staff's views, the FAA, and NOC. Based on their review of all stakeholders MAC had said they were not yet able to recommend Next Gen technologies. Mr. Kirsch noted this was very important for Edina.

Mr. Kirsch stated ultimately, the question for Edina was which path it should pursue. In finding a solution that works for Edina, they need to get more data: technical, legal, political, and regulatory. Before deciding which path was best, the following next steps should be taken: 1) determine probable impacts; 2) consult with MAC, NOC, etc.; 3) develop a comprehensive, confidential strategy; 4) develop a proposal for a solution; 5) present proposal to FAA; 6) collaborate with FAA, carriers; 7) participate in environmental review; and, 8) pursue "other options" as necessary.

Member Sprague questioned what had proven effective for past players in terms of grass-root versus a technical campaign. Mr. Kirsch replied that this was very much a function of two relationships. He said one being the airport and community, noting that a grass-root movement was far from useless in this community. Second was the relationship with the airport and the FAA. MAC had been willing to tell the FAA in this instance that the views of the community were very important. The letter from November of 2012 from MAC to the FAA sets forth standards that MAC expects the FAA to follow going forward, which was very community centered.

Mayor Hovland stated he was encouraged by two things. First, on relatively short notice with an active campaign from the citizens and the Edina City Council, MAC was the City's ally by only undertaking a partial implementation of Next Gen on Runway 7. He added his belief that implementation at Minneapolis International (MSP) would be based on 2/3 science and 1/3 art. If MSP's implementation would be a model for the rest of the country, there may be an opportunity to develop a system dealing with the needs of people and not only safety and efficiency.

Member Bennett stated the community made itself clearly heard, and there was a fairly broad coalition with Minneapolis neighborhoods. The coalition had brought forward other concerns as well relating to

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what was currently occurring with people perceiving more flights flying lower. They know that load factors were up; according to records there were fewer airplanes with larger numbers of people flying on them. She asked what can be done about the current conditions. Mr. Kirsch stated his experience had been that when a community says something had changed it was because something had changed. The FAA was very resistant to that principle. They should be able to determine what had changed by analyzing the data. Member Bennett stated until that was known, they may not know what path to follow and getting the data would help them understand whether the perceived change today was due to a change in operations.

Member Bennett provided information on the MSP Fair Skies Coalition and requests that have been submitted to MAC for raw data. The data was expected to be available in July. One thing that had been identified was that a probable cause of the increase in noise was the underuse of a runway due to a timing issue of flight paths crossing. She inquired about the track record of communities asking for changes in current operations when those operations were producing changes that were oppressive. Mr. Kirsch replied that the record was pretty good, but not spectacular. The results were based on whether there was data to support what the community was asking for and if the solution was practical.

Mayor Hovland questioned if changing current conditions were always looked at on a scientific basis or whether there was some benefit given to anecdotal information, such as noise complaints registered with MAC. Mr. Kirsch replied that noise complaints were very scientific. It was not the number of complaints from each person; it was where they were coming from.

Member Swenson pointed out to residents that noise complaints can be registered on the MAC website, but calling in complaints allows individuals to provide more specific information. Member Bennett directed citizens to information, a link for electronic reporting, and telephone numbers at [www.macnoise.com](http://www.macnoise.com).

Mayor Hovland requested input from staff on the process to determine next steps. Mr. Neal advised that the custom of the Council on issues like this had been to take the time to learn about it and receive expert testimony, which had been done tonight. A decision and direction can be discussed at the July 16, 2013, City Council meeting. This topic was on that meeting agenda.

Mayor Hovland requested discussion from Mr. Kirsch regarding the invitation from MAC to discuss Next Gen and RNAV. Mr. Kirsch advised he would recommend the Council accept the invitation from MAC, but there was homework to be done first. The City needs to determine what it does not know and what needs to be learned. MAC may have a lot of that information or the City may need to get that information on its own. The City should be in a position to convey to MAC that it would be making a fact-based decision as to what the City Council position would be and they need good facts that the public would trust. His experience with MAC was that they would be responsive to that. At the same time, it seems that behind the scenes the City needs to think about what if these conversations with MAC were not successful. They need to have Plan B, C and D ready or in process as they were in conversations with MAC.

Member Sprague noted time was of the essence and the faster the data was collected the better it would be overall. Mr. Kirsch concurred.

Member Bennett stated a Noise Oversight Committee meeting was scheduled for July 17<sup>th</sup> at 1:30 p.m. at the MAC office. The meeting would be open to the public and there would be a release of data to the requesting entities before that meeting was held.

Mr. Kirsch advised that the City should communicate to MAC that they do not intend to negotiate in public. The public needs to be informed, but there were a lot of parties here and they would not appreciate having to negotiate with the City under the glare of TV lights, as to have meaningful conversations requires confidentiality.

Member Sprague and Member Swenson verified that Mr. Kirsch's recommendation was for a two-track approach, including working with the coalition while following the strategy outlined above which included confidential discussions, and that the process might involve litigation, political, and grass-roots efforts.

Mayor Hovland inquired about the position of Delta Airlines relative to RNAV. Mr. Kirsch replied that Delta Airlines was a very complex entity and understanding its need and position was very difficult. However, he believed that as a firm, Delta was aggressively protective of its interests.

Mayor Hovland thanked Mr. Kirsch for his time and the information provided.

**V. REQUEST FOR PURCHASE – 2013-2014 CITY INSURANCE CONTRACTS – APPROVED**

Manager Neal informed the Council that the City solicited a bid from the LMCIT for property/casualty and workers compensation insurance after receiving a significant increase in proposed premiums from Travelers. Staff recommended that the City remain-with Travelers for the upcoming year due to the higher premium and deductibles in the LMCIT proposal stating it was difficult to compare the two quotes since the LMCIT was an insurance trust. He noted that LMCIT offers potential benefits that were difficult to quantify, and staff strongly recommended reviewing the proposals again.

Mr. Neal and Assistant Manager Kurt answered questions of the City Council relating to the potential benefits of a relationship with LMCIT. **Member Swenson made a motion, seconded by Member Sprague, approving the Request for Purchase, 2013-2014 City Insurance Contracts, awarding the bid to the recommended low bidder, Travelers Insurance, at \$977,102.00.**

Ayes: Bennett, Sprague, Swenson, Hovland

Absent: Brindle

Motion carried.

**VI. RESOLUTION OF SUPPORT FOR APPOINTMENT OF TIMOTHY O'BRIEN TO MAC - ADOPTED**

Member Bennett stated her support for a recommendation of Timothy O'Brien to serve on the current vacant seat on MAC for District C. She discussed the geographic region to be represented by the position and the credentials of Mr. O'Brien. **Member Bennett introduced and moved adoption of Resolution No. 2013-54 endorsing Timothy O'Brien's candidacy for appointment to MAC for District C.** Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Sprague, Swenson, Hovland

Absent: Brindle

Motion carried.

**VII. ADJOURNMENT**

There being no further business on the Council Agenda, Mayor Hovland declared the special meeting adjourned at 8:44 p.m.

Respectfully submitted,

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Debra A. Mangen, City Clerk

Minutes approved by Edina City Council, July 16, 2013

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James B. Hovland, Mayor

Video Copy of the June 25, 2013, special meeting available.