

CITY COUNCIL REPORT



Meeting Date: February 18, 2020
 General Plan Element: *Provide for the orderly administration of the affairs of the City*
 General Plan Goal: *Fiscal management*

ACTION

Adopt Resolution No. 11728 Authorizing the City to file a petition for review of FAA action related to Flight Routes from Sky Harbor International Airport or seek other available legal remedies.

Background.

In September 2014 the FAA changed longstanding flight routes in and out of Sky Harbor Airport. In doing so, the FAA "used computer software to model the noise impact of the proposed route changes," and determined that the projected noise levels would not have a significant environmental impact.

The public reaction to the new flight routes was extremely negative. Ultimately, the City of Phoenix and one of its historic neighborhood associations mounted a legal challenge in the Federal Circuit Court for the District of Columbia. The basis for the Phoenix legal challenge was that the FAA did not follow required procedures for environmental and other review.

This litigation was in the D.C. Circuit for multiple years. Ultimately, the D.C. Circuit decided in favor of the City of Phoenix and its fellow petitioners and issued a decision vacating the FAA's 2014 order implementing new flight departure routes from Phoenix Sky Harbor Airport. The D.C. Circuit determined that (1) the FAA did not properly consult with the City; (2) the FAA did not properly notify citizens of the changing flight routes before they went into effect; and (3) the FAA failed to follow its own regulations. During the litigation, the Phoenix parties and the FAA agreed that the FAA would conduct a two-step process. In the first step, the FAA revised the West departure routes consistent with its agreement with the Phoenix. The second step was for the FAA to complete the required environmental review and hold a series of workshops to discuss the new routes. The agreement stipulated that both East and West departure routes would be discussed as part of Step Two.

The FAA held a series of workshops and opened its docket for public comment. In addition, the FAA also published alternative “concepts” of East departure routes for discussion. In response to this Council’s direction, the City also submitted comments as well as a detailed analysis prepared by a consulting firm (JDA) which proposed a modification to the first alternative concept discussed by the FAA which would have restored more of the East departure traffic more toward unpopulated areas such as the Salt River. However, the FAA issued its decision on January 10, 2020 declining to make any changes to the new East departure routes adopted in 2014. The FAA’s actions are subject to further review in a federal circuit court.

ANALYSIS & ASSESSMENT

Recent Staff Action

Staff from the City Attorney’s Office and the City Manager’s office have been working together on this matter for several months to participate in the FAA proceedings and continuously monitor the situation.

Policy Implications

The new East flow flight routes adopted by the FAA have significantly impacted a substantial number of citizens. Some citizens even formed an advocacy group to participate in the FAA proceedings. Scottsdale is shouldering an unfair burden of the new flight routes. Left unchallenged, the new FAA flight routes are likely to continue to unfairly impact Scottsdale and its citizens.

Significant Issues to be Addressed

Whether to pursue further legal remedies regarding the FAA’s implementation of new flight routes.

Community Involvement

Community involvement in this issue has been ongoing. City staff have received numerous communications from citizens regarding the issue and a substantial number of citizens also submitted comments in the FAA proceedings.

RESOURCE IMPACTS

Staffing, Workload Impact

The City Attorney's Office and the City Manager's Office have already devoted a substantial number of hours to this issue. Further legal pursuit will likely require substantial time from both offices as well as retention of outside counsel and consultants to assist in the matter.

Cost Recovery Options

None.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Adopt Resolution No. 11728 authorizing the City to file a petition for review of FAA action and pursue any other available legal remedies.

RESPONSIBLE DEPARTMENT(S)

City Attorney's Office - Civil Division
City Manager's Office
Intergovernmental Relations
Aviation Department

STAFF CONTACTS (S)

Sherry R. Scott, City Attorney, sscott@scottsdaleaz.gov

APPROVED BY



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Feb 10, 2020
Date

ATTACHMENTS

1. Resolution No. 11728

RESOLUTION NO. 11728

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY ATTORNEY AND CITY MANAGER TO FILE A PETITION FOR REVIEW OF FEDERAL AVIATION ADMINISTRATION ACTION AND SEEK FURTHER LEGAL REDRESS AS APPROPRIATE

WHEREAS, the Federal Aviation Administration ("FAA") has adopted new flight departure routes from Sky Harbor International Airport which substantially impact the City of Scottsdale and its citizens; and

WHEREAS, the City has determined that the adoption of the new East flow flight routes from Sky Harbor International Airport are not in the best interest of the City; and

WHEREAS, on or about January 10, 2020, the FAA adopted its order further implementing the new East flow flight routes;

WHEREAS, it is in the best interest of the City to seek legal review of the FAA action.

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. The City Attorney and the City Manager, or designees, are hereby authorized to take such acts as necessary for the City to file a petition for review of the FAA action or actions implementing new flight routes or seek such other avenues of legal redress that may be available to the City related to East flow departure or arrival routes from Sky Harbor International Airport.

Section 2. The City Attorney and the City Manager, or designees, are further authorized to take such further actions as may be necessary to carry out the purposes of this resolution.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 18th day of February, 2020.

ATTEST:

CITY OF SCOTTSDALE, an Arizona
municipal corporation

By: _____
Carolyn Jagger
City Clerk

By: _____
W. J. "Jim" Lane
Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: Sherry R. Scott
Sherry R. Scott, City Attorney
By: Eric C. Anderson, Senior Assistant City Attorney

Smith, Erica

From: Webmaster
Sent: Tuesday, February 18, 2020 7:39 AM
To: Smith, Erica
Subject: Comment on 02-18-2020 Agenda Item (response #26)

Comment on 02-18-2020 Agenda Item (response #26)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Comment on 02-18-2020 Agenda Item
URL:	https://www.scottsdaleaz.gov/council/meeting-information/agenda-comments/02-18-2020
Submission Time/Date:	2/18/2020 7:38:27 AM

Survey Response

AGENDA ITEM	
Which agenda item are you commenting on?	20a Legal action against the FAA
COMMENT	
Comment:	I fully support the City in regards to taking legal action against the FAA and City of Phoenix if need be. The NEXGEN flight paths have ruined the the peacefulness of the City of Scottsdale. The noise from departing jets is non-stop everyday and can be heard inside my home. It not only disturbs the quietness outside the home but damages our well being inside the home by disrupting our sleep. I have recorded over 2300 departing flights that have noise levels high enough to be heard inside the bedroom during the hours of 10PM to 7AM between 9/18/2019 and 2/18/2020. Thank you for discussing this at the Council Meeting and I hope there will be some action taken from this.
Comments are limited to 8,000 characters and may be cut and pasted from another source.	
NAME	
Name:	James Robert Reeves

CONTACT INFORMATION

Please provide the following information so someone may follow up with you if they have questions about your comment (optional).

Email:	jreeves944@cox.net
Phone:	(480) 241-3585
Address:	11184 N 119th Pl
Example: 3939 N. Drinkwater Blvd, Scottsdale 85251	