



Legislation Text

File #: 09-0851, **Version:** 2

Resolution to Approve Agreement with Charter Township of Pittsfield Supplementing 1979 Policy Statement Relative to Airport Layout Plans, Aeronautical Facilities and Non-Aeronautical Facilities at the Ann Arbor Airport

This resolution will approve an agreement between the City of Ann Arbor and Pittsfield Charter Township to supplement the Policy Statement entered into between the City and the Township in 1979. This supplemental agreement will govern which entity has authority to apply and enforce its construction, fire prevention and soil erosion and sedimentation control ordinances relative to aeronautical and non-aeronautical facilities at the Ann Arbor Airport, in addition to clarifying other aspects of the relationship between the City and the Township and their respective authority at the Airport. This agreement also resolves the lawsuit brought by the City against the Township in late 2008 for a determination of the City's authority to apply and enforce its construction code to aeronautical facilities at the Airport. The City has undertaken the design of an additional box hangar building as well as a snow removal equipment building. Difficulties developed relative to the procedure for the Township's review of the site plans. Although those eventually were resolved, the Township then refused to allow the City to apply its construction code to the new buildings, both of which are aeronautical facilities, and the Township issued stop work orders because building permits had not been obtained from the Township. The City filed the lawsuit in an effort to get the stop work order lifted.

The City took the position that the provisions in the Michigan Aeronautics Code, MCL 259.1 et seq., give it fairly broad authority over aeronautical facilities at the Airport, including the zoning and planning of aeronautical facilities and application of the City's regulations and ordinances, including but not limited to the City's construction code. By the 1979 Policy Statement, the City and Township already agreed that aeronautical facilities at the Airport are not subject to the Township's zoning and site plan requirements, although the City agreed to submit plans to the Township for review and comment.

The Township did not agree that the Michigan Aeronautics Code gave the City authority to extend and enforce its construction code to aeronautical facilities at the Airport. However, both the City and Township agree that applicable sections of the Urban Cooperation Act and the Stille-DeRossett-Hale Single State Construction Code Act, allow the City and the Township to agree that the City shall extend and enforce its construction code to all aeronautical facilities constructed on Airport property, including issuing permits, inspections and enforcement of violations.

The primary provisions of the supplemental agreement are:

- ◆ The City will extend and enforce its construction code, including the building code, electrical code and mechanical code components thereof, to all aeronautical facilities constructed on Airport property, including the issuance of permits, inspections and enforcement of violations;
- ◆ The process for the Township to review and comment on site plans is clarified, including the

City's responsibility to pay for actual costs, rather than the fees charged for the normal site plan review and approval process;

- ◆ A modification of the Airport Layout Plan will be treated as a land use plan under the Policy Statement and the supplemental agreement. If a modification of the Airport Layout Plan is proposed, the City will give notice to the Township of the Airport's intent to modify the Airport Layout Plan prior to Ann Arbor City Council authorizing a Professional Services Agreement for such modification, at least thirty (30) days prior to submitting the proposed modification to the Michigan Aeronautics Commission or the Federal Aviation Administration, and at least thirty (30) days before the Ann Arbor City Council meeting at which a proposed modification is submitted for approval;
- ◆ The Township will have jurisdiction over the Airport for soil erosion and sedimentation control until the City or the Airport qualifies as an authorized public agency for the Airport the soil erosion and sedimentation control provisions of the state Natural Resources and Environmental Protection Act;
- ◆ The City will extend and enforce its fire prevention code to all aeronautical facilities located on Airport property;

The supplemental agreement will be for a term of 5 years beginning on October 1, 2009, and will automatically renew for successive 5 year periods unless either party provides the other with written notice of non-renewal at least 60 days before the end of a term.

Approval of the Agreement with Charter Township of Pittsfield Supplementing 1979 Policy Statement Relative to Airport Layout Plans, Aeronautical Facilities and Non-Aeronautical Facilities at the Ann Arbor Airport is recommended.

Prepared by: Abigail Elias, Chief Assistant City Attorney

Reviewed by: Sue F. McCormick, Public Services Area Administrator

Approved by: Roger W. Fraser, City Administrator

Whereas, In 1979 the City of Ann Arbor and Pittsfield Charter Township entered into an agreement entitled "Policy Statement" that governs various matters, including authority for various matters at the Ann Arbor Airport;

Whereas, Certain disputes have arisen between the City and the Township relative to the interpretation of the 1979 Policy Statement, the construction of aeronautical facilities at the Airport and modifications of the Airport Layout Plan;

Whereas, The City filed a lawsuit against the Township to get a determination by the court of the City's authority over aeronautical facilities under the Michigan Aeronautics Code; and

Whereas, The City and the Township have determined that it is in their best interests to resolve their disputes without further litigation and to enter into a supplemental agreement to resolve those disputes and to clarify certain provisions of the 1979 Policy Statement;

RESOLVED, That City Council approve the Agreement with Charter Township of Pittsfield Supplementing 1979 Policy Statement Relative to Airport Layout Plans, Aeronautical Facilities and

Non-Aeronautical Facilities at the Ann Arbor Airport negotiated between the City of Ann Arbor and the Charter Township of Pittsfield;

RESOLVED, That the City Council authorize and direct the Mayor and City Clerk to execute the Agreement with Charter Township of Pittsfield Supplementing 1979 Policy Statement Relative to Airport Layout Plans, Aeronautical Facilities and Non-Aeronautical Facilities at the Ann Arbor Airport, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney;

RESOLVED, That upon approval and execution of the Agreement with Charter Township of Pittsfield Supplementing 1979 Policy Statement Relative to Airport Layout Plans, Aeronautical Facilities and Non-Aeronautical Facilities at the Ann Arbor Airport by the Charter Township of Pittsfield, the City Attorney be authorized to dismiss without prejudice the lawsuit entitled The City of Ann Arbor v. The Charter Township of Pittsfield, Case No. 08-1104-CZ; and

RESOLVED, That the City Administrator and City Attorney be authorized to take the necessary administrative steps to implement this Resolution.

Sponsored by: Councilmember Greden