
MEMORANDUM

DATE: May 15, 2007
TO: City Council Members
FROM: Russell Weeks
RE: Resolutions Initiating Eminent Domain Proceedings near the Tooele Valley Airport
CC: Cindy Gust-Jenson, Lyn Creswell, Maureen Riley, Sam Guevara, Louis Zunguze, Ed Rutan, Alison McFarlane, Gary Mumford, Jodi Howick

This memorandum is intended to address issues involving the consideration of three resolutions that would initiate eminent domain proceedings against properties near the Tooele Valley Airport (also called Bolinder Field). According to the Administration, acquiring the properties would help the installation of an instrument landing system at the Tooele airport.

The City Council held a public hearing March 6 on the three resolutions before the Council and three others. At the March 6 meeting the City Council adopted one of six resolutions considered that night. Since the meeting, negotiations have continued with owners of the other properties. However, the Administration contends that it is necessary that the City Council adopt the three proposed resolutions to give the Department of Airports the option of filing eminent domain actions in court during the first two weeks of June. Meeting the June deadline would allow the construction and planned start up date of the instrument landing system to remain on schedule, according to the Administration.

OPTIONS

Given the Administration's position, it appears that the City Council has two options:

- Adopt the proposed resolutions.
- Do not adopt the resolutions.

POTENTIAL MOTIONS

CONSIDERATION OF RESOLUTIONS

The City Council has three resolutions to consider in this matter:

1. I move that the City Council adopt a resolution initiating eminent domain proceedings against real estate in Tooele County owned by Walters Ranch, LLC, and identified as parcel numbers 15-049-0-0205 at 1869 W. Erda Way in Erda, Utah, and 15-049-0-0206 at 1929 W. Erda Way, Erda, Utah, for the public uses and purposes described in the resolution.

2. I move that the City Council adopt a resolution initiating eminent domain proceedings against real estate in Tooele County owned by Ethel P. and Brian E. Walters and identified as parcel number 05-035-0-0002 located at Section 19, T2S, R4W in Tooele County, for the public uses and purposes described in the resolution.
 3. I move that the City Council adopt a resolution initiating eminent domain proceedings against real estate in Tooele County owned by Dick D. Kunz and Kick Darwin Kunz and identified as parcel numbers 14-11-0-0001 at 3808 N. 2125 W., Erda, Utah; 14-11-0-0002 at 3854 N. 2125 W., Erda, Utah; 14-11-0-0003 at 3908 N. 2125 W., Erda, Utah; and 14-11-0-0004 at 3966 N. 2125 W., Erda, Utah, for the public uses and purposes described in the resolution.
- The Council also has the following option: I move that the City Council consider the next item on the agenda.

KEY POINTS

- The City Council originally considered the three proposed resolutions plus three other resolutions at its March 6 meeting. At that time, the Council adopted one of the six resolutions and deferred action on the remaining five resolutions to see if the Department of Airports could acquire the properties described in the resolutions by another means.
- The Department of Airport continues to pursue voluntary acquisitions of the properties described in the three proposed resolutions. However, the Administration would like the City Council to adopt the resolutions to give the Department of Airports time to file eminent domain actions in court in the first two weeks in June if negotiations fail.
- According to the Administration's transmittal letter, acquiring the parcels, or air rights above them in some cases, would help the Department of Airports install an instrument landing system at the Tooele Valley Airport.
- Installing an instrument landing system would allow general aviation aircraft, including aircraft from a flight school, to use the Tooele Valley Airport – and its airspace – instead of Salt Lake City International Airport. That in turn would increase safety at both airports, and allow for increased capacity for additional commercial traffic at Salt Lake City International.
- The Federal Aviation Administration has obtained federal funding to install an instrument landing system at the Tooele Valley Airport after seeking funding for several years. Funding for the instrument landing system must be spent by October 1, 2007, according to the transmittal letter.
- The FAA requires that Salt Lake City acquire, through negotiations or eminent domain, enough land to install the instrument landing system and meet the agency's regulations governing runway protection zones and height restrictions for missed airplane approaches and transitional zones around runways.
- Airport administrators believe that acquiring the 102 acres described in the resolutions will be enough for the Tooele Valley Airport to develop into the future.

BACKGROUND/DISCUSSION

As noted in the Key Points section, the Federal Aviation Administration has obtained federal funding to install and instrument landing system at the Tooele Valley Airport. However, the funds must be used by October 1, 2007, which also is the start of the federal government's next fiscal year.

According to the Administration transmittal, it is the FAA's policy to designate "runway protection zones" at each end of runways. "Due to constraints of construction requirements, height restrictions, and the potential for hazards to people and property on the ground, the Airport needs to acquire fee title to affected areas," according to the transmittal. Because of FAA height requirements to protect pilots, passengers and the public if an airplane misses on its approach to runways, the Department of Airports "needs at least an avigation easement" over some areas to prevent the building of "obstructions in the airspace below 35 feet." Tooele County zoning allows construction of up to 35 feet in those same areas.

As noted in the Key Points section, installing the instrument landing system would increase safety at both airports by allowing general aviation aircraft to use the Tooele Valley Airport's airspace. That airspace is outside the Salt Lake City International Airport's airspace which means there could be less conflict between smaller general aviation aircraft and the larger commercial aircraft.

The Administration also contends that increasing the attractiveness of the Tooele Valley Airport to smaller general aviation aircraft will be an economic benefit to Tooele County. Before the City Council's public hearing March 6, the Tooele County Commission delivered a letter supporting the Department of Airports' plans for the Tooele Valley Airport.

However, after the March 6 public hearing, the City Council adopted a motion to approve one of six eminent domain resolutions to see if the Department of Airports could reach agreement with property owners through further negotiation. Negotiations with property owners are continuing. However, the Department of Airports would like the City Council to adopt three more eminent domain resolutions to give the City the option to file eminent domain actions in court by mid-June if negotiations fail. Filing eminent domain actions in court by mid-June would allow the project to install the instrument landing system by the FAA deadline for the project.

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

A RESOLUTION INITIATING EMINENT DOMAIN PROCEEDINGS

WHEREAS, the Salt Lake City Department of Airports owns and operates an airport in Tooele County that acts as a reliever to the Salt Lake City International Airport (SLCIA); and

WHEREAS, SLCIA handled over 455,000 aircraft operations during 2005, making it the eighteenth busiest airport in the world, and conservative forecasts project that in the next 20 years operations at SLCIA will increase to over 634,000; and

WHEREAS, significant numbers of operations at SLCIA are attributable to flight school operations and other general aviation operations, and those operations are expected to increase over time; and

WHEREAS, safety is enhanced when flight school operations and other general aviation operations can be separated from large commercial aircraft, particularly at airport facilities that are congested; and

WHEREAS, flight school operations and other general aviation operations benefit from facilities that are devoted to their needs due to the benefits of greatly reduced congestion, including enhanced safety, reduced wait times when using the airfield, and reduced fuel expenses associated with wait times; and

WHEREAS, the Tooele Valley Airport has the ability to support many more flight operations than it does today; and

WHEREAS, operations at the Tooele Valley Airport do not interfere with the flight path or other operating needs of SLCIA, making it an optimal location to expand general aviation operations and facilities; and

WHEREAS, the Federal Aviation Administration (FAA) has expressed support for developing facilities at the Tooele Valley Airport to assist in reducing congestion and further enhancing safety at SLCIA; and

WHEREAS, the FAA has for many years sought funding to install an instrument landing system (ILS) at the Tooele Valley Airport to promote greater use of that airport by flight schools and other general aviation aircraft; and

WHEREAS, the FAA was successful in obtaining funding to install an ILS at the Tooele Valley Airport during the present federal fiscal year, and must spend those funds prior to September 30, 2007; and

WHEREAS, some property interests surrounding the Tooele Valley Airport will be impacted by the installation and operation of an ILS, which includes real property located at both ends of the runway needed for expanded Runway Protection Zones and airspace over certain property affected by federal regulations for missed approaches and for runway transitional surfaces, and other properties and property interests; and

WHEREAS, these property impacts are necessary to comply with federal requirements for navigation and security, to control and protect the airspace close to the airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities, to protect persons and property on the ground within Runway Protection Zones at the ends of the runway, and to provide for proper operations at the airport; and

WHEREAS, the benefits of an ILS and of future development at the Tooele Valley Airport can only be achieved for that airport, for SLCIA, for the surrounding community in Tooele County, and for state and regional aviation activities by impacting these property interests; and

WHEREAS, the Salt Lake City Council and Airport Board are strongly concerned with growth, congestion and safety issues, and how they impact SLCIA, the general aviation community, and aviation within this region; and

WHEREAS, the City of Salt Lake City is authorized to acquire private property for public use through the exercise of eminent domain; and

WHEREAS, the City has determined that certain parcels of land and/or airspace, along with any associated structures, must be acquired to accommodate the public uses and purposes identified in the foregoing recitals, collectively referred to herein as "Public Uses and Purposes"; and

WHEREAS, the City has extended an offer to the property owner to purchase the property which is the subject of this resolution for its market value; and

WHEREAS, the City desires to acquire the property described below through the exercise of its power of eminent domain for the Public Use and Purposes including without limitation, to improve and develop the Tooele Valley Airport; to alleviate congestion and improve safety at SLCIA; to facilitate, enable and promote greater use of the Tooele Valley Airport by flight schools and other general aviation aircraft; to install an ILS at the Tooele Valley Airport and take advantage of one-time FAA funding provided during the present federal fiscal year to help finance such improvements, which funds must be used prior to September 30, 2007; to comply with federal requirements for navigation and security; to control and protect the air space close to the Tooele Valley

Airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities; to protect persons and property on the ground within the runway protection zones; to improve safety and provide for proper operations at the Tooele Valley Airport; and for other public purposes;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest requires the acquisition, and immediate occupancy as may be necessary, of the parcels of real estate located in Tooele County and identified as parcel numbers 15-049-0-0205 and 15-049-0-0206, for the Public Uses and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by Walters Ranch, LLC. The affected property is located at the following addresses in Tooele County, Utah: parcel 15-049-0-0205 at 1869 W. Erda Way, Erda, Utah; parcel 15-049-0-0206 at 1929 W. Erda Way, Erda, Utah.

Section 3. The proposed taking and the Public Uses and Purposes are planned and located in a manner that will be most compatible with the greatest public good and the least private injury; the Public Uses and Purposes are authorized by law; and the proposed taking is necessary for the Public Uses and Purposes;

Section 4. The Mayor, City Attorney, and the staff of the Salt Lake City Department of Airports are authorized and directed, on behalf of the City:

- a. To acquire in the name of the City, fee interests or easements in the real property as set forth herein, by purchase if a reasonable purchase price consistent with the City's appraised value, can be negotiated, or by eminent domain proceedings.
- b. To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as is necessary for such acquisition.
- c. To obtain from the court an order permitting the City to take immediate possession and use of said real property and easements affecting said real property, as may be necessary or helpful, for the purposes herein described.
- d. To use the services of outside counsel as necessary or helpful, to accomplish these directives.

Section 5. This resolution shall take effect immediately.

Adopted by the City Council of Salt Lake City, Utah this _____ day of _____, 2007.

SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 11/22/07
By [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

A RESOLUTION INITIATING EMINENT DOMAIN PROCEEDINGS

WHEREAS, the Salt Lake City Department of Airports owns and operates an airport in Tooele County that acts as a reliever to the Salt Lake City International Airport (SLCIA); and

WHEREAS, SLCIA handled over 455,000 aircraft operations during 2005, making it the eighteenth busiest airport in the world, and conservative forecasts project that in the next 20 years operations at SLCIA will increase to over 634,000; and

WHEREAS, significant numbers of operations at SLCIA are attributable to flight school operations and other general aviation operations, and those operations are expected to increase over time; and

WHEREAS, safety is enhanced when flight school operations and other general aviation operations can be separated from large commercial aircraft, particularly at airport facilities that are congested; and

WHEREAS, flight school operations and other general aviation operations benefit from facilities that are devoted to their needs due to the benefits of greatly reduced congestion, including enhanced safety, reduced wait times when using the airfield, and reduced fuel expenses associated with wait times; and

WHEREAS, the Tooele Valley Airport has the ability to support many more flight operations than it does today; and

WHEREAS, operations at the Tooele Valley Airport do not interfere with the flight path or other operating needs of SLCIA, making it an optimal location to expand general aviation operations and facilities; and

WHEREAS, the Federal Aviation Administration (FAA) has expressed support for developing facilities at the Tooele Valley Airport to assist in reducing congestion and further enhancing safety at SLCIA; and

WHEREAS, the FAA has for many years sought funding to install an instrument landing system (ILS) at the Tooele Valley Airport to promote greater use of that airport by flight schools and other general aviation aircraft; and

WHEREAS, the FAA was successful in obtaining funding to install an ILS at the Tooele Valley Airport during the present federal fiscal year, and must spend those funds prior to September 30, 2007; and

WHEREAS, some property interests surrounding the Tooele Valley Airport will be impacted by the installation and operation of an ILS, which includes real property located at both ends of the runway needed for expanded Runway Protection Zones and airspace over certain property affected by federal regulations for missed approaches and for runway transitional surfaces, and other properties and property interests; and

WHEREAS, these property impacts are necessary to comply with federal requirements for navigation and security, to control and protect the airspace close to the airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities, to protect persons and property on the ground within Runway Protection Zones at the ends of the runway, and to provide for proper operations at the airport; and

WHEREAS, the benefits of an ILS and of future development at the Tooele Valley Airport can only be achieved for that airport, for SLCIA, for the surrounding community in Tooele County, and for state and regional aviation activities by impacting these property interests; and

WHEREAS, the Salt Lake City Council and Airport Board are strongly concerned with growth, congestion and safety issues, and how they impact SLCIA, the general aviation community, and aviation within this region; and

WHEREAS, the City of Salt Lake City is authorized to acquire private property for public use through the exercise of eminent domain; and

WHEREAS, the City has determined that certain parcels of land and/or airspace, along with any associated structures, must be acquired to accommodate the public uses and purposes identified in the foregoing recitals, collectively referred to herein as "Public Uses and Purposes"; and

WHEREAS, the City has extended an offer to the property owner to purchase the property which is the subject of this resolution for its market value; and

WHEREAS, the City desires to acquire the property described below through the exercise of its power of eminent domain for the Public Use and Purposes including without limitation, to improve and develop the Tooele Valley Airport; to alleviate congestion and improve safety at SLCIA; to facilitate, enable and promote greater use of the Tooele Valley Airport by flight schools and other general aviation aircraft; to install an ILS at the Tooele Valley Airport and take advantage of one-time FAA funding provided during the present federal fiscal year to help finance such improvements, which funds must be used prior to September 30, 2007; to comply with federal requirements for navigation and security; to control and protect the air space close to the Tooele Valley

Airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities; to protect persons and property on the ground within the runway protection zones; to improve safety and provide for proper operations at the Tooele Valley Airport; and for other public purposes;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest requires the acquisition, and immediate occupancy as may be necessary, of the parcel of real estate located in Tooele County and identified as parcel number 05-035-0-0002, for the Public Uses and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by Ethel P. & Brian E. Walters. The affected property is located at Section 19, T2S, R4W in Tooele County, Utah.

Section 3. The proposed taking and the Public Uses and Purposes are planned and located in a manner that will be most compatible with the greatest public good and the least private injury; the Public Uses and Purposes are authorized by law; and the proposed taking is necessary for the Public Uses and Purposes;

Section 4. The Mayor, City Attorney, and the staff of the Salt Lake City Department of Airports are authorized and directed, on behalf of the City:

- a. To acquire in the name of the City, fee interests or easements in the real property as set forth herein, by purchase if a reasonable purchase price consistent with the City's appraised value, can be negotiated, or by eminent domain proceedings.
- b. To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as is necessary for such acquisition.
- c. To obtain from the court an order permitting the City to take immediate possession and use of said real property and easements affecting said real property, as may be necessary or helpful, for the purposes herein described.
- d. To use the services of outside counsel as necessary or helpful, to accomplish these directives.

Section 5. This resolution shall take effect immediately.

Adopted by the City Council of Salt Lake City, Utah this _____ day of _____, 2007.

SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 11 May 07
By [Signature]

THE CITY OF SALT LAKE CITY, UTAH

A Municipal Corporation

Resolution No. _____

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WHEREAS, safety is enhanced when flight school operations and other general aviation operations can be separated from large commercial aircraft, particularly at airport facilities that are congested; and

WHEREAS, flight school operations and other general aviation operations benefit from facilities that are devoted to their needs due to the benefits of greatly reduced congestion, including enhanced safety, reduced wait times when using the airfield, and reduced fuel expenses associated with wait times; and

WHEREAS, the Tooele Valley Airport has the ability to support many more flight operations than it does today; and

WHEREAS, operations at the Tooele Valley Airport do not interfere with the flight path or other operating needs of SLCIA, making it an optimal location to expand general aviation operations and facilities; and

WHEREAS, the Federal Aviation Administration (FAA) has expressed support for developing facilities at the Tooele Valley Airport to assist in reducing congestion and further enhancing safety at SLCIA; and

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WHEREAS, the FAA was successful in obtaining funding to install an ILS at the Tooele Valley Airport during the present federal fiscal year, and must spend those funds prior to September 30, 2007; and

WHEREAS, some property interests surrounding the Tooele Valley Airport will be impacted by the installation and operation of an ILS, which includes real property located at both ends of the runway needed for expanded Runway Protection Zones and airspace over certain property affected by federal regulations for missed approaches and for runway transitional surfaces, and other properties and property interests; and

WHEREAS, these property impacts are necessary to comply with federal requirements for navigation and security, to control and protect the airspace close to the airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities, to protect persons and property on the ground within Runway Protection Zones at the ends of the runway, and to provide for proper operations at the airport; and

WHEREAS, the benefits of an ILS and of future development at the Tooele Valley Airport can only be achieved for that airport, for SLCIA, for the surrounding community in Tooele County, and for state and regional aviation activities by impacting these property interests; and

WHEREAS, the Salt Lake City Council and Airport Board are strongly concerned with growth, congestion and safety issues, and how they impact SLCIA, the general aviation community, and aviation within this region; and

WHEREAS, the City of Salt Lake City is authorized to acquire private property for public use through the exercise of eminent domain; and

WHEREAS, the City has determined that certain parcels of land and/or airspace, along with any associated structures, must be acquired to accommodate the public uses and purposes identified in the foregoing recitals, collectively referred to herein as "Public Uses and Purposes"; and

WHEREAS, the City has extended an offer to the property owner to purchase the property which is the subject of this resolution for its market value; and

WHEREAS, the City desires to acquire the property described below through the exercise of its power of eminent domain for the Public Use and Purposes including without limitation, to improve and develop the Tooele Valley Airport; to alleviate congestion and improve safety at SLCIA; to facilitate, enable and promote greater use of the Tooele Valley Airport by flight schools and other general aviation aircraft; to install an ILS at the Tooele Valley Airport and take advantage of one-time FAA funding provided during the present federal fiscal year to help finance such improvements, which funds must be used prior to September 30, 2007; to comply with federal requirements for navigation and security; to control and protect the air space close to the Tooele Valley

Airport against obstacles that can penetrate mandatory surfaces and thereby impair flight activities; to protect persons and property on the ground within the runway protection zones; to improve safety and provide for proper operations at the Tooele Valley Airport; and for other public purposes;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF SALT LAKE CITY, UTAH:

Section 1. The Salt Lake City Council finds and determines that the public interest requires the acquisition, and immediate occupancy as may be necessary, of the parcels of real estate located in Tooele County and identified as parcel numbers 14-11-0-0001, 14-11-0-0002, 14-11-0-0003, and 14-11-0-0004, for the Public Uses and Purposes described above, and for other lawful and legitimate public uses and purposes.

Section 2. The property to be affected by the action taken in Section 1, above, is owned by Dick D. Kunz and Dick Darwin Kunz. The affected property is located at the following addresses in Tooele County, Utah: parcel 14-11-0-0001 at 3808 N. 2125 W., Erda, Utah; parcel 14-11-0-0002 at 3854 N. 2125 W. Erda, Utah; parcel 14-11-0-0003 at 3908 N. 2125 W. Erda, Utah; and parcel 14-11-0-0004 at 3966 N. 2125 W., Erda, Utah.

Section 3. The proposed taking and the Public Uses and Purposes are planned and located in a manner that will be most compatible with the greatest public good and the least private injury; the Public Uses and Purposes are authorized by law; and the proposed taking is necessary for the Public Uses and Purposes;

Section 4. The Mayor, City Attorney, and the staff of the Salt Lake City Department of Airports are authorized and directed, on behalf of the City:

- a. To acquire in the name of the City, fee interests or easements in the real property as set forth herein, by purchase if a reasonable purchase price consistent with the City's appraised value, can be negotiated, or by eminent domain proceedings.
- b. To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as is necessary for such acquisition.
- c. To obtain from the court an order permitting the City to take immediate possession and use of said real property and easements affecting said real property, as may be necessary or helpful, for the purposes herein described.
- d. To use the services of outside counsel as necessary or helpful, to accomplish these directives.

Section 5. This resolution shall take effect immediately.

Adopted by the City Council of Salt Lake City, Utah this _____ day of _____,
2007.

SALT LAKE CITY COUNCIL

By _____
CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 11/22/07
By [Signature]